

Council

Monday 5th March
2012
7.00 pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
Ivor Westmore
Committee Support Services**

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Tel: (01527) 64252 (Extn. 3269) Fax: (01527) 65216
e.mail: ivor.westmore@redditchbc.gov.uk Minicom: 595528**

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency **Assembly Area** is on **Walter Stranz Square**.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



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5th March 2012

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:	Anita Clayton (Mayor)	Bill Hartnett
	Peter Anderson	Roger Hill
	Michael Braley	Gay Hopkins (Deputy Mayor)
	Rebecca Blake	Robin King
	Andrew Brazier	Wanda King
	Juliet Brunner	Alan Mason
	David Bush	Phil Mould
	Michael Chalk	William Norton
	Simon Chalk	Jinny Pearce
	Greg Chance	Brenda Quinney
	Brandon Clayton	Mark Shurmer
	Andrew Fry	Luke Stephens
	Carole Gandy	Debbie Taylor
	Adam Griffin	Derek Taylor
	Malcolm Hall	

1. Welcome	The Mayor will open the meeting and welcome all present.
2. Apologies	To receive any apologies for absence on behalf of Council members.
3. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
4. Minutes Chief Executive	To confirm as a correct record the minutes of the meetings of the Council held on 16th January and 20th February 2012. (Minutes circulated in Minute Book 7 - 2011/12)
5. Announcements	To consider Announcements under Procedure Rule 10: a) Mayor's Announcements b) Chief Executive's Announcements c) Leader's Announcements. (Oral report)

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<p>6. Questions on Notice Chief Executive</p>	<p>No questions have been submitted to date under Procedure Rule 9.2.</p>
<p>7. Motions on Notice Chief Executive</p>	<p>No Motions have been submitted under Procedure Rule 11.</p>
<p>8. Executive Committee (Pages 1 - 44) Chief Executive</p>	<p>To receive the minutes and consider the recommendations and/or referrals from the following meetings of the Executive Committee:</p> <p><u>31st January 2012</u></p> <p>Matters requiring the Council's consideration include:</p> <ul style="list-style-type: none">• Adoption of a Corporate Anti-Bribery Policy and Amended Officer Code of Conduct <p>(Report and decision attached)</p> <p>(Minutes circulated in Minute Book 7 – 2011/12)</p> <p><u>20th February 2012</u></p> <p>There are no outstanding matters requiring the Council's consideration.</p> <p>(Minutes circulated in Minute Book 7 – 2011/12)</p> <p><u>21st February 2012</u></p> <p>Matters requiring the Council's consideration include:</p> <ul style="list-style-type: none">• Review of Housing Revenue Account <p>(Report and decision attached)</p> <p>(Minutes circulated in Minute Book 7 – 2011/12)</p>

<p>9. Regulatory Committees (Pages 45 - 84) Chief Executive</p>	<p>To formally receive the minutes of the following meetings of the Council's Regulatory Committees:</p> <p>Audit & Governance Committee - 23rd January 2012</p> <p>Licensing Committee - 9th January 2012</p> <p>Planning Committee - 4th January 2012 1st February 2012</p> <p>There are outstanding recommendations from the Audit and Governance Committee and Licensing Committee for the Council to consider.</p> <p>(Reports and decisions attached)</p> <p>(Minutes circulated in Minute Book 7 – 2011/12)</p>
<p>10. Urgent Business - Record of Decisions Chief Executive</p>	<p>To note any decisions taken in accordance with the Council's Urgency Procedure Rules (Part 6, Paragraph 5 and/or Part 7, Paragraph 15 of the Constitution), as specified.</p> <p>(None to date).</p>
<p>11. Urgent Business - general (if any)</p>	<p>To consider any additional items exceptionally agreed by the Mayor as Urgent Business in accordance with the powers vested in her by virtue of Section 100(B)(4)(b) of the Local Government Act 1972.</p> <p>(This power should be exercised only in cases where there are genuinely special circumstances which require consideration of an item which has not previously been published on the Order of Business for the meeting and/or on the Leader's Forward Plan.)</p>

12. Exclusion of the Public

Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:

“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (*to be specified*) of Part 1 of Schedule 12 (A) of the said Act, as amended.”

[Subject to the “public interest” test, information relating to:

- **Para 1 – any individual;**
- **Para 2 – the identity of any individual;**
- **Para 3 – financial or business affairs;**
- **Para 4 – labour relations matters;**
- **Para 5 – legal professional privilege;**
- **Para 6 – a notice, order or direction;**
- **Para 7 – the prevention, investigation or prosecution of crime;**

may need to be considered as ‘exempt’.]

(Note: Anyone requiring copies of any previously circulated reports, or supplementary papers, should please contact Committee Services Officers in advance of the meeting.)

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158. ANTI-BRIBERY POLICY AND OFFICERS' CODE OF CONDUCT**RECOMMENDED that**

- 1) the Corporate Anti-Bribery Policy, attached at Appendix 1 of the report, be adopted and added to the Council's Constitution;**
- 2) the amended Officer Code of Conduct, attached at Appendix 2 of the report, be adopted; and**
- 3) the Constitutional pack be updated accordingly.**

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**ADOPTION OF A CORPORATE ANTI-BRIBERY POLICY AND AMENDED
OFFICER CODE OF CONDUCT**

Relevant Portfolio Holder	Councillor Michael Braley, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal and Democratic Services
Wards Affected	All Wards
Ward Councillor Consulted	No
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Under the Bribery Act 2010 the Council is required to have an anti-bribery policy to comply with the requirement under the Act to have “adequate procedures” in place to prevent bribery by both Members and Officers of the Council. The Act is also required to be incorporated into Officer Code of Conduct, which has been amended to incorporate its provisions and generally updated.

2. RECOMMENDATIONS

The Committee is asked to **RECOMMEND** that

- 1) **the Corporate Anti-Bribery Policy attached at Appendix 1 be adopted and added to the Council’s Constitution;**
- 2) **the amended Officer Code of Conduct attached at Appendix 2 be adopted; and**
- 3) **the Constitutional pack be updated accordingly.**

3. KEY ISSUES**Financial Implications**

- 3.1 There are no financial implications in adopting the Policy and in updating the Officer Code of Conduct.

Legal Implications

- 3.2 Compliance with the requirements of the Bribery Act 2010 have instigated this Report, Policy and the updating of the Officer Code of Conduct.

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- 3.3 The Bribery Act 2010 came into force from 1 July 2011 which replaces previous anti-fraud legislation. The act makes it an offence for a United Kingdom citizen or resident to pay or receive a bribe, either directly or indirectly. The act applies to transactions that take place in the UK and abroad, and both in the public and private sectors.
- 3.4 There are four key offences under the Act:
- a) bribing of another person (Section 1).
 - b) accepting a bribe (Section 2).
 - c) bribing a foreign official (Section 6).
 - d) failing to prevent bribery (Section 7)
- 3.5 Section 7 is a corporate offence but an organisation will have a defence to this offence if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.
- 3.6 An individual guilty of an offence under sections 1, 2 or 6 is liable,
- a) on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5000, or to both.
 - b) on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.
- Organisations, if found guilty of an offence under section 7 are liable to an unlimited fine.
- 3.7 If the Council were not to have in place adequate procedures as required under the Bribery Act 2010, it would be more difficult for the Council to defend any prosecution brought against it under the Bribery Act.
- 3.8 If the Council were not to have in place adequate procedures as required under the Bribery Act 2010, it would be more difficult for the Council to defend any prosecution brought against it under the Bribery Act.

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Service/Operational Implications

- 3.9 Members approval is sought of the two documents attached to this report. The Corporate Anti-Bribery Policy at Appendix 1 sets out the Council's policy on bribery issues.

Key points for Members to note are as follows:-

- a) The Council is advocating a zero tolerance approach to bribery and corruption.
 - b) Under the terms of the policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. The policy extends to all the Council's business dealings, transactions and decisions.
 - c) The Anti-Bribery Policy affects Members and Officers. Compliance with the Officer Code of Conduct is required of all staff.
 - d) Under the new policy all employees and Members are going to have to make sure that they properly declare any gifts or hospitality that they receive. Arrangements for Members to declare gift and hospitality are already in place under the Code of Conduct for Councilors for Gifts and Hospitality (Part 17 of the Constitution).
- 3.10 The existing Officers' Code of Conduct has been up-dated to reflect the requirements of the Bribery Act and incorporates some minor amendments to bring it up to date.
- 3.11 The staff registers for registering interests and gifts and hospitality has previously been within separate Directorates but it is now proposed that a central register be set up and administered by the corporate Information Management Team.
- 3.12 As regards raising awareness amongst staff about the Bribery Act, information has already been circulated via an Oracle Email and when adopted further notification will be made to all Members and staff.

Customer / Equalities and Diversity Implications

- 3.13 There is no direct impact on customers of the Council, other than to raise awareness of the zero tolerance stance.

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The Anti-Bribery Policy will be included, once approved, on the Council's website and will be available to staff through the Orb. The Code of Conduct is part of the Council's Constitution and is also available to staff on the Orb.

4. RISK MANAGEMENT

- 4.1 Legal compliance requires the Council to have an anti-bribery policy in place. Having a robust anti-fraud framework will help minimise the risk of internal and external abuse of public funds and promote an anti-fraud culture across the Council: It extends to all the Council's business dealings, transactions and decisions.
- 4.2 The main risks associated with not progressing the requirements of the Bribery Act 2010 could include:
- a) Disbarment from contracts.
 - b) Loss of reputation.
 - c) Negative publicity for the Council.
 - d) Loss of contract specifications/the wrong people doing the jobs under contract.

5. APPENDICES

Appendix 1 - Corporate Anti-Bribery Policy.
Appendix 2 - Amended Officer Code of Conduct.

6. BACKGROUND PAPERS

The Bribery Act 2010.
The current version of the Officer Code of Conduct –
RBC Constitution pack 2011/12.

AUTHOR OF REPORT

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Appendix 1

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Corporate Anti-Bribery Policy

Bribery Act 2010

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Appendix 1

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Introduction

The Bribery Act 2010 came into force on 1st July 2011. The act makes it an offence for a United Kingdom citizen or resident to pay or receive a bribe, either directly or indirectly. The act applies to transactions that take place in the UK and abroad, and both in the public and private sectors.

Redditch District Council through myself and the Senior Management Team is determined to maintain its reputation as an authority which will not tolerate fraud, bribery, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.

To achieve this goal the Council will work to identify and eliminate any form of bribery through the introduction of this anti-bribery policy and through a risk assessment process and ongoing monitoring and review.

Elected Members and employees should play a key role in anti-fraud initiatives. This includes providing a corporate framework within which anti-fraud arrangements can flourish, and the promotion of an anti-fraud culture across the whole Council. This should provide a sound defence against internal and external abuse of public funds.

Under the terms of this policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. This Policy extends to all the Council's business dealings, transactions and decisions.

