

1 April 2008

Our Ref. IG/Council/ 1.4.08  
Your Ref.  
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To: The Chairman and Members of North Hertfordshire District Council

You are invited to attend a

## **MEETING OF THE COUNCIL**

to be held in the

**COUNCIL CHAMBER, COUNCIL OFFICES, GERNON  
ROAD, LETCHWORTH GARDEN CITY**

on

**THURSDAY, 10 APRIL 2008**

at

**7.30p.m.**

Yours sincerely,



David Miley  
Democratic Services Manager

**AGENDA**  
**PART I**

<b>ITEM</b>	<b>PAGE</b>
<b>1. APOLOGIES FOR ABSENCE</b>	-
<b>2. MINUTES</b> To take as read and approve as a true record the Minutes of the meetings of the Council held on 7 February 2008 and 28 February 2008.	-
<b>3. NOTIFICATION OF OTHER BUSINESS</b> Members should notify the Chairman of other business which they wish to be discussed by the Council at the end of the business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency.  The Chairman will decide whether the item(s) raised will be considered.	-
<b>4. CHAIRMAN'S ANNOUNCEMENTS</b> Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a prejudicial or personal interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a prejudicial interest should leave the room and not seek to influence the decision during that particular item.	-
<b>5. PUBLIC PARTICIPATION</b> To receive petitions, comments and questions from members of the public.	-
<b>6. MEMBERSHIP OF OUTSIDE BODIES</b> REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES	<b>1 TO FOLLOW</b>
<b>7. ITEMS REFERRED FROM CABINET: 8 APRIL 2008</b>  <b>Any items referred from Cabinet on 8 April 2008 will be tabled at the meeting.</b>	<b>3</b>
<b>8. QUESTIONS FROM MEMBERS</b> To consider any questions submitted by Members of the Council, in accordance with Standing Order 10.4(a).	<b>5</b>
<b>9. NOTICE OF MOTIONS</b> To consider any motions, due notice of which have been given in accordance with Standing Order 11.1.	<b>7</b>

**Future meetings of the Council have been scheduled to take place on:**

Thursday, 15 May 2008 (Annual Meeting); Thursday, 26 June 2008; Thursday, 25 September 2008; Thursday, 4 December 2008; Thursday, 5 February 2009; Thursday, 26 February 2009; Thursday, 2 April 2009

**TITLE OF REPORT: MEMBERSHIP OF OUTSIDE BODIES**

REPORT OF THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

**1. SUMMARY**

- 1.1 This report sets out guidance and information to assist the Council to appoint Members to outside bodies at Annual Council on 15 May 2008.

**2. FORWARD PLAN**

- 2.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

**3. BACKGROUND**

- 3.1 This report has been prompted by the decision of North Hertfordshire Homes to commence paying its directors. NHDC nominates five Board Members to NHH. It is also considered to be timely because the Council will be considering appointments to outside bodies at its Annual Meeting in May and may welcome general advice on appointments to outside bodies.

**4. ISSUES**

**North Hertfordshire Homes (NHH)**

- 4.1 The National Housing Federation's guidance on board member payment advises that nominees on boards should not receive a payment if they are being paid by the nominating body, for duties which include serving on such bodies. NHH Board Member responsibilities are onerous. NHH has an annual turnover of over £35 million and the Board takes high level financial and commercial decisions. The expectations placed on the Council's appointees are the same as those of all other NHH board members (including NHDC nominees who are not councillors). Details of the recent activities of an NHH Board Member are contained within the extract from the notes of the Independent Remuneration Panel held on 25 November 2007 (Appendix A).

**The Members Allowances Scheme**

- 4.2 The basic allowance paid to all councillors recognises the time commitment of representing the Council on outside bodies. It should be noted that some elements of the work of a councillor should be voluntary. This however must be balanced against the need to ensure that financial loss is not suffered by Members despite the voluntary input required. It should also be noted that, for tax and national insurance purposes, Members of the Council are treated as employees and subject to PAYE tax and national insurance liability (Consolidated Regulations for Local Authority Allowances 2003).