Through the 'Whistle Blowing Policy' employees are encouraged to report any suspicion of bribery, safe in the knowledge that they are able to report concerns in confidence and without risk of reprisal

Kevin Dicks
Chief Executive
Redditch Borough Council
November 2011

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Policy Statement

Bribery is a criminal offence. The Council through its employees and elected Members does not, and will not, pay bribes or offer improper inducements to anyone for any purpose or, accept bribes or improper inducements. It is the Council's policy to conduct all business in an honest and ethical manner. The Council takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all business dealings and relationships. The Council will operate and enforce effective systems to counter bribery.

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

In this policy, **third party** means any individual or organisation we come into contact with during the course of our work. This includes actual and potential customers, suppliers, advisers, contractors, government and public bodies (including their advisers, representatives and officials), politicians and political parties. This list is not exhaustive.

This policy applies to all individuals, working at all levels and grades, including senior managers, officers, employees (whether permanent, fixed term or temporary), elected members (including independent Members), consultants, contractors, agents, trainees, seconded staff, casual and agency staff, volunteers, or any other person associated with the Council, wherever located.

This policy also applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this document.

What is Bribery?

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;

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- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to “facilitate” or expedite a routine procedure;
- accept payment from a third party that you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Council in return;
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy;
- engage in activity in breach of this policy.

Objective of the Policy

This policy provides a coherent and consistent framework to enable Redditch Borough Council employees and elected Members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

Role of Employees

Employees are governed in their work by the various policies, protocols, codes, rules and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by management, particularly in relation to the safekeeping of assets.

The Council requires that all staff, including those permanently employed, temporary agency staff and contractors:

- act honestly with integrity, at all times, and to safeguard the organisations resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities
- read, understand and comply with this policy
- avoid any activity that may lead to, or suggest, a breach of this policy.

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Any employee who breaches this policy will face disciplinary action, which could result in summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case. The Council reserves the right to terminate its contractual relationship with other workers if they breach this policy.

Role of Elected Members

As elected representatives, all Members of the Council have a duty to the citizens of the Borough to protect the Council from any acts of fraud and bribery and ensure that resources are used prudently and within the law to safeguard public money, including ensuring they do not procure an advantage improperly. Elected Members are required to operate and adhere to the Council's Constitution, which incorporates a Code of Conduct for Members (Part 16 of the Constitution).

The Code includes rules regarding:

- The disclosure of relationships
- The declaration of gifts and hospitality
- Registering personal interests

Elected Members are also referred to the Code of Conduct for Councilors in relation to Gifts and Hospitality set out at Part 17 of the Constitution. This sets out the process that should be followed by elected Members when declaring gifts. See further below under "Record Keeping".

The Council's commitment to action

The Council commits to:

- setting out a clear anti-bribery policy and keeping it up to date;
- making all employees aware of their responsibilities under the terms of this policy;
- training all employees so that they can recognise and avoid the use of the bribery by themselves or others;

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- encouraging employees to be vigilant and to report any suspicions of bribery, providing suitable lines of communication;
- ensuring that sensitive information is treated appropriately;
- rigorously investigating allegations of bribery, taking such cases to prosecution where relevant;
- assisting the Police or other authorities in more complex cases;
- taking action against any individual found to be involved in bribery;
- provide information to all employees to report breaches and suspected breaches of this policy;
- include appropriate clauses in contracts to prevent bribery.

Facilitation Payments

These are illegal, and will not be tolerated. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

Gifts and Hospitality

The Council's policy on gifts and hospitality for staff is found within the Officers' Code of Conduct. A copy is included in the Council's Constitution and is available on the Council's website and Intranet – 'Orb' *[insert link]*

The Officer's Code of Conduct makes it clear that one should not accept significant personal gifts from contractors and service providers such as food, drink, cars, clothes and jewellery.

Inexpensive calendars, diaries, blotting pads, pens etc (perhaps marked with the donor's name) are acceptable. If in any doubt about whether you should accept a gift, it is best to refuse it.

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However, staff are prohibited from accepting a gift, or giving a gift to a third party if the following requirements are met:

- it is made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
- it is given in the Council's name, not the individuals;
- it includes cash or a cash equivalent (such as gift certificates or vouchers);
- if it is inappropriate for the circumstances;
- if the gift received is an inappropriate type and value, and given at an inappropriate time;
- it is given secretly and not openly;
- gifts should not be offered to, or accepted from, government officials or representatives, or politicians or political parties, without the prior approval of the relevant Head of Service.

Public Contracts and failure to prevent bribery

Under the Public Contract Regulations 2006 (which gives effect to EU law in the UK) a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. However, the Council has the discretion to exclude organisations convicted of this offence.

Record Keeping

We must keep records and have appropriate internal controls in place which will evidence the business reasons for:-

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- Receiving or declining gifts and hospitality which are offered to staff or elected Members;
- Providing gifts or hospitality on behalf of the Council to third parties.

Staff must ensure that any gift or hospitality for employees that is accepted, offered or refused, should be recorded in the Corporate Gift and Hospitality Register. The Register is held centrally by the Information Management Team.

Any gifts or hospitality received by elected Members must be reported to the Council's Monitoring Officer in accordance with Part 17 of the Constitution (Members' Code of Conduct on Gifts and Hospitality)

How to raise a concern

All elected Members and employees have a responsibility to help detect, prevent and report instances of bribery. If you have a concern, **please speak up** – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Staff

In line with the reporting provisions of the Whistle blowing Policy, if staff believe or suspect that a conflict with this policy has occurred, or may occur in the future **but feel unable to report the matter to their Line Manager or Director, or have raised the matter in this way without success**, they should contact either the Chief Executive, the Monitoring Officer, Human Resources Manager, the Benefits Fraud Manager or the Audit Service.

Staff who do not have access to the intranet can contact any of these parties either in person or by telephone in the first instance.

Members

Members should contact either the Chief Executive, the Monitoring Officer, Human Resources Manager, the Benefits Fraud Manager or the Audit Service.

Preferably any disclosure will be made and resolved internally. However, where this proves inappropriate and you are not happy to speak to someone internally, concerns can be raised externally. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (for instance, to the media),

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Concerns can be anonymous. The Council will act as soon as possible to evaluate the situation. It is however, easier and quicker to evaluate allegations if they are not made anonymously, particularly where it is necessary to get clarification on the allegation made.

Bribery Act Offences

There are four key offences under the Act:

- bribing of another person (Section 1)
- accepting a bribe (Section 2)
- bribing a foreign official (Section 6)
- failing to prevent bribery (Section 7).

Section 7 is a corporate offence but an organisation will have a defence to this offence if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.

Bribery Act Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5000, or to both;
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations, if found guilty of an offence under section 7 are liable to an unlimited fine.

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OFFICERS' CODE OF CONDUCT

STANDARDS

- 1.1 The public is entitled to demand conduct of the highest possible standard, of a Local Government employee. Public confidence in their integrity **is paramount and it will** ~~be shaken~~ **would** be shaken **if there** were **any** the least suspicion, ~~however ill-founded, to arise that they could in any way be~~ influenced by improper motives. Under no circumstances should an employee use their authority or office for personal gain.
- 1.2 It is not enough to avoid actual impropriety. An employee should at all times avoid any occasion for suspicion to be raised or any appearance of improper conduct.
- 1.3 Where their duties demand it, employees should provide appropriate advice to Councillors and fellow employees with impartiality.
- 1.4 No employee should become personally involved in any transaction in which the Authority has a direct or indirect interest, except as an employee of the Authority.
- 1.5 The Council has an adopted Whistle blowing Policy to address situations where Staff may have concerns about something that is happening within the Council, including possible breaches of this Code of Conduct, perceived impropriety, breach of procedure or shortfall in delivery of service. (This Policy is attached as an Appendix.)

The Whistle blowing / Confidential Reporting Policy has been put in place to enable staff to bring attention to those concerns whilst at the same time ensuring they are protected from any victimisation or harassment.

~~Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate Line Manager any impropriety, breach of procedure or shortfall in the delivery of service. The Line Manager concerned will have an obligation to report back to the individual, the outcome of his/her investigations. Matters which are not satisfactorily resolved by the Line Manager may be reported to the Chief Executive for further investigation. Employees must report any possible cases of fraud and corruption to the Audit Services Manager, who will investigate all reports in strict confidence~~

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DISCLOSURE OF INFORMATION

- 2.1 There is a ~~It is~~ generally principle of ~~accepted that~~ open government. ~~is best.~~ The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. Under no circumstances should an employee use information gained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in some way.
- 2.2 Employees must not communicate to the public or press, the proceedings of any confidential committee meeting, etc., nor the contents of any document relating to the Authority unless required by law or expressly authorised to do so. Confidentiality of information still applies when an individual is no longer employed by the Authority.
- 2.3 Authorised information given by an employee in the course of his/her duty should be true and fair and never designed to mislead.
- 2.4 Personal information relating to individual Councillors or members of the public and commercially sensitive information about other organisations should not be divulged by any employee unless required or sanctioned by the law.

POLITICAL NEUTRALITY

- 3.1 Employees serve the Authority as a whole. It follows they must serve all Councillors, and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected equally.
- 3.2 Where political groups seek officer guidance to a group meeting, on a particular issue, the Chief Executive should always be made aware of this request. There are no restrictions as to what level of officer can attend a political group to give advice but the Chief Executive or one of the two Corporate Directors must always be present. All political groups are entitled to the same level of information about Council matters. However, Officers attending a political group meeting have a responsibility to keep confidential any discussion that takes place within that group when they are present.
- 3.3 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in Paragraph 3.1 and 3.2.

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- 3.4 The Local Government and Housing Act 1989, Part 1, contains provisions to restrict the political activity of senior employees. Local Authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council [s1(1)], from being an MP or MEP and are subject to prescribed restrictions on their political activity.

The Local Government Officers [Political Restriction] Regulations 1990 and the Local Government [Politically Restricted Posts] [No.2] Regulations 1990 covers the posts which are politically restricted. These are :

- [a] specified posts such as the Monitoring Officer. Chief Officers and their deputies are restricted without exemption or appeal;

~~[b] all posts which reach or exceed a prescribed remuneration ceiling. These posts are automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals is granted~~

- [c] all posts which meet the duties-related criteria for determining a "sensitive post" irrespective of remuneration level, unless the postholder appeals successfully against determination. These posts are defined as those which :

- [i] give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented [but excluding purely factual information] or
- [ii] speak on behalf of the authority on a regular basis to journalists and broadcasters.

- 3.6 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.

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RELATIONSHIPS

4.1 COUNCILLORS

Employees are responsible to the Authority, through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

4.2 THE LOCAL COMMUNITY AND SERVICE USERS

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community, as defined by the policies of the Authority.

4.3 CONTRACTORS

Employees should make known to their Line Manager any relationships of a business or private nature with external contractors, or potential contractors. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Line Manager.

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**APPOINTMENT OF STAFF AND OTHER EMPLOYMENT
MATTERS**

- 5.1 Employees involved in appointments of staff should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.
- 5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

PERSONAL INTERESTS

- 6.1 Employees should not subordinate their duty to the Authority to their private interests or place themselves in a position where duty and private interest may conflict.
- 6.2 All employees should be clear about their contractual obligations and should disclose any personal interests [either financial or non-financial] that could actually or potentially conflict with the Authority's interests or which others may deem to affect the employee's impartiality in any matter relating to their duties. Such interests might include :
- taking outside work or giving professional advice, whether paid or unpaid, which could conflict with or have an impact on the Authority's work or interests;
 - involvement with an organisation receiving grant-aid from the Authority;
 - membership of a National Health Service Trust Board;
 - involvement in any organisation or pressure group which may seek to influence the Authority's policies;
 - any pecuniary interest [whether direct or indirect] in contracts let by the Authority.

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- 6.3 The Authority will not preclude employees from undertaking additional employment providing that it does not, in the view of the Authority, conflict with or react detrimentally to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business.
- 6.4 Employees on Scale SO1 and above, who wish to take outside work or give professional advice, whether paid or unpaid, in addition to their full-time employment with the Authority, must obtain the written approval of their Line Manager. A record of such work or advice should be kept in the Employee's Interests ~~Book~~ Register relating to outside work / advice provision.
- 6.5 Whilst part-time employees and those on Scale 6 and below do not need to obtain the approval of their Line Manager, they should, nonetheless, declare any other work they undertake, whether paid or unpaid, outside their employment with the Authority and record it in the Employee's Interests ~~Book~~ Register.
- 6.6 Employees should declare to their Line Manager or Director, membership of any organisation which is not open to members of the public who are not members of that organisation and requires members to make a commitment of allegiance and secrecy about the rules, membership or conduct of the organisation.

INTELLECTUAL PROPERTY

All inventions, creative writings and drawings created by an employee in the course of their normal duties or duties specifically assigned to them are the property of the authority.

EQUALITY ISSUES

All employees should ensure that policies relating to equality issues, as agreed by the Authority in its Equal Opportunities Policy, are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

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SEPARATION OF ROLES DURING TENDERING

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees, who have both a client and contractor responsibility, must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform their Line Manager and withdraw from the contract-awarding process
- 9.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates, in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

BRIBERY AND CORRUPTION

- 10.1 Employees must be aware that it is a serious criminal offence for them to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

It is also a criminal offence to use a third party as a conduit to channel bribes to others.

- 10.2 **The Council has an Anti-Bribery Policy, which must be read in conjunction with this Code of Conduct.**
- 10.3 Where it is proved that a gift or other consideration has been received by, paid to or given to an employee by a person holding or seeking to obtain a contract from the Authority, then the gift or other consideration shall be deemed to have given and received **in** breach of provisions of the Bribery Act ~~corruptly~~, unless the contrary is proved.

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- 10.4 ~~The corrupt receipt by an employee of an inducement or reward may render him/her liable to prosecution.~~
- 10.5 The law relating to the acceptance of inducements or rewards is set out in the Bribery Act 2010

The relevant acts are :-

- ~~• The Public Bodies Corrupt Practices Act 1889~~
- ~~• The Prevention of Corruption Act 1906 and 1916~~

~~Penalties on conviction, at the discretion of the court, are imprisonment or a fine, as well as disqualification from public office and loss of pension rights or both. Disqualification from professional bodies is also a possibility.~~

- 10.6 An employee's spouse's interests count as those of the employee [if he/she is living with the employee] but a partner's, son's or daughter's interests do not.

USE OF FINANCIAL RESOURCES

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge of the Authority.

HOSPITALITY AND GIFTS

- 12.1 When offered any form of hospitality or gift, employees must be aware of the possibility of such actions affecting or being seen to affect their judgment when official dealings with the donor or potential donor takes place **and the potential risk of falling foul of the Anti-Bribery Policy.** Employees must ensure that any hospitality or gift is not of a level or amount which would lead to any reasonable person to believe that the employee might be influenced.
- 12.2 Employees should only consider acceptance of any offer of hospitality or a gift where the employee regards it as normal and reasonable.

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“Normal and reasonable” is defined for this purpose as no more than the Authority would be prepared to offer in the equivalent circumstances. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority in the community.

When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Authority may be taking affecting those providing the hospitality.

12.3 Examples of hospitality which would be considered reasonable are :-

- i. Up to three working meals;
- ii. One non-working meal;
- iii. Attending a professional function as a member of a profession;
- iv. Attending purely social or sporting functions only when these are part of the life of the community or where the Authority should be seen to be represented and they should be properly authorised and recorded.
- v. Attendance at conferences and courses where the hospitality is clearly of a corporate nature, where authority in advance has been obtained, and where no purchasing decisions are compromised.

12.4 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the official code of conduct operating within the Authority.

Where visits to inspect equipment, etc. are required, employees should ensure that the Authority meets the costs of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

12.5 Gifts and favours should not be accepted, other than items of very small intrinsic value and then only if it bears the Company's name or insignia and can thus be regarded as being in the nature of advertising matter. All offers of personal favours such as specially discounted goods or buying at trade prices must be rejected unless the offer is open to all staff employed by the Authority. Gifts considered reasonable would be, for example, pens, notepads, calendars and diaries.

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- 12.6 If when making personal purchases, a Council contractor is identified as the best source of supply, then employees must ensure that a priced V.A.T. invoice is raised and that a receipt is issued by the contractor as proof of payment.
- 12.7 If any doubt remains in the employee's mind as to whether an offer of hospitality or a gift is acceptable, the matter should be discussed immediately with their Line Manager for guidance on whether the offer is normal and reasonable.

In reaching a decision, the following will be taken into consideration:

- The value and nature of the offer
 - Could you explain the gifts/hospitality to somebody else?
 - Is it socially acceptable and not lavish or extravagant?
 - Does it feel right?
 - Will you be influenced by this gift/hospitality?
 - How would others perceive it?
 - Would they perceive that you might be influenced by such gifts/hospitality?
 - Could you reciprocate that which is being offered? If the answer is no, then there is a risk that this could be interpreted as an attempt to influence.
- 12.8 All gifts and hospitality offered, whether accepted or not, must be entered in the Employees' Interests Book Register.

SPONSORSHIP - GIVING AND RECEIVING

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a Local Government activity whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the Authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Line Manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

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EMPLOYEES' INTERESTS BOOKS REGISTER

- 14.1 The Employees' Interests ~~Books~~ Register will be maintained by the Information Management Team
- 14.2 Officers are expected to make suitable entries in the ~~Books~~ Interests Register in respect of the following :-
- i. All gifts/hospitality or inducements offered to them, whether accepted or not - see 6.2;
 - ii. Involvement with any organisation of the type described in 6.2;
 - iii. Any pecuniary interest [whether direct or indirect] in contracts led by the Authority;
 - iv. Any outside employment taken or professional advice offered, paid or unpaid, undertaken by an officer - see 6.4 and 6.5;
 - v. Membership of an organisation, as described in 6.6.
- 14.3 Failure to fully register any of the matters outlined above will be a disciplinary matter.

APPENDIX

RBC approved Whistle Blowing Policy

END.

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COUNCIL

5th March 2012

173. **HOUSING REVENUE ACCOUNT - REVIEW**

RECOMMENDED that

the Council approve the financial / budgetary implications, as detailed in the report.

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HOUSING REVENUE ACCOUNT - REVIEW

Relevant Portfolio Holder	Councillor Brandon Clayton, Portfolio Holder for Housing, Local Environment and Health
Portfolio Holder Consulted	Yes
Relevant Head of Service	Liz Tompkin, Head of Housing Services. Teresa Kristunas, Head of Finance & Resources.
Wards Affected	All Wards
Ward Councillor Consulted	Not applicable
Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Government will be dismantling the current Housing Revenue Account (HRA) subsidy system and introducing a new regime of self financing from April 2012. The Council will take on a share of the national housing debt and in return in future years will be entitled to keep the subsidy which is currently paid each year to central government.
- 1.2 The Council had stated in their response to consultation in July 2010 that it agreed in principle with the proposal of taking on a share of the national housing debt which currently stands at £25 billion. The Council's share of this is £98,929 million
- 1.3 The Council does not have a choice as to whether they agree to the amount of debt being proposed for this Council as the government has introduced legislation to impose this on all local authorities through the Localisation Act (the Localism Bill received Royal Assent on 15th November 2012).

2. RECOMMENDATIONS

The Executive Committee is asked to RESOLVE that,

subject to the Council's approval of the budgetary implications,

- 1) the 5 year Housing Capital Programme as set out at Appendix 1 to the report be approved;**
- 2) the Director of Finance and Resources be authorised to acquire debt from the Public Works Loans Board up to the amount of the actual Debt Cap in line with the profile set out at Appendix 4 to the report;**

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- 3) **subject to Members' comments, the viability of the 30 Year Business Case for the Housing Revenue Account, and the projected availability of resources within the Business Plan to undertake projects such as regeneration be noted;**
- 4) **Officers be authorised to incur expenditure as detailed in Appendix 1 to the report, up to the limit approved by the Council and for the purposes detailed in the report; and**

to RECOMMEND that
- 5) **the Council approve the financial / budgetary implications, as detailed in the report.**

3. KEY ISSUES**Financial Implications**

- 3.1 On 14th November 2011 the Council was issued with a consultation paper which set out the amount of debt the Council will be expected to take as part of the arrangements for implementing self-financing for housing. The figure notified is £98,929 million. At the point of taking on a share of the national housing debt the Council will be capped in terms of taking on a further borrowing to support future HRA Capital Programmes. The Cap is currently estimated at £118,040,000. Future HRA Capital Programmes will have to be funded from capital receipts and revenue contributions. Future Programmes were forecast to be partially funded by prudential borrowing.
- 3.2 Currently the Council pays around £6.8 million back to the government in negative subsidy each year. In future this sum will be used to repay the borrowing with any surplus funds being available to support future Capital Programmes. In addition the Council has been obliged to transfer £3.8 million in terms of the Major Repairs Allowance (MRA) to a Major Repairs Reserve (MRR) to fund capital expenditure. In future this transfer will be based on a depreciation charge. An enhanced MRA figure has been supplied as part of the 2012 Determination which can be used in place of substantiated depreciation charge for the first 5 years of self-financing.
- 3.3 The payment of £98,929 million has to be made on or before the 28th March 2012 and self financing goes live on 1 April 2012. The Council will be compensated for the interest paid in respect of the days between the 28th March and the 1st April. The Council is expected to demonstrate that it is able to repay the debt within 30 years.
- 3.4 Rent convergence will continue until 2016 after this point the Council will be in a position to propose future rents.

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However it is important to note that the continuation of the capital programme is reliant on the continuing amount of finances generated through the income of rent. If this amount of income fell or did not increase year on year then the capital programme would not be sustainable and a reduced capital programme would have to be produced.