### **Defining the scope of the councillors' allowances**

- 4.3 To assist the Council to resolve any conflict that may arise between the Members Allowances Scheme and allowances made by outside bodies, advice was sought from the Independent Remuneration Panel (IRP). Although advising on payments to be made by other bodies is not within the remit of the IRP, it was felt that the experience of that body could usefully be brought to bear to assist the Council in establishing what elements of serving on outside bodies may reasonably be covered by the Members Allowances Scheme. A relevant extract from the notes of the meeting of the IRP held on 25 November 2007 is attached at Appendix A.
- 4.4 Bearing in mind the advice of the IRP there seems no doubt that the duties associated with a role on the Board of Directors of NHH is far beyond the representative role of a Councillor serving on an outside body. Although a more precise indication of time spent by Members serving on outside bodies would offer greater certainty, this would require members to keep detailed timesheets and resources to collate statistics. This is not considered worthwhile given the very low frequency of payments by outside bodies.

### **Views about representation from the outside bodies**

- 4.5 In a recent survey of the 76 outside bodies 57 returned information about current representation from NHDC: A summary is attached at Appendix B and indicates that attendance is variable. However, given the number and range of representation it is clear that NHDC Councillors are actively engaged with their communities and informal soundings suggest that many were so before they became councillors. Most Members already have a wide network of formal and informal contacts within the communities they represent, and they use these to inform their contribution to policy making, service monitoring and resource allocation. Against this background, a strengthening of links to outside bodies may be achieved through a deeper understanding.

### **Views about representation from Members of NHDC**

- 4.6 The following is a summary of the views of Members of NHDC:
- NHDC should always have representation on organisations that are sponsored financially;
  - Representation on neighbourhood panels would demonstrate NHDC's wish to promote safer neighbourhoods;
  - Outside bodies need to be aware of the time commitments involved;
  - NHDC should have representation regarding council facilities.
- 4.7 In addition to the existing bodies opportunities will arise for the Council to be represented on other bodies. As the Community representation and leadership roles develop in line with the Local Government and Public Involvement in Health Act 2007 the Council may wish to extend or vary the current appointments and recommendations will be brought to Council as they emerge.

**Skills Development** – Members sometimes do not feel fully appraised of a particular organisation which they attend and at which they may wear different hats. Advice on getting the most out of those meetings, working in partnership and community engagement could feature within the member development plan to good effect.

**Briefing/officer support** – Members who volunteer (or are expected) to represent the council at meetings/ partnerships/events in their wards or local area should receive a

briefing from an appropriate officer so that they feel prepared to engage with the organisations they are appointed to. This could be co-ordinated through Committee and Members Services, which could also provide a channel for member feedback.

## **5. LEGAL IMPLICATIONS**

- 5.1 The power of the Council to participate in the governance of outside bodies arises under section 2 Local Government Act 2000 (the well-being powers). Under NHDC's Constitution the rights of nomination to such outside bodies are retained to the Council (Constitution Part 3 Council Terms of Reference paragraph 22). The Council is able to appoint a Member as its representative to an outside body.
- 5.2 Councillors might be acting in different capacities, either as trustee, shareholder or director when elected to outside bodies. The roles have differing obligations. Director's must always act in the best interests of the company they serve, irrespective of the interests of the Council. In contrast, shareholders can plead for the corporate aims of the Council to the outside body. When acting as Director to an outside body, a Member must consider whether this conflicts with the Code of Conduct
- 5.3 Paragraph 2.5 of the Code of Conduct states that in acting as a representative, a member must comply with the Council's code of conduct except where that conflicts with lawful obligations to which the other body is subject. From this it can be concluded that the member can properly act in the best interests of NHH when undertaking their role as director for NHH without being in breach of the Code.
- 5.4 Members appointed to an outside body must register that appointment as a personal interest (paragraph 8.1 Code). Generally this personal interest needs only be declared if the member wants to speak at a meeting which is discussing NHH business. If a member does not wish to speak then he/she may vote without declaring the interest.
- 5.5 It is *vital* however that members note the impact of the new Code of Conduct here. Under the previous Code such personal interests could never amount to prejudicial interests as these were specifically exempted by the Code. However under the new Code it is quite possible that a personal interest arising from the representative role could amount to a prejudicial interest.
- 5.6 So, for example, if a member is nominated by this Council to act as a Director of NHH then it is very likely that any planning application made by NHH to NHDC, any licensing application, any contract for services between the NHDC and NHH and any sale of land to NHH will convert that personal interest to a prejudicial one. In that event the member who is a director of NHH may not vote on the issue. However a member may exercise their right to speak under paragraph 12 of the Code although they would then need to leave the meeting. (This has been confirmed in discussions with the Standards Board and further more detailed information is to follow in MIS).
- 5.7 In other non-regulatory matters, a member who is a director receiving remuneration from NHH would need to carefully consider whether their personal interest amounts to a prejudicial one. The test is whether a member of the public with knowledge of the relevant facts (including the remuneration) would reasonably regard a personal interest as so significant that it is likely to prejudice your judgement of the public interest. Members may wish to take advice from the Monitoring Officer whenever this issue arises.
- 5.8 Even though the Code may appear to allow participation by a member with a personal interest who is a representative on an outside body, the issue of apparent bias and