Capital Programme

- 3.5 The first 5 years of the proposed Capital Programme will total £36.35 million which equates to £7.27 million each year, plus £600k p.a. for Equipment and Adaptations. A draft 30 year Capital Programme has been included in the Business Plan funded from monies transferred into the Major Repairs Reserve, topped up with revenue contributions in the early years of the Plan, see Appendix 2.

Housing Revenue Account (HRA) Debt

- 3.6 The existing HRA debt comprises £5 million of long term and £14.4 million short term borrowing. It is proposed that the short term borrowing will be replaced with long term borrowing from the Public Works Loans Board (PWLB) in order to take advantage of the relatively low rates of interest currently available for housing authorities. In September the Treasury announced that the premium imposed on PWLB interest rates as part of the Spending Review will be lifted for housing authorities as part of a special arrangement in connection with self-financing.
- 3.7 In addition it is proposed that the £15 million currently invested externally is recalled and made available to the HRA to use as part of the payment of £98,929 million required to be paid to central government. In return the General Fund would receive an interest payment equal to the interest rate that would have been payable to the PWLB. This arrangement would also reduce the arrangement fee due to the PWLB by £5,250.
- 3.8 An important decision required prior to 26th March 2012 is the profile of the borrowing to be arranged with the PWLB. There is a significant risk associated with borrowing the whole amount for the same period which would have to be for 27/30 years. Although the draft Business Plan shows that sufficient resources should be available to repay the entire debt within the 30 year period there is a risk that if the decision is taken not to repay some or all of the debt that the cost of replacement could be significant due to high interest rates and/or the availability of suitable sources of borrowing.

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- 3.9 Surplus funds within either the MRR or the HRA may be used to repay borrowing. Appendix 3 shows the forecast balances within the MRR after the funding of the annual Capital Programme. There are no balances available for the repayment of debt from within the MRR within the first 10 years of the Plan. However, balances are available within the HRA but these may be required to fund additional capital works.
- 3.10 It is recommended that the borrowing from the PWLB is taken up in accordance with the profile set out in Appendix 4. This profile is aligned with the forecast availability of resources within the MRR. The impact of this borrowing/repayment profile is also shown at Appendix 4. The repayment of debt does not deplete the MRR of resources that could be used to fund capital projects.

Reserves

- 3.11 At the end of 2010/11 the Council had a HRA Capital earmarked reserve of £5.4 million. It is estimated this will increase to £6.4 million by the close of 2011/12. The 30 year Business Case has been prepared without the need to utilise this resource to support the Capital Programme during the first 5 years. This reserve is therefore available for other projects such as regeneration.

Legal Implications

- 3.12 The Government included the changes to the Housing Revenue Account in the Localism Bill which received Royal Assent on 15th November 2011.

Service / Operational Implications

- 3.13 In return for taking on the debt the Council will in future years keep all the housing rental income, this will enable officers to manage the finances for the Council's housing stock over the longer term, rather than each year awaiting the outcome of the government subsidy to know what finances the Council has available to spend.
- 3.14 Officers have produced a 30 year capital programme which includes a range of works which will ensure the housing stock continues to meet the decent homes standard and above for all council housing stock.

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- 3.15 Moving away from the system of Housing Subsidy gives the Council more control over the housing service and the management of the housing stock. The Council will no longer have to wait for the annual Housing Subsidy Determination to know what resources will be available within the HRA for the forthcoming year.

Assumptions

- 3.16 The Business Plan has been prepared based on the following assumptions –
- a) that the current Rent Policy is applied until convergence in 2015/16,
 - b) that depreciation increases by 3% pa,
 - c) that RPI is 2.5%,
 - d) that PWLB monies are borrowed at 4%,
 - e) the provision for bad debts will increase from 2014/15,
 - f) debt will be repaid as funds become available,
 - g) interest is paid/earned on balances.

Customer / Equalities and Diversity Implications

- 3.17 Although resources may be restricted in the early years of the 30 year Business Plan period customers could benefit from the demise of the Housing Subsidy system in the longer term through greater investment in the service.

4. RISK MANAGEMENT

There are a number of risks facing the HRA over the 30 year period of the Business Plan. These include Welfare reform which has the potential for increasing rent arrears, interest rates if debt is to be replaced rather than repaid, the robustness of the data re stock/assets and future rent policy.

5. APPENDICES

- | | |
|--------------|---|
| Appendix 1 - | 5 year Capital Programme |
| Appendix 2 - | Financing of the 30 year Capital Programme |
| Appendix 3 - | Funds available for the repayment of debt within the MRR and HRA Balances |
| Appendix 4 - | Scheduling of Debt and Use of MRR to repay borrowing. |

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6. BACKGROUND PAPERS

30 Year Housing Capital Programme.

7. KEY

HRA	Housing Revenue Account
MRA	Major Repairs Allowance
MRR	Major Repairs Reserve
PWLB	Public Works Loans Board
RPI	Retail Price Index

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21st February 2012

**HOUSING CAPITAL IMPROVEMENT 30 YEAR PLAN
YEARS 1-5**

APPENDIX 1

		1	2	3	4	5
	APRIL	2012	2013	2014	2015	2016
1	KITCHENS	0.10	0.10	0.10	0.10	0.10
2	BATHROOMS	0.88	0.88	0.88	0.88	0.88
3	ELECTRICAL UPGRADES	0.90	0.90	0.90	0.90	0.90
4	CENTRAL HEATING	1.40	1.40	1.40	1.40	1.40
5	ROOFING	0.60	0.60	0.60	0.60	0.60
6	MASONRY WORK	0.20	0.20	0.20	0.20	0.20
7	EXTERNAL CLADDING & TILE HANGING	0.16	0.16	0.16	0.16	0.16
8	EXTERNAL INSULATION	0.67	0.67	0.67	0.67	0.67
9	UPVC WINDOWS	0.05	0.05	0.05	0.05	0.05
10	ASBESTOS REMOVAL	0.50	0.50	0.50	0.50	0.50
11	INSULATION	0.05	0.05	0.05	0.05	0.05
12	DRAINAGE	0.03	0.03	0.03	0.03	0.03
13	WATER SUPPLY	0.08	0.08	0.08	0.08	0.08
14	STRUCTURAL WORK	0.20	0.20	0.20	0.20	0.20
15	CATCH UP	0.35	0.35	0.35	0.35	0.35
16	ENVIRONMENT IMPROVEMENTS	0.35	0.35	0.35	0.35	0.35
	TOTAL (Million £'s)	6.52	6.52	6.52	6.52	6.52
2	INFLATION ESTIMATED AT 3% PER ANNUM YEAR ON YEAR	0.00	0.20	0.40	0.60	0.82
3	OMS 5% (OF 1 & 2 ABOVE)	0.33	0.34	0.35	0.36	0.37
4	GRAND TOTAL PER ANNUM (Million £'s)	6.85	7.05	7.26	7.48	7.71
	GRAND TOTAL YEAR 1-5 (Million £'s)	36.35				

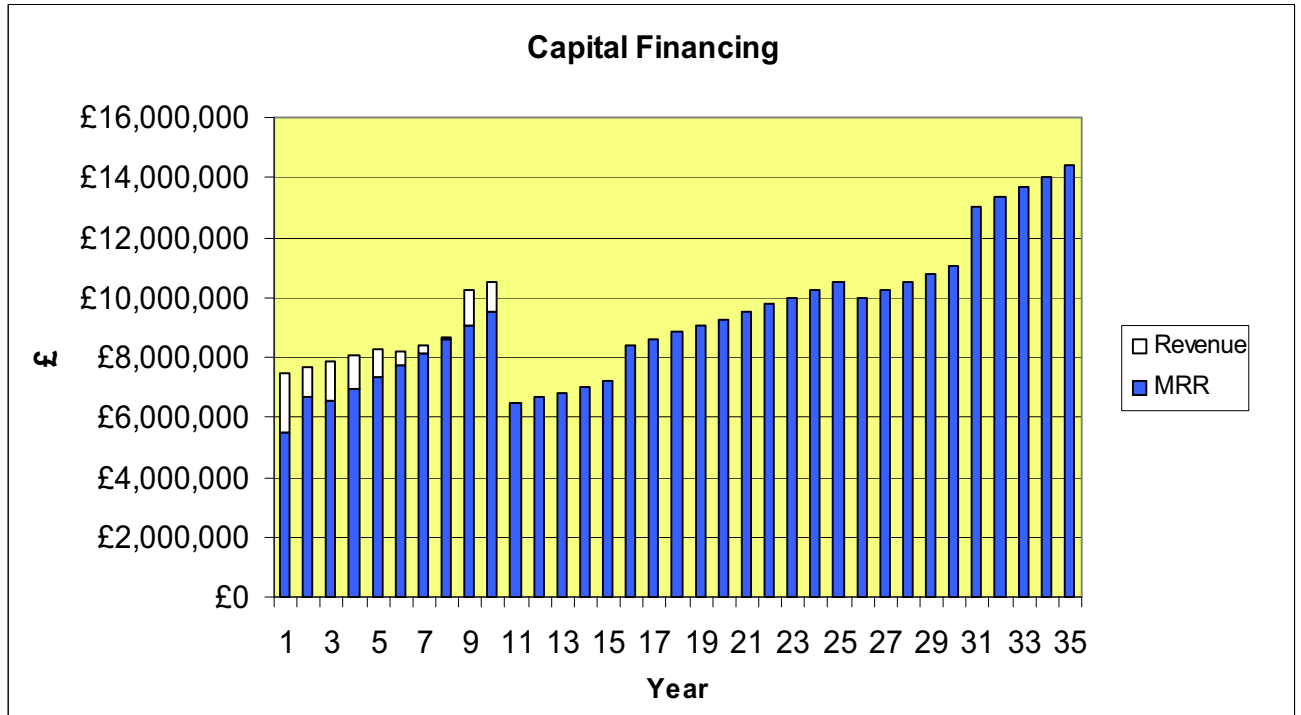
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Financing of the 30 year Capital Programme



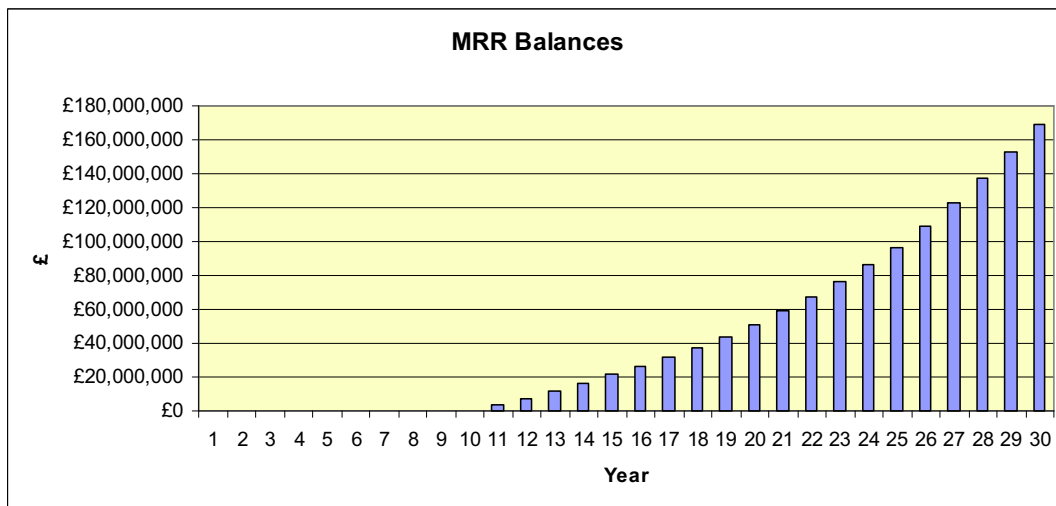
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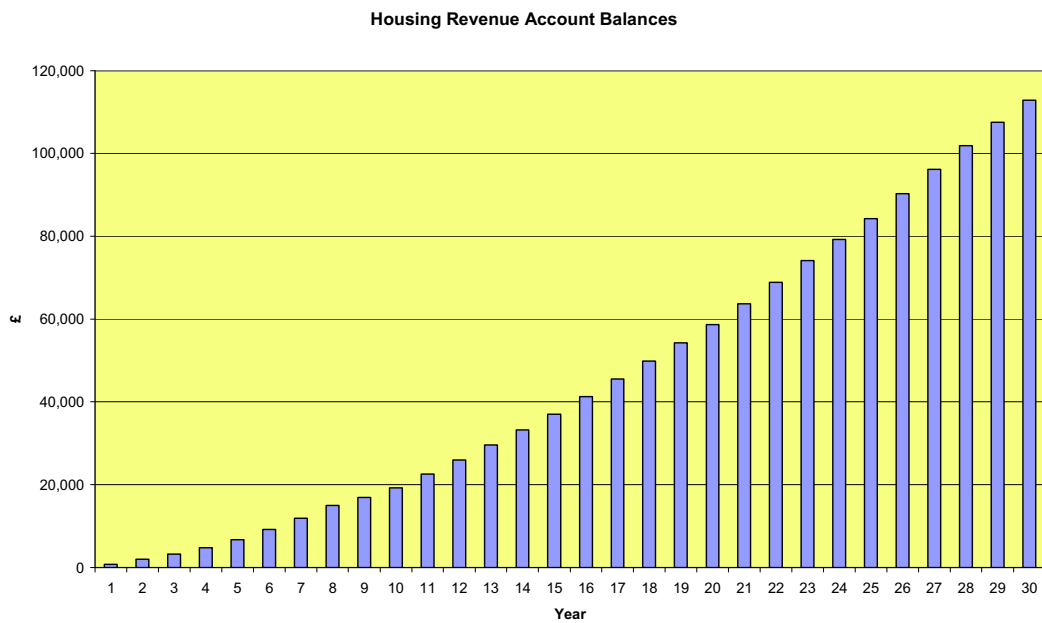
Appendix 3

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Funds available for the repayment of debt within the MRR



Housing Revenue Account Balances



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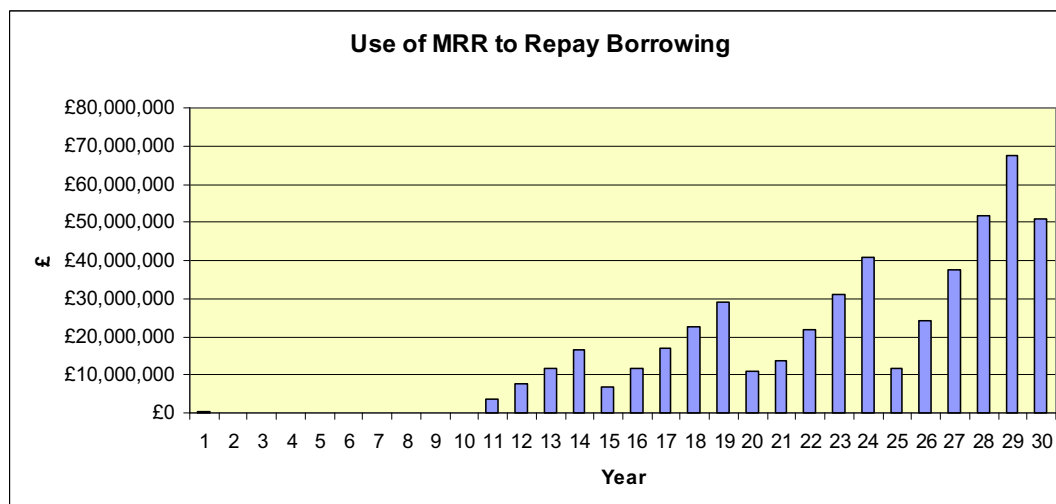
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Scheduling of Debt

Year	Year no.	£
2026/27	15	15,000,000
2031/32	20	25,000,000
2032/33	21	5,000,000
2036/37	25	40,000,000
2041/42	30	18,000,000*
Total external debt		103,000,000
Internal debt		15,000,000
Total debt		118,000,000

Note: year 1 = 2012/13

*The figure for 2041/42 will need to be adjusted once the actual amount of borrowing in respect of 2011/12 is known.



REDDITCH BOROUGH COUNCIL

COUNCIL

5th March 2012

30. **TREASURY MANAGEMENT, PRUDENTIAL INDICATORS AND
MINIMUM REVENUE PROVISION 2012/13**

RECOMMENDED that

**the Treasury Management Strategy, Prudential Indicators and
Minimum Revenue Provision Policy for 2012/13, be approved.**

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**TREASURY MANAGEMENT STRATEGY, PRUDENTIAL INDICATORS
AND MINIMUM REVENUE PROVISION POLICY FOR 2012/13**

Relevant Portfolio Holder	Councillor Michael Braley, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	
Relevant Head of Service	Teresa Kristunas, Head of Finance and Resources
Wards Affected	All Wards
Ward Councillor Consulted	
Key Decision	

1. SUMMARY OF PROPOSALS

To enable members of the Audit and Governance Committee to scrutinise the Treasury Management Strategy, Prudential Indicators and the Minimum Revenue Provision prior to approval by full Council.

2. RECOMMENDATIONS

- 2.1 **That subject to any comments, the Treasury Management Strategy, Prudential Indicators and Minimum Revenue Provision Policy for 2012/13, be approved.**

3. KEY ISSUESTreasury Management Operation

- 3.1 Treasury Management is:-

“the management of the local authority’s cash flows, its bankings, money market and capital market transactions and loan management; the effective control of the risks associated with those activities; and the pursuit of the optimum performance consistent with those risks”.

- 3.2 The approved activities of the Treasury Management operation are as follows:-

- a) Cash flow (daily balances and long term forecasting).
- b) Investing surplus funds in Approved Investments.
- c) Borrowing to finance cash deficits.
- d) Funding of capital expenditure through borrowing, capital receipts, grants or leasing.

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- e) Management of debt (including rescheduling and monitoring).
 - f) Interest rate exposure management.
 - g) Dealing procedures with brokers, banks, building societies and the Public Works Loans Board.
- 3.3 On the 1st of April 2004 the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code was introduced to support the new system of capital finance embodied in Part 1 of the Local Government Act 2003. This introduced a number of prudential indicators that impact on treasury management activity.
- 3.4 The revised guidance issued in 2009 made it clear that investment priorities should be security and liquidity, rather than yield and that authorities should not rely just on credit ratings, but consider other information on risk.
- 3.5 The guidance requires investment strategies to comment on the use of treasury management consultants and on the investment of money borrowed in advance of spending needs.
- 3.6 The investment strategy for periods commencing 1st April 2010 are to be approved by full Council and published.

Prudential Indicators

- 3.7 The key objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable; also, that treasury management decisions are taken in accordance with good professional practice and in a manner that supports prudence, affordability and sustainability.
- 3.8 To demonstrate that local authorities have fulfilled these objectives, the Prudential Code sets out the indicators that must be used, and the factors that must be taken into account. The Code does not include indicative limits or ratios, these are for the local authority to set for itself subject to the controls under [clause 4] of the Local Government Act 2003.

Minimum Revenue Provision (MRP)

- 3.9 The requirement to make a MRP is contained within the Local Authorities (Capital Finance and Accounting) (Amendment) Regulations 2008.

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- 3.10 Following the publication of the Local Authorities (Capital Finance and Accounting) Regulations issued on the 26th February 2008 local authorities are required to prepare an annual statement of policy for making a MRP. The annual statement should be submitted to Council before the start of the financial year.
- 3.11 MRP is the amount of revenue which an authority sets aside for the repayment of the principal element of any borrowing undertaken to finance capital expenditure. The interest cost of borrowing continues to be a direct charge to revenue. The new regulations that came into force on the 31st March 2008 impose a duty on the Council to make an amount of MRP which it considers to be a “prudent provision”.
- 3.12 The broad aim of “prudent provision” is to ensure that debt is repaid over a period that is either reasonably commensurate with that over which the capital expenditure provides benefits, or, in the case of borrowing supported by Government Revenue Support Grant, reasonably commensurate with the period implicit in the determination of the grant. This authority does not have any borrowing supported by Revenue Support Grant.
- 3.13 MRP is calculated in the financial year after the capital expenditure has been incurred and so the capital spend in 2011/12 informs the MRP set aside in the revenue account for 2012/13. The new regulations have added an exception to this in that if expenditure has been incurred on an asset which has not become operational then MRP does not need to be set aside until the financial year after the asset becomes operational. In effect authorities are entitled to a “MRP holiday” until the new asset becomes operational.
- 3.14 The turmoil within financial markets, in particular the failing of a number of Icelandic banks and the issue with Northern Rock has highlighted the risks associated with treasury management activities.
- 3.15 The strategy adopted by many local authorities has been to protect capital sums with minimal returns on investments. There are now only a handful of institutions with a F1+ credit rating.
- 3.16 The bank base rate has remained at 0.5% since 5th March 2009.
- 3.17 On 20th October 2010 HM Treasury issued an instruction to the PWLB to increase the interest rate on all new loans by an average of 1% above UK Government Gilts. The borrowing rate for new fixed loans increased by approximately 0.87% and by 0.90% across variable rates. In September 2011 HM Treasury announced that these increases would be removed for authorities required to make payments to the

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Department for Communities and Local Government (CLG) as part of the Housing Revenue Account reforms.

- 3.18 The Council currently has £15 million which it invests for periods up to one year. These monies are currently invested with a number of banks and building societies at rates ranging from 0.95% and 2.0%. It is proposed that these monies are lent by the General Fund to the Housing Revenue Account as a contribution to the £99,512,000 that is due to be paid to the CLG on the 28th March 2012. In return the General Fund would receive interest based on the rate charged by the Public Works Loans Board on the monies borrowed from that source in respect of self-financing. This is estimated to amount to £540,000.