predetermination may still remain. Your position on an outside body and the views expressed by that body may give the appearance that you are biased or have already made up your mind before coming to take a decision on an issue at a Council or committee meeting. Where this risk exists you should not participate in the meeting, because participation could lead to a decision being challenged in the courts or result in a complaint to the Local Government Ombudsman.

- 5.9 For the purpose of deciding this report, members have an exemption under the Code when they are deciding on any allowance or payment to themselves (paragraph 10(2)(c)(iv)). This exempts their personal interest (as shareholders or directors of NHH) from being a prejudicial interest. Those members of the Council who are currently directors of NHH need only declare a personal interest if they wish to speak at the Council meeting on this issue, but they are not prevented from voting on their entitlement to receive the allowance.
- 5.10 The remuneration will not amount to either a gift or hospitality, so there are no requirements to meet in respect of that part of the Code

## **6. FINANCIAL AND RISK IMPLICATIONS**

- 6.1 Any increased costs associated with attendance at additional outside bodies will be contained within existing provision.

## **7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS**

- 7.1 There are no direct Human Resources implications arising, the recommendation at 9.3 is noted.

## **8. CONSULTATION**

- 8.1 Comments were invited from all members of the Council and all outside bodies with Council representation.

## **9. RECOMMENDATIONS**

- 9.1 That North Hertfordshire Homes be informed that the Council considers that no payment is being made by this Council in respect of the duties undertaken by Directors of the NHH nominated by North Herts. District Council Council.
- 9.2 That Members newly appointed to outside bodies and other Members requiring briefings on particular outside bodies should receive briefings from appropriate officers.
- 9.3 That consideration be given to including "working with outside bodies" within the Member Development Programme, to include briefing and feedback arrangements.
- 9.4 That Group Secretaries give consideration to the content of this report when formulating and co-ordinating nominations to outside bodies for the civic year 2008/9.

## **10. REASONS FOR RECOMMENDATIONS**

- 10.1 To assist the Council in determining representation on outside bodies during the civic year 2008/9.

## **11. APPENDICES**

11.1 Appendix A – Independent Remuneration Panel - extract, 25 November 2007

11.2 Appendix B - Views of Outside Bodies

## **12. CONTACT OFFICERS**

12.1 David Miley (Democratic Services Manager), Report Author  
Tel. 01462 474208

12.2 Hilary Dineen (Committee and Members Services Officer)  
Tel: 01462 474353

12.3 Kim Sawyer Corporate Legal Manager (01462-474561) & Katie White Senior Lawyer  
(01462-474315)

## **13. BACKGROUND PAPERS**

13.1 Guidance on Consolidated Regulations, ODPM, July 2003.

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**The Following is an extract from the notes of the meeting of the Independent Remuneration Panel held on 12 November 2007**

**Introduction**

- 1 The Council has been approached by the Chief Executive of North Hertfordshire Homes for a view on a proposal that the organisation pay a salary to each of its Directors. Whilst recognising that it is not a direct function of the Panel, the view of the Panel is sought, as to the extent that Members are remunerated for attendance at outside bodies through the Members Allowance Scheme and to what extent this may conflict with any payment received directly from such an arrangement. It should be noted that the proposed payment excludes expenses designed to cover actual receipted costs such as travel. Such a payment would therefore represent earnings received from an office or employment and are chargeable to income tax as employment income in the same way as the basic and special responsibility allowances in local government schemes are subject to income tax.
  
- 2 The following notes are provided for the information of the Council.
  - a) The basic allowance and Special Allowances are intended to recognise the time commitment of all councillors in carrying out their duties. However, the regulations do not provide a list of duties on which time may be spent. It may be assumed however, that in representing the Council on an external body to which the Council has nominated a Member, that Member is carrying out the duties of a Councillor.
  
  - b) The degree of involvement varies considerably. At the low end of the scale attendance at meetings can be infrequent and voluntary. Duties and responsibilities may be sized to recognise a Members personal interests and other commitments. At the high end of the scale, duties and responsibilities have their foundations in statute, go beyond the role of representative and may be so onerous as to be equivalent or greater to those of a local authority councillor.
  
  - c) In making a judgement the Council may wish to adopt the approach the Panel takes to considering requests for new special responsibility allowances and consider in retrospect the actual activities engaged in, before deciding whether or not there was conflict between the Members Allowances Scheme and any proposed payment from the external body. Where duties are likely to be onerous and involve training etc. the Council may wish to consider available job descriptions and person specifications and predict the level of engagement
  
  - d) The example of North Hertfordshire Homes reveals duties that have included the following over the last 12 months
    - Attendance at training courses and personal research to understand the terms and conditions under which the Association operates and the responsibilities of a director
    - Attendance at six Board meetings (30 item agendas on average).
    - Attendance at twelve sub committee meetings (the requirement is to sit on at least two sub-committees).
    - Attendance at meetings of the Ernest Gardner Day Hospital.
    - Visiting housing schemes of other associations.
  
  - e) On considering the duties undertaken in the past by Directors of North Hertfordshire Homes, as set out at 2d above, there appears to be a strong argument that in acting as a Director of such an organisation an individual takes on a role and responsibilities far beyond representative role intended to be remunerated by the Members Allowances Scheme.

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## IEWS ABOUT REPRESENTATION FROM THE OUTSIDE BODIES

### Survey

A survey was sent to organisations requesting information regarding the following:

- contact details,
- aims of the organisation,
- frequency of meetings,
- number of meetings attended by Council Representatives,
- whether the attendance by Council Representatives was of value.

### Results

67 Surveys were sent out of which 57 (92%) were returned.

### Bodies No Longer Active

3 organisations had changed their names and 2 had ceased to operate.

### Contact Details

Contact details regarding 15 (22%) were incorrect.

### Frequency of Meetings

1 meet weekly  
 1 meet every 2 weeks  
 14 meet monthly  
 9 meet every 2 months  
 18 meet approximately quarterly  
 7 meet approximately twice a year  
 1 meet annually  
 1 have not met at all during 2007 – 2008  
 5 did not respond to this question

### Attendance

7 organisations - all council representatives attended all meetings  
 12 organisations – council representatives attended 75% - 100% of meetings  
 7 organisations - council representatives attended 50% - 75% of meetings  
 13 organisations - council representatives attended 25% - 50% of meetings  
 5 organisations - council representatives attended 1% - 25% of meetings  
 4 organisations - no council representatives attended any meetings  
 9 organisations did not respond to this question

### Value

1 organisations stated council representation was not useful  
 7 organisations stated that council representation was fairly useful  
 39 organisations stated that council representation was very useful  
 10 organisations did not respond to this question

### Future Nominations

50 organisations stated they would wish council representation to continue  
 2 organisations stated they were unsure whether council representation should continue  
 1 organisations stated they would wish council representation to stop  
 4 organisations did not respond to this question

### Further Comments

- 5 organisations commented strongly on the lack of attendance by council representatives at their meetings
- 6 organisations expressed how grateful they were for the support and advice they received from the council representative

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**TITLE OF REPORT: REFERRAL FROM CABINET – 8 APRIL 2008 – NORTH HERTFORDSHIRE HEALTH & SAFETY AND POLICY STATEMENT**

*The following is an extract from the Draft Minutes of the Cabinet meeting held on 8 April 2008.*

**124. NORTH HERTFORDSHIRE HEALTH & SAFETY STRATEGY AND POLICY STATEMENT**

The Portfolio Holder for Finance presented a report of the Head of Financial Services seeking approval of the revised 2008 Health & Safety Strategy and Policy Statement. The report contained the following appendices:

Appendix A – Health & Safety Strategy;

Appendix B – Health & Safety Policy Statement.

The Portfolio Holder for Finance commented that the Health & Safety Strategy had been first published in July 2006 and the Policy Statement was last reviewed in February 2004. Both documents had been updated to reflect the current position on Health and Safety compliance within the Council, and the proposed revisions were minor.

Cabinet was advised that the Health & Safety Strategy comprised the following key actions:

- To improve health and safety management within the Council by regular audits and inspections;
- To train managers and staff in achieving suitable levels of competency, enabling them to undertake work activities effectively;
- To manage risk by undertaking appropriate risk assessments that defines risk and that recognises an appropriate balance between risks and benefits;
- To build on our communication and consultation arrangements to ensure all employees are committed to achieving acceptable health and safety standards;
- To increase staff involvement in health and safety performance by the implementation of Behavioural Safety Management systems;
- To demonstrate the moral, business and economic cases for health and safety. Appropriate health and safety management was an integral part of effective management and, as such, was an enabler not a hindrance;
- To support the aims of the Governments 'Revitalising Health and Safety Strategy' and the Health and Safety Commissions (HSC) 'Securing Health Together Strategy' by setting clear health and safety performance targets.