Capital Resources

- 3.19 The Council's capital programme for 2012/13 shows a requirement for capital resources of £9.4 million. In order to fund the 2012/13 capital programme the Council will need to undertake further prudential borrowing of £2.1 million. The availability of capital receipts from asset disposals is limited because of market conditions.
- 3.20 The Council currently has £5.0 million of long term borrowing relating to housing capital expenditure. Further long term borrowing will be undertaken on or before the 28th March 2012 in order to make the payment of £99,512,000 to the CLG and to replace most of the housing short term borrowing. The remainder of the Council's borrowing is currently undertaken on a short-term basis. Further long term borrowing will be undertaken when market conditions are favourable.
- 3.21 The decision on when borrowing will be taken up will depend on expenditure plans and market conditions. The Council only has the power to borrow to fund capital expenditure. From 1st April 2012 the Council will have a limit (Debt Cap) on borrowing for housing purposes currently estimated at £118,040,000.

Prudential Indicators

- 3.22 The Council is required to publish the following indicators introduced by the Code for the next and following two financial years:
- a) Actual and estimated capital expenditure,
 - b) Ratio of financing costs to net revenue stream,
 - c) Capital financing requirement,
 - d) Actual limit for external debt,

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- e) Operational boundary for external debt,
- f) Council tax implications of the incremental effect of capital decisions,
- g) Treasury Management indicators.

3.23 The prudential indicators for the forthcoming and following years must be set before the beginning of the financial year. They may be revised at any time, and must be reviewed, and revised if appropriate, for the current year when the prudential indicators are set for the following year.

Capital Expenditure

3.24 The estimates of capital expenditure for 2011/12 and future years included in the Council's approved capital programme are:

Approved Programme	2011/12 Estimate £'000	2012/13 Estimate £'000	2013/14 Estimate £'000	2014/15 Estimate £'000
HRA	7,115.0	7,050.0	7,950.0	7,260.0
General Fund	12,613.0	2,348.7	2,046.0	962.0
Total Approved Programme	19,728.0	9,398.7	9,996.0	8,222

Ratio of Financing Costs to Net Revenue Stream

3.25 The financing costs include the amount of interest payable and receivable in respect of borrowing and investments. The Net Revenue Stream for the HRA is the amount to be met from housing rents and for the General Fund it is the "amount to be met from government grants and local taxation". The estimates of the ratio of financing costs to net revenue stream for the current and future years are:

Ratio of financing costs to net revenue stream				
	2010/11 Estimate	2011/12 Estimate	2012/13 Estimate	2013/14 Estimate
HRA	1.6	21.2	20.2	19.2
General Fund	(0.5)	(3.6)	(3.5)	(3.4)

3.26 The figures in the above table are shown as negatives where the interest received from temporary and long term investments is estimated to exceed the cost of temporary borrowing. The significant

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changes in 2012/13 are due to the borrowing the HRA self-financing and the use by the HRA of the monies previously invested externally.

Net Revenue Streams for 2011/12 and 2012/13

3.27 The Net Revenue Stream for the HRA is calculated as follows:

	2011/12 Estimate £	2012/13 Initial £
Dwelling rents	19,827,780	22,682,180
Non-dwelling rents	516,730	484,000
Charges for services and facilities	188,460	190,280
Less		
Negative subsidy	6,037,140	0
Net Revenue Stream	14,495,830	23,356,460

3.28 The Net Revenue Stream for the General Fund is calculated as follows:

	2011/12 Estimate £	2012/13 Estimate £
Revenue Support Grant	1,108,936	80,099
Non-Domestic Rates	3,587,596	4,132,050
Council Tax	5,774,800	5,784,189
Council Tax Grant	144,173	144,397
Collection Fund	19,956	0
Net Revenue Stream	10,635,461	10,140,735

Capital Financing Requirement

3.29 The capital financing requirement is a measure of the extent to which the Council needs to borrow to support capital expenditure. It does not necessarily relate to the actual amount of borrowing at any one point in time. The Council has an integrated treasury management strategy where there is no distinction between revenue and capital cash flows, and the day to day position of external borrowing and investments constantly changes. The closing Capital Financing Requirement for 2010/11 was £31.066 million.

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Capital Financing Requirement				
	2011/12 Estimate £'000	2012/13 Estimate £'000	2013/14 Estimate £'000	2014/15 Estimate £'000
HRA	118,040	118,040	118,040	118,040
General Fund	18,500	20,600	21,600	22,600
Total	136,540	138,640	139,640	140,640

Prudential Indicators

- 3.30 CIPFA's Prudential Code for Capital Finance includes the following key indicator of prudence:
- 3.31 "In order to ensure that over the medium term net borrowing will only be for a capital purpose, the local authority should ensure that net external borrowing does not, except in the short term, exceed the total of Capital Financing Requirement in the preceding year plus the estimates of any additional Capital Financial Requirement for the current and next two years."
- 3.32 As at the 31st March 2011 the Council's borrowing exceeded its investments by £23.3 million.

External Debt

- 3.33 In respect of any external debt, it is recommended that the Council approves the following Authorised Limits for its total external debt gross of investments for the next three financial years. The Authorised Limit for external debt for the forthcoming year is the statutory limit determined under Section 3 (1) of the Local Government Act 2003: "A local authority shall determine and keep under review how much money it can afford to borrow."
- 3.34 The Authorised Limits are consistent with the current capital programme and the proposals for capital expenditure included in the Medium Term Financial Plan and the Council's Capital Strategy. The limits are based on the most likely financial circumstances but with an allowance made for unusual cash movements. It is not anticipated that any borrowing will be undertaken except temporarily until further revenues are received.

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Authorised Limit for External Debt				
	2011/12 Revised Estimate £'000	2012/13 Estimate £'000	2013/14 Estimate £'000	2014/15 Estimate £'000
Borrowing	137,000	140,000	145,000	150,000
Other long term liabilities	0	0	0	0
Total	137,000	140,000	145,000	150,000

- 3.35 The Council is asked to approve the following Operational Limit for external debt for the same period. The Operational Limit is based on the same estimates as for the Authorised Limit but differs in that it does not take into account the allowance for unusual cash movements.

Operational Limit for External Debt				
	2011/12 Revised Estimate £'000	2012/13 Estimate £'000	2013/14 Estimate £'000	2014/15 Estimate £'000
Borrowing	141,000	145,000	150,000	155,000
Other long term liabilities	0	0	0	0
Total	141,000	145,000	150,000	155,000

- 3.36 The Council's actual external debt at the 31st March 2011 was £33.825 million (£28.561 million in short term borrowing and £5.3 million long term borrowing). It should be noted that the actual external debt is not directly comparable to the authorised limit and the operational boundary, since the actual external debt reflects the position at one point in time. The figures above reflect the £99.512 million to be paid to the CLG on or before the 28th March 2012.

Treasury Management

- 3.37 The Council has previously adopted the CIPFA Code of Practice for Treasury Management in the Public Services. Interest rate risk management is a priority and therefore the Code identifies two indicators that will provide the Operational Boundaries to the exposure to interest rate risk.
- a) Upper limits for variable rate exposure and
 - b) Upper limits to fixed rate exposure.

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- 3.38 It is recommended that the Council sets an upper limit on its fixed interest rate exposures for 2011/12, 2012/13 and 2013/14 of 100% and on its variable interest rate exposures on 50%. This limit on variable rates is consistent with the current approved limit.
- 3.39 The medium term strategy is to undertake borrowing for capital expenditure. The timing of any longer term borrowing will depend on interest rates and the profile of capital spend.
- 3.40 The Council's investments are held in a relatively flexible form and therefore fixed interest rate exposure is not considered to be a significant risk.

Maturity Structure of any Fixed Rate Borrowing (as a percentage of total projected borrowing that is fixed rate)		
	Upper Limit	Lower Limit
Under 12 months	100%	0%
12 months and within 24 months	100%	0%
24 months and within 5 years	100%	0%
5 years and within 10 years	100%	0%
10 years and above	100%	0%

- 3.41 The Council has recalled its externalised investments of £15 million, which originated in relation to the Council's reserved capital receipts. This sum is invested by the in-house team. It is proposed that these monies are utilised by the HRA to reduce the amount to be borrowed from the PWLB and at the same time generate an interest receipt for the General Fund. The Code requires that authorities set out the total principal of sums invested for periods longer than 364 days and set an upper limit for each forward financial year for the maturity of these investments. The purpose of the indicator is to manage the investment portfolio within good treasury management practice guidelines and ensure there is a spread of investment maturities to reduce risks inherent in interest rate volatility. The following limits are recommended.

Total principal sums invested for periods longer than 364 days	
	£ million
31 March 2011	0.0
31 March 2012	0.0
31 March 2013	0.0

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Minimum Revenue Provision Policy

- 3.42 For all unsupported (prudential) borrowing the Minimum Revenue Provision (MRP) will be based on the estimated life of the assets financed by borrowing in accordance with the MRP guidance.

Self-financing for housing

- 3.43 The underlying principle of introducing self-financing for the Housing Revenue Account is that it should be at no detriment to the General Fund. In order to achieve it is proposed that the current long term loan of £5 million continues to be allocated to the HRA and that the current short term borrowing in respect of HRA capital expenditure is replaced with long term borrowing from the PWLB at the proposed preferential rates. There will then be two separate loans/borrowing funds one for the HRA and one for the General Fund. All other cash flow related transactions will be pooled and the costs allocated as at present.

Financial Implications

- 3.44 The financial implications are contained throughout the report.

Legal Implications

- 3.45 Section 151 of the Local Government Act 1972, the authority has to make arrangements for the proper administration of its financial affairs. The Council has previously resolved to comply with the CIPFA Code of Practice on Treasury Management. Under the Code of Practice the Council is required to approve the Treasury Management Strategy and Annual Investment Strategy before the start of the financial year.
- 3.46 Guidance issued under Section 15 (1) (a) of the Local Government Act 2003 requires the Council to approve an Annual Investment Strategy before the start of the financial year.
- 3.47 The treasury management code of practice requires all organisations covered by it to have a treasury management strategy stating the policies and objectives of its treasury management function.
- 3.48 On the 16th November 2009 the Department for Communities and Local Government issued a consultation paper on various changes to the prudential Capital Finance system introduced by the Local Government Act 2003. The revised guidance impacted on an authority's investment strategy.
- 3.49 In order to comply with the requirement of the Local Government Act 2003 the Council needs to approve a range of prudential indicators as

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detailed in the body of this report before the start of the forthcoming financial year. At the same time the Council also needs to approve a Minimum Revenue Provision Policy.

Service/Operational Implications

- 3.50 The Council's policy regarding borrowing and investments is contained in its Treasury Management Strategy.
- 3.51 This report will determine the Council's policy on making a MRP for 2012/13.
- 3.52 The performance management implications are detailed in the report.

Customer / Equalities and Diversity Implications

- 3.53 There are no implications identified.