The report outlined the contents of the Policy Statement, as required by the Health & Safety at Work Act 1974, which were as follows:

- A statement of intent – setting out NHDC's goals for safety.
- Organisation – reflecting how NHDC would organise itself to achieve its statement of intent, as amended to reflect the current organisational structure of the Council.
- Arrangements – the procedures which need to be in place to have an effective policy and achieve the goals on health and safety (available as separate documents) and systems for ensuring the protection of all people who could be put at risk from NHDC activities.

**RECOMMENDED TO COUNCIL:** That the revised Health & Safety Strategy and Policy Statement, as attached at Appendices A and B to the report respectively, be approved.

**REASON FOR DECISION:** To ensure that the Health & Safety Strategy and Policy Statement is subject to regular review to enable them to reflect current developments and compliance on health and safety matters.

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***The following is the report considered by Cabinet at its meeting held on 8 April 2008.***

**TITLE OF REPORT - NORTH HERTFORDSHIRE HEALTH & SAFETY STRATEGY AND POLICY STATEMENT**

REPORT OF THE HEAD OF FINANCIAL SERVICES  
PORTFOLIO HOLDER: COUNCILLOR F.J. SMITH

**1. SUMMARY**

- 1.1 To seek Cabinet's approval of the revised 2008 Health & Safety Strategy and Policy statement.

**2. FORWARD PLAN**

- 2.1 This report does contain a recommendation on a key decision that was first notified to the public in the forward plan on the 1<sup>st</sup> January 2008.

**3. BACKGROUND**

- 3.1 The Health & Safety strategy was first published in July 2006 to help achieve compliance with current and emerging health and safety legislation. The strategy sets out the main aim of improving health and safety management within the Council.
- 3.2 The Health & Safety policy statement was last reviewed in February 2004, Council minute 511.
- 3.3 Both the Health and Safety Policy Statement and Strategy have been updated to reflect the current position on H&S compliance within the Council and the changes made are minor.

**4. ISSUES**

**Health & Safety Strategy**

- 4.1 The aim of the health and safety strategy is to set a clear framework for health and safety throughout the authority, which reflects the Council's corporate plan and provides a framework for the safety of its staff and others.
- 4.2 The strategy comprises the following key actions:
- To improve health & safety management within the Council by regular audits and inspections.
  - To train managers and staff in achieving suitable levels of competency, enabling them to undertake work activities effectively.
  - To manage risk by undertaking appropriate risk assessments that defines risk and, that recognises an appropriate balance between risks and benefits.
  - To build on our communication and consultation arrangements to ensure all employees are committed to achieving acceptable health and safety standards.
  - To increase staff involvement in health and safety performance by the implementation of Behavioural Safety Management systems.
  - To demonstrate the moral, business and economic cases for health and safety. Appropriate health and safety management is an integral part of effective management and, as such, is an enabler not a hindrance.

- To support the aims of the Governments 'Revitalising Health and Safety Strategy' and the Health and Safety Commissions (HSC) 'Securing Health Together Strategy' by setting clear health and safety performance targets.
- 4.3 Underpinning the above actions health and safety quarterly audits will be conducted which provide a comprehensive and objective review of the design and effectiveness of the Council's health and safety system. Key lines of enquiry have been designed to measure compliance on health and safety and set performance targets for continuous improvement.
- 4.4 An improvement plan sets out the actions required to achieve the targets set following the regular audits.

### **Health & Safety Policy Statement**

- 4.5 The current policy was last reviewed in February 2004 to comply with guidelines issued by the Health and Safety Executive (HSE). It is a reflection of what is explicitly stated in the 'Health & Safety at Work Act 1974 (HSAWA)' and in line with both the letter and the spirit of other legislation and guidance, most especially the 'Management of Health and Safety at Work Regulations 1999'.
- 4.6 As required by HSAWA the policy contains:
- a statement of intent – setting out NHDC's goals for safety.
  - organisation – reflecting how NHDC will organise itself to achieve its statement of intent, as amended to reflect the current organisational structure of the Council.
  - arrangements – the procedures which need to be in place to have an effective policy and achieve the goals on health and safety (available as separate documents) and systems for ensuring the protection of all people who could be put at risk from NHDC activities.

### **5. LEGAL IMPLICATIONS**

- 5.1 Under the Health and Safety at Work Act 1974, the authority is under a duty to prepare and revise as necessary a written statement of the general policy. Under the Management of Health and Safety at Work Regulations 1999, the authority is under a duty to have arrangements in place to cover health and safety issues. These are delegated to the Chief Executive and other officers under the terms of their contracts of employment.

### **6. FINANCIAL AND RISK IMPLICATIONS**

- 6.1 There are no financial implications arising from the actions listed in the report. Work relating to action plans for any remedial works relating to findings from inspections will be incorporated into the Council's annual repair and maintenance programmes.
- 6.2 Health & Safety is registered as a high risk and is reported to CMT as part of the regular risk management reporting cycle.

### **7. HUMAN RESOURCE AND EQUALITY IMPLICATIONS**

- 7.1 Other than ongoing training requirements for members, managers and staff there are no other human resource issues arising.

7.2 There are no equality issues arising from this report.

## **8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

8.1 At this stage other than ongoing consultation with the Health & Safety Committee no other consultation is required.

## **9. RECOMMENDATIONS**

9.1 That Cabinet endorse the revised Health & Safety Strategy and Policy Statements and recommend their approval by Council.

## **10. REASONS FOR RECOMMENDATION**

10.1 That the Health & Safety Strategy and policy statement have been subject to regular review to ensure that they reflect current developments and compliance on health and safety matters.

## **11. ALTERNATIVE OPTIONS CONSIDERED**

11.1 Not applicable to this report.

## **12. APPENDICES**

12.1 Appendix A – Health & Safety Strategy.

12.2 Appendix B – Health & Safety Policy Statement.

## **13. CONTACT OFFICERS**

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## **14. BACKGROUND PAPERS**

14.1 Health & Safety files and working papers.

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# **NORTH HERTFORDSHIRE DISTRICT COUNCIL**

## **CORPORATE HEALTH & SAFETY STRATEGY**

**April 2008**

The Council is required to ensure, as far as reasonably practical, the health, safety and welfare of its employees and others, as required by the Health and Safety Act 1974. The Council is also required to comply with various safety legislation and regulations in the course of its activities.

This strategy should be read in conjunction with the following documents:

- Council's Constitution
- Best Value Toolkit
- Equalities policy
- Community Strategy
- Any codes of conduct or protocols adopted by the Council

Health and safety is central to the management of any operation.

### **CONTENTS**

1. Executive Summary
2. Introduction
3. Health & Safety Policy
4. Health & Safety Principles
5. Priorities for Further Action and Action Plan

**EXECUTIVE SUMMARY**

- 1.1 The aim of this health and safety strategy is to set a clear framework for health and safety throughout the authority, which reflects the Council's corporate plan and provides a framework for the safety of its staff and others.
- 1.2 Together with its partners in the Local Strategic Partnership the Council has a vision of North Hertfordshire as a vibrant place where people can live, work and prosper. The Council sees its particular mission as leading the delivery of this vision for the area through working collaboratively with our partners and our communities.

The strategic objectives are:

- Promoting sustainable development of the district to ensure we deliver adequate affordable housing, protect the environment and conserve the heritage of our historic towns and rural settlements.
- Encouraging responsible citizenship and creating safe communities with less crime and less fear of crime.
- Promoting first class leisure and cultural facilities to contribute to healthy living for all of our citizens.
- Targeting resources at areas of disadvantage in the district to reduce social exclusion and improve the quality of life for everyone.
- Creating opportunity for all by promoting sustainable local economic development.
- Ensuring that we listen to our citizens and deliver responsive high quality, value for money, customer focussed services.

We will continue to work on all six strategic objectives focussing when appropriate on Sustainable, Safer and Satisfied Communities.

The Council's health & safety strategy will seek to support the delivery of the Council's vision and strategic objectives and to meet the Government's vision for local government.

- 1.3 In considering the strategic objectives and the requirements of health and safety under various acts and regulations, the following specific health and safety objectives have been set:
- We will become a strong communicator and influencer, aiming to ensure that staff recognise the benefits of health and safety. Our goal is not to have a risk free workplace but one where risk is properly appreciated, understood and managed.
  - An organisations greatest asset is its workforce. Employees are often best able to spot issues and bring about real improvements. We will encourage and train staff to influence health and safety through their own actions and by accepting personal responsibility.
- 1.4 To ensure that these policies are implemented, the following key actions will be pursued:
- To improve health & safety management within the Council by regular audits and inspections.