4. RISK MANAGEMENT

- 4.1 The Council needs to ensure that the risks associated with the treasury function have been properly identified and evaluated. The risks include interest rate exposure, counterparty or credit risk, liquidity (insufficient cash to meet liabilities) risk, funding (inability to repay or replace loans) risk, and the failure of internal controls.
- 4.2 The Council would be failing in its legal obligations under the Local Government Act 2003 if it failed to agree a set of Prudential Indicators for the forthcoming financial year and in its legal obligations under the Local Authorities (Capital Finance and Accounting) (Amendment) Regulations 2008 if it failed to prepare an annual statement of policy on making a MRP.

5. APPENDICES

Appendix 1 – Treasury Management Strategy 2012/13

6. BACKGROUND PAPERS

CIPA – Treasury Management Implications of HRA Reform

AUTHOR OF REPORT

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TREASURY MANAGEMENT STRATEGY **2012/13**

1.0 Objectives

The main objectives of Treasury Management are:-

a) **Borrowing**

- To effect funding in any one year at the cheapest rate commensurate with future risk.
- To forecast average future interest rates and borrowing accordingly.
- To monitor and review the level of variable interest rate loans in order to take greater advantage of interest rate movements.

b) **Investment**

- To maximise the return on investments while maintaining capital security.

c) **Cash Flow**

- To either borrow on a temporary basis to cover shortfalls in funds or make temporary investments in order to manage the Council's cash flow in the most cost effective way.
- To maintain minimum balances with the Council's bankers.

2.0 Sources of Financing

The following list specifies which borrowing instruments can be adopted:-

- Market – Long Term - Loans available through the London Money Market.
- Market – Temporary (up to 364 days) – Loans available through the London Money Markets.
- Public Works Loans Board – the low risk source of longer term borrowing for the Council.
- Overdraft - Redditch Borough Council has an overdraft limit of £1million with Lloyds TSB Bank plc.

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- Internal (Capital receipts and revenue balances) - including “set aside” capital receipts earmarked to repay debt used as a substitute for new borrowing.
- Leasing.

3.0 Borrowing Limits

The prudential indicator for the Authorised Limit for external debt for the current year is the statutory limit determined under section 3(1) of the Local Government Act 2003: “A local authority shall determine and keep under review how much money it can afford to borrow.”

4.0 Interest Rate Exposure

The Council will set for the forthcoming financial year and following two financial years upper limits to its exposures to the effects of changes in interest rates. These indicators will relate to both fixed interest rates and variable interest rates.

Annual Investment Strategy - 2012/13

Introduction

5.0 Guidance issued under section 15 (1) (a) of the Local Government Act 2003 requires the Council to approve an Annual Investment Strategy before the start of the financial year.

6.0 Objective

6.1 The objective of the Council’s Investment Strategy is to prudently invest all surplus funds held on behalf of the authority. Priority will be given to security and liquidity but at the same time maximising yield.

6.2 The Council will not borrow funds to invest.

7.0 Types of Investments

7.1 The investments which the Council are able to use are categorised as ‘Specified Investments’ and ‘Non-Specified’ Investments. Specified Investments offer high security and high liquidity. They must be in sterling and have a maturity of less than a year. The Strategy is for the Council to restrict its investment activity to specified investments.

7.2 Specified Investments

All short-term investments arising from the management of the Council’s cash flow shall be invested with:

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- the major British clearing banks, National Westminster, Lloyds TSB, HSBC and Barclays, also Coutts and Company, the wholly owned subsidiary of National Westminster,
- building societies and building society conversions that are F1 or F1+ credit rated for short-term lending'
- all other local authorities (non-capped)
- other public bodies such as universities
- 'AAA' rated Money Market Funds.

The maximum amount placed with any single institution will be £2.5 million.

8.0 Credit ratings.

The Council's requirements in terms of credit ratings of lending parties are notified to the broker's. The Council principally relies on the credit ratings published by Fitch Ratings, to establish the credit quality of counterparties. Where a counterparty does not have a Fitch rating, the equivalent Moody's rating will be used.

9.0 External Fund Management

The Council has withdrawn from the use of external fund managers. Investments made or committed by the Council's fund managers have been returned to the Council and are now invested in-house. No new investments will be placed by external fund managers.

The agreement with the remaining External Fund Manager was terminated in August 2007.

10.0 Reporting Arrangements

- 10.1 The Head of Financial, Revenues and Benefits Services will report on the prudential indicators as set out in CIPFA's Prudential Code for the coming year to the Council, at or before the start of the financial year and on the Treasury Management Strategy (including the Annual Investment Strategy) it is proposed to adopt for the forthcoming year.

REDDITCH BOROUGH COUNCIL

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16. **STREET TRADING POLICY - REVIEW**

RECOMMENDED that

the fees and charges as set out at Part 5 and Part 7 of the Information Pack (Appendix 2) be approved by full Council.

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STREET TRADING POLICY - REVIEW

Relevant Portfolio Holder	Councillor Juliet Brunner, Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To receive a report on the Street Trading Policy for the Borough following a consultation exercise undertaken during the period 3rd September 2011 to 30th November 2011.

2. RECOMMENDATIONS

Members are asked to RESOLVE that

- 1) **the wording of the Street Trading Policy Statement (Appendix 1), Information Pack (Appendix 2) and Street Trading Standards Conditions (Appendix 3) be approved, and that these three documents be adopted to form the Council's Street Trading Policy;**
- 2) **a Public Notice be placed in a local newspaper for a period of two weeks to advertise the making of a resolution to designate Consent Streets and Prohibited Streets for the purpose of Street Trading within the district; and**

to RECOMMEND that

- 3) **the fees and charges as set out at Part 5 and Part 7 of the Information Pack (Appendix 2) be approved by full Council.**

3. KEY ISSUES**Financial Implications**

- 3.1 Estimated costs of the service have been included within the Worcestershire Regulatory Services (WRS) budget and are reflected as non-profit making.

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Legal Implications

- 3.2 Redditch Borough Council (The Council) pursuant to Section 3 of The Local Government (Miscellaneous Provisions) Act 1982 has resolved to adopt Schedule 4 of the Act to control Street Trading in the District.
- 3.3 The Council has resolved that every street within the area of the district of Redditch should be designated as a Consent Street, under the Act, (LGMPA) (except those shown at Appendix 1 and nominated as Prohibited Streets).
- 3.4 Following consultation and by adopting the new Policy Members are being asked to make two additions to the Prohibited Streets, namely Moons Moat Drive and Headless Cross Drive.
- 3.5 In relation to fees, Members are reminded that there is case law which establishes the principle that fees can only be charged on a costs recovery basis. In other words the fees must reflect that actual cost to the authority of the Officer time involved in administering the issuing of Consents for street trading. The Council would be open to challenge if the fees were set at a higher level.

Service / Operational Implications

- 3.6 At the Licensing Committee on 14th July 2011, Officers presented Members with a revised Policy for Street Trading and an application information pack.
- 3.7 Consultation took place between 3rd September 2011 and 30th November 2011 with all relevant agencies and all consent holders.
- 3.8 Two representations were received, requesting two roads to be incorporated into the Prohibited Streets List (see appendix 4).
- 3.9 Any changes to the Policy will need to be advertised in a local newspaper giving a period of notice when the new Policy comes into force. Officers suggest this should be one month following advertisement.
- 3.10 The wording of the proposed Policy statement (Appendix 1) is based on the same policy that has already been established in three other Local Authorities within the County; where it has been adopted the policy has shown to be effective. This policy is also to be introduced in two Local Authorities in the near future.

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- 3.11 The introduction of this proposed policy will enable a transparent, objective and consistent approach to Street Trading on a countywide basis. This will be of benefit to customers who trade in different parts of the County.
- 3.12 Officers have looked at fees in particular; the proposed fees (shown in appendix 2 – Information Pack) are consistent with the adjoining Local Authority and set on a recovery of costs basis.
- 3.13 The Standard Conditions to be attached to Street Trading Consents is shown as appendix 3.

Customer / Equalities and Diversity Implications

- 3.14 There are no adverse implications to consent holders through the proposed changes to this Policy.
- 3.15 The draft revised Policy has gone through a 12 week consultation and has been circulated and published on Redditch District Council's web site as part of the formal consultation process.

4. RISK MANAGEMENT

None.

5. APPENDICES

- Appendix 1 - Street Trading Policy Statement.
- Appendix 2 - Customer Information Pack.
- Appendix 3 - Standard Conditions attached to consents.
- Appendix 4 - Consultation response table.

6. BACKGROUND PAPERS

Street Trading Policy dated 1989.
Local Government (Miscellaneous Provisions) Act 1982 Section 3,
Schedule 4.

AUTHOR OF REPORT

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STREET TRADING - POLICY STATEMENT

UNDERLYING PRINCIPLES

1. Street Trading is regarded as an acceptable activity in Redditch within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Redditch and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Redditch comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
 - The Highways Authority – Worcestershire County Council;
 - The Chief Officer of Police;
 - Worcestershire Regulatory Services – Compliance Team;
 - The Councils Street Scene and Community Services Team;
 - The Council's Community Safety Team;
 - Trading Standards;
 - The Parish Council (if any) in which the Trading Unit is to be located;
 - The Ward Councillors; and
 - The owners/occupiers of any properties near to the proposed location of trading site.
 - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.

8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.
9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.

CONSENTED STREETS	PROHIBITED STREETS
<p>ALL STREETS WITHIN REDDITCH DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND THE TOWN CENTRE USED FOR MARKET PURPOSES.</p>	<p>All 'A' and 'B' roads in the Borough:-</p> <p>Alders Drive Alvechurch Highway Alcester Highway Battens Drive Birmingham Road Birchfield Road Bromsgrove Highway Callow Hill Lane Coldfield Drive Coventry Highway Claybrook Drive Dagnell End Road Evesham Road Far Moor Lane Greenlands Drive *Headless Cross Drive Holloway Drive Icknield Street Icknield Street Drive Lower Common Lane Middle Piece Drive *Moons Moat Drive Old Forge Drive Papermill Drive Redditch Ringway Rough Hill Drive Salters Lane/Hewell Road Warwick Highway Washford Drive Windsor Road/Middle House Lane Woodrow Drive Windmill Drive</p> <p>Droitwich Road, Feckenham Alcester Road, Feckenham Saltway, Feckenham High Street , Feckenham Church Road, Astwood Bank.</p>

* indicates insertions.

STREET TRADING

INFORMATION PACK

What is a Street Trader?

A Street Trader is someone who:-

- i. Trades on any road, footways, highways, and other adjacent areas to which the public have access without payment. Traders must obtain land owners' permission when trading on private land.
- ii. Sells or exposes or offers for sale any article, whether food or non-food, including a living thing, whether with or without a stall or vehicle.
- iii. Trades from a fixed location.

Does the Control apply to all Traders?