## **APPENDIX A**

- To train managers and staff in achieving suitable levels of competency, enabling them to undertake work activities effectively.
- To manage risk by undertaking appropriate risk assessments that defines risk and, that recognises an appropriate balance between risks and benefits.
- To build on our communication and consultation arrangements to ensure all employees are committed to achieving acceptable health and safety standards.
- To increase staff involvement in health and safety performance by the implementation of Behavioural Safety Management systems.
- To demonstrate the moral, business and economic cases for health and safety. Appropriate health and safety management is an integral part of effective management and, as such, is an enabler not a hindrance.
- To support the aims of the Governments 'Revitalising Health and Safety Strategy' and the Health and Safety Commissions (HSC) 'Securing Health Together Strategy' by setting clear health and safety performance targets.

## 2 INTRODUCTION

### What is health and safety?

- 2.1 The Health & Safety at Work act was introduced in 1974. The act is to provide the legislative framework to promote, stimulate and encourage high standards of health and safety at work. It is an enabling act (which allows new regulations to be passed quickly by the Secretary of State), and importantly places responsibilities on the individual (both employer and employee) to act with duty and care of health and safety at work.
- 2.2 The aim of the act is to involve everyone- management and workpeople – and to make them all aware of the importance of safety and health.

## 3 HEALTH & SAFETY POLICY

### Context of the Health & Safety Strategy

- 3.1 The health and safety strategy is designed to be a high-level statement of policy and strategy. The regulation of health and safety are set out in Health & Safety Act 1974 and supporting acts and regulations. Council produced a Workplace Health and Safety and Welfare policy, which details health and safety procedures, this will be subject to regular review and updating.
- 3.2 The framework of rules for health and safety are those determined by EU and UK law. The Council will continue to review this strategy on an annual basis.
- 3.3 To understand the community benefits the Council is seeking to achieve, it is necessary to consider the Council's corporate vision, core values and overall objectives. These are set out in the Council's corporate plan and are as follows:

### The Vision for North Hertfordshire

#### 'Making North Hertfordshire a vibrant place to live, work and prosper'

#### Our Strategic Objectives for 2008 and onwards are:

- Promoting sustainable development of the district to ensure we deliver adequate affordable housing, protect the environment and conserve the heritage of our historic towns and rural settlements.
- Encouraging responsible citizenship and creating safe communities with less crime and less fear of crime.
- Promoting first class leisure and cultural facilities to contribute to healthy living for all of our citizens.
- Targeting resources at areas of disadvantage in the district to reduce social exclusion and improve the quality of life for everyone.
- Creating opportunity for all by promoting sustainable local economic development.
- Ensuring that we listen to our citizens and deliver responsive, high quality, value for money, customer focussed services.

We will continue to work on all six strategic objectives focussing when appropriate on Sustainable, Safer and Satisfied Communities.

## **Key Drivers**

3.4 Additionally, there is a range of key issues that drive the Council's health and safety strategy. The key drivers are:

- The Health and Safety at Work Act 1974
- Construction (Design and Management) Regulations 2007
- Value for Money (VfM)
- HSC 's 'Securing Health Together Strategy'
- Government's 'Revitalising Health and Safety Strategy'
- Delivering Equality

## **Corporate Health & Safety Policy**

3.5 In support of Best value and recognising the requirements of the above drivers, the following policy has been developed:

'We will become a strong communicator and influencer, aiming to ensure that staff recognise the benefits of health and safety. Our goal is not to have a risk free workplace but one where risk is properly appreciated, understood and managed'.

## **4 HEALTH & SAFETY PRINCIPLES**

Health and Safety should seek to accommodate the core values of the Council, be administered to ensure adherence to relevant UK and EU legislation and ultimately provide safety for its staff and others. The following principles support our health and safety policy and set out those areas of activity, which are essential to achieving the aspirations of the policy.

### **Leadership**

#### ***Lead by example***

People at all levels in the council have responsibility for their own health and safety and should set an example for others. Management is accountable for health and safety and managers will demonstrate leadership of health and safety through personal example.

### **Hazards, risks and control measures**

#### ***It's worth not taking the risk***

We will identify the hazards and risks associated with our activities starting with our major risks. We will put in place appropriate control measures and challenge them in the context of change, so that we aim for continuous improvement.