No, there are various exemptions to the requirement to hold a Street Trading Consent:-

- i. Trading as a pedlar with a valid Pedlar's certificate issued under the Pedlars Act 1871. A pedlar is a person who travels and trades on foot and goes from town to town or from house to house carrying goods to sell. A pedlar cannot trade from a fixed spot. Pedlar's certificates are obtained from any main Police Station.
- ii. A roundsman, who is a person who delivers orders to the customer's door. This is a trader who calls by prior arrangement with the customer and sells at the customer's premises. Ice cream sellers or mobile food sellers are not deemed to be "roundsmen" and require a licence to trade in the street.
- iii. News vendors selling only newspapers and periodicals, unless the stall exceeds one metre in length or width, or two metres in height.
- iv. Trading from the forecourt of a petrol filling station.
- v. Trading from a stall outside a shop as an extension of that business.

How is Street Trading Controlled in Redditch?

Redditch Borough Council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 so that it can effectively control street trading.

- i. All streets within Redditch District have been designated as consented streets apart from those specifically prohibited (see Appendix A of the Council's Street Trading Policy).
- ii. This means that it is an offence to trade without Consent in any street, road, footway, highway, or adjacent area to which the public have access without payment, other than those prohibited where no trading at all can take place.

- iii. Trading without consent may result in prosecution.
- iv. If a trader has been granted a consent the Council has the right to vary or revoke the Consent at any time if the trader fails to comply with the conditions attached to the Consent.
- v. If you wish to trade outside of the Redditch District you should contact the appropriate District Council for that area. Please note that different Councils may have different procedures and rules regarding street trading.
- vi. If you wish to trade within the Redditch District an application should be made to the Worcestershire Regulatory Services, Licensing, Town Hall, Walter Stranz Square, Redditch. B98 0BJ.

How do I apply for Consent?

- i. Complete the appropriate application form – for a “static trader” if you wish to trade from a pitch, or for a “mobile” trader if you sell from street to street.
- ii. Attach to the application form the required documents, including a Basic Criminal Records Bureau Disclosure as listed on the application form.
- iii. Post or bring to the Council Offices at Town Hall the completed application form, and original copies of any supporting documents (these will be copied and returned to you).

What Are the Fees Payable for Consent?

- i. Fees are payable for each unit or site. The fee is payable once a decision has been made on an application for a Consent. Fees should be sent with the completed application form.
- ii. Fees may be payable in instalments, by agreement with the Council.
- iii. Fees are reviewed annually and are applicable from 1st April each year.
- iv. Fees payable for static traders who trade from a fixed pitch are:-

	Food		Non Food	
	<i>Initial</i>	<i>Renewal</i>	<i>Initial</i>	<i>Renewal</i>
Single Unit up to 12m ² (max 5m length)	£1418	£1301	£1183	£1064
For every additional 12m ² or part thereof or length more than 5m	£600			
Mobile traders	£575 per vehicle, per annum			

How Long Does Consent Last for?

- i. Consent can be issued for any period up to a maximum of 12 months but will expire on 31st March next, unless surrendered earlier.
- ii. Renewals will take place on receipt of a completed renewal application form and payment of the appropriate fee.

Are Consents Transferable?

- i. No, they are not.
- ii. The Consent holder is entitled to a refund of part of the fee paid if the Consent is surrendered part way through the year.
- iii. Refunds may be made on a pro rata basis, subject to an administration charge of £35.
- iv. If you do not renew the Consent on the expiry or surrender it before then, then any other person will be able to apply to trade from the same site.

What are the Responsibilities of a person granted consent?

Such a person is responsible for ensuring that:-

- i. The consent conditions are complied with.
- ii. All relevant certificates are produced to the Council with any application for Consent.
- iii. The vehicle or stall is registered with the Council if selling food of any description.
- iv. The Council will not be held responsible for any acts or omissions arising from the grant of Consent.
- v. Where trading is on private land, to which the public has access without restriction, permission to trade must be obtained from the owner/occupier as well as the Council.
- vi. The applicant must ensure that a suitable and sufficient fire risk assessment is carried out, as required under the Regulatory Reform (Fire safety) 2005, in relation to any store or catering facility for which they are responsible. The Fire Risk assessment must identify the fire risks, the people who maybe at risk in the event of a fire, and the fire precautions necessary to minimise the risk of fire and fire spread and to ensure the safety of people in or within the vicinity of their store or catering facility. (For further information on fire risk assessment go to the Hereford and Worcester Fire and Rescue Website at hwfire.org.uk and follow the safety advice for business).

Does the Grant of Consent by the Council give any other entitlement?

- i. No - It only permits trading within the terms of the Consent as specified. The Consent does not override any parking restriction or other traffic regulation.
- ii. The Consent to trade does not imply approval from any other person or authority.

Consideration and Determination of your Application

- i. When received by the Licensing Section your application form will be checked. Provided there are no queries arising from the application form, your application will be acknowledged in writing within 5 working days of receipt. If there is a query then you will be contacted in writing and/or by telephone and given the opportunity to respond.
- ii. The complete application form will be copied for comment to various parties.

Usually these are the Police, Worcestershire County Council Highways Partnership Unit Manager, Ward Councillors, the Parish or Town Council, Economic Regeneration & Tourism Manager, Community Development Control Manager, Operational Services Manager and local businesses within the vicinity of the proposed site of operation.

- iii. We aim to complete this process within 20 working days but may take longer if a Licensing Sub-Committee hearing is necessary.
- iv. If queries are raised at this stage then you will be contacted in writing and/or by telephone and given the opportunity to address them.
- v. Having received all comments/recommendations and taking into account the Council's adopted Street Trading Policy, the Head of Worcestershire Regulatory Services or one of his nominated officers, under the Council's Scheme of Delegation, may then determine applications where there are no objections and where the application is to be granted. Where your application cannot be granted, or where objections are received, your application will be referred to the Council's Licensing Sub-Committee for consideration and determination.
- vi. You will be informed in writing of the recommendation to the Licensing Sub-Committee and the date of the meeting to which you will also be invited to attend.
- vii. If your application is granted, the Consent will be issued, together with a copy of the Standard Conditions applicable to street trading Consents plus any Special Conditions deemed necessary by the Council.
- viii. If the Committee refuses your application you will be notified in writing of the reasons for refusal.
- ix. There is no right of appeal in the case of refusals or against the application of conditions.

Is there an Independent Body which represents Street Traders?

There is a body which offers advice on all aspects of outside catering. This body is called MOCA (Mobile and Outside Catering Association Ltd.) and is located at:-

Centre Court
1301 Stratford Road
Hall Green
Birmingham
B28 9HH

Tel 0121 693 7000
Fax 0121 693 7100
Website www.moca.co.uk

REDDITCH BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING - STANDARD CONDITIONS

1. Redditch Borough Council ("the Council"), pursuant to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") have resolved that Schedule 4 to the Act, to control street trading in the district should come into force from 2012.
2. The Council has resolved that every street within the area of the district of Redditch is to be designated as a Consent Street" under the Act, (except those shown at Appendix One and nominated as Prohibited Streets) which means a street in which street trading is prohibited without a Consent issued by the Council.
3. A street trading Consent is issued by the Council subject to the following conditions, insofar as they do not conflict with or are amended by any specific conditions imposed on the grant of the Consent:-
 - (a) The Consent is valid for the period shown on the Consent
 - (b) The Consentee shall pay a fee to the Council in accordance with the approved list of fees.
 - (c) The Consent may be surrendered by the Consentee at any time, providing that the Council shall repay to the Consentee that part of the fee considered by the Council appropriate for the unexpired period of the licence, less £35 for administrative expenses, the exception being the day rate.
 - (d) The Consent holder must at all times while trading display in a conspicuous position the Consent issued by the Council.
 - (e) The Consentee shall not carry on his/her trade in such a way as to cause obstruction of any part of the street in which he/she is trading, or danger to persons using the street.
 - (f) The Consentee shall not carry on his/her trade in such a way as to cause a nuisance or annoyance to persons using the street or to occupiers in the vicinity.
 - (g) The Consentee shall not sell any type of food, goods or merchandise other than that specified in the Consent.
 - (h) The Consentee shall provide and maintain, where appropriate, adequate facilities for the collection of litter resulting from his/her trading and at the close of each trading day shall remove any litter

resulting from his/her trading from the street. The Consentee shall be responsible for any damage to the highway or otherwise resulting from the trading activity.

- (i) The Consentee shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse occurring from the trading activity and shall not discharge any waste water to the street surface or to the surface water drains.
- (j) The Consentee shall not use any television, tape recorder or other device for the reproduction of sound while trading without the express permission of the Council.
- (k) The Consentee shall not trade outside the times and days permitted by the Consent
- (l) The Consentee shall not trade in any location other than the location permitted by the Consent
- (m) Any vehicle, stall or container used by the Consentee in the course of street trading shall be constructed and maintained to the satisfaction of the Council and shall comply with legislation in force at the time or any relevant British Standard.
- (n) The use and storage of liquid petroleum gas (LPG) shall be in accordance with the appropriate code of practice and must be considered during the formulation of fire risk assessment. (Further guidance in relation to the small scale safe use and storage of LPG can be found on the Health and Safety Executive (HSE) website.
- (o) The Consent shall not operate for any other purpose than to permit the Consentee to trade in a Consent street in accordance with the conditions imposed. The Consentee must ensure that he/she has obtained any other approval or registration required under any other statutory provisions relevant to his/her trade.
- (p) The Consentee must be 18 years of age or over and shall be responsible at all times for control of the stall. Any persons assisting on the stall shall be 18 years of age or over.
- (q) The Consent is personal to the Consent holder and shall not be assigned or transferred to any other person or company.
- (r) The Consent holder or his employee must move his vehicle/stall or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- (s) Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.

- (t) The Consent holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon the request.
- (u) Nothing contained in these conditions shall relieve or excuse the Consent holder or his/her employee or agent from any legal duty or liability and the Consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from trading.
- (v) The conditions attached to the Consent may be varied by the Council at any time.
- (w) Any breach of these conditions may lead to the Consent being suspended or revoked.
- (x) In these conditions “the Consent” means a Consent issued under Section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Consentee means the person named on the Consent issued by the Council and includes any employee, servant or agent of the licence holder and “the Council” means Redditch Borough Council.

STREET TRADING POLICY

CONSULTATION RESPONSES 3RD SEPTEMBER 2011 TO 30TH NOVEMBER 2011

Consultee	Comments	Agreed Y/N	Officers Comments
Members	Could Headless Cross Drive be added as a prohibited street	Y	Added into the Policy
Members	Could Moons Moat Drive be added as a prohibited street	Y	Added into the Policy
Hereford & Worcester Fire Brigade	Include a reference to the need of stall holders and owners of catering vehicles to undertake a suitable and sufficient fire risk assessment	Y	Added into the Policy
Hereford & Worcester Fire Brigade	Amendment to Condition N regarding use and storage of LPG gas	Y	Added into the Policy