### **Health and well-being**

#### ***Working for a healthy future***

We will promote and improve the health and well-being of all NHDC employees.

### **Competence and behaviour**

#### ***Understanding is the key to safe behaviour***

We will ensure that all our employees are trained so that they are professionally skilled and qualified for their jobs and thereby can contribute to an improved health and safety performance. We will select contractors who can demonstrate competence and effectiveness.

**Incident analysis and prevention*****It could have been avoided ... try telling the kids that***

We will ensure work-related incidents and near-misses are reported, investigated and analysed to prevent recurrence. Our investigations will focus on root causes and recommendations will be shared and implemented across the Council.

**Sharing and learning*****I wish I'd said something ... I feel so responsible***

Everyone in NHDC is responsible for sharing good practice as well as learning from near-misses. Sharing experiences with others can help prevent incidents. We all have a duty to intervene.

**Delivering equality*****understanding staff differences***

When applying health and safety standards we will consider the impact upon our staff arising from cultural, religious and physical differences.

**Contractors and joint ventures*****A good relationship is based on trust***

Our health and safety standards apply equally to contractors and NHDC employees. We believe our joint venture companies should aspire to the council's health and safety standards.

**Monitoring, audit and review*****There's always room for improvement***

We will establish systems for tracking our performance. We will regularly conduct internal and external audits of our risk control measures and management systems. We will monitor behaviours at all levels to ensure we create a successful health and safety culture within NHDC.

**C. High Professional Standards and Best Practice**

All health and safety procedures shall be operated in a professional manner and ensure the highest standards of health and safety.

All procedures shall be operated in accordance with the Council's workplace health and safety and welfare policy, codes of practice, best practice and standards set by relevant professional organisations.

**D. Continuous Improvement**

The Council is required to ensure, as far as reasonably practical, the health, safety and welfare of its employees and others, as required by the Health and Safety Act 1974.

The Council's health and safety systems should include mechanisms for measuring the extent to which performance has achieved compliance with required and accepted norms and wherever possible, require the Council to seek to improve on the specified goals and outcomes accordingly.

## **5. PRIORITIES FOR FURTHER ACTION**

5.1 This part of the document is concerned with appraising the Council's compliance surrounding health and safety and in formulating an action plan to address perceived weaknesses.

5.2 A health and safety quarterly audit is conducted which provides a comprehensive and objective review of the design and effectiveness of the Council's health and safety system. Evaluating these systems allows the Council to:

- obtain valuable input from employees and others on the usability and practicality of the health and safety system
- review each individual component of the operation to determine how well the system is being implemented, and
- give feedback and make recommendations for improvement and compliance where necessary.

5.3 The audit is scored to indicate the level of compliance against the key lines of enquiry and to benchmark current performance.

5.4 The audit covers 67 lines of enquiry over 8 sections. Scores are awarded from 1 to 5 depending on compliance and are justified with notes and evidence. Scores are:

- 1 – No compliance
- 2 – Limited compliance
- 3 - Some compliance
- 4 - Broad compliance
- 5 - Full compliance

5.5 The detailed audit results on the 67 key lines of enquiry and progress against key improvement actions and performance targets will be reported to the Health & Safety Committee each quarter. In turn the high level performance targets on the 8 sections and key improvement actions will be reported quarterly to CMT.

5.6 The audit and scoring method used is local to North Herts and there are no national performance measures in current use. Thus the key lines of enquiry and scores can only be used to benchmark current compliance and to measure local performance targets. Validation of the methods used and independence of assessment will be conducted by the Health and Safety Committee (Quarterly reporting) and periodic review by Audit and Consultancy Services. When the assessment system is bedded in and compliance has reached a satisfactory level some form of external validation will be considered.

### **Action Plan**

5.7 The action plan, that addresses weaknesses, will be updated following each quarterly audit and will be monitored by the Health & Safety Committee. The improvement action plan may be subject to amendments and the Head of Financial Services will report to the Corporate Management Team on progress and changes to the action plan on a quarterly basis.

5.8 The improvement action plan has been developed with the objective of improving on all level performance scores, identifying quick wins (for example reviewing and approving the Workplace Health & Safety and Welfare Policy) and developing the Health & Safety Learning and Development programme.



## **NORTH HERTFORDSHIRE DISTRICT COUNCIL**

District Council Offices  
Gernon Road  
Letchworth  
Herts  
SG6 3JF

# **HEALTH & SAFETY POLICY STATEMENT**

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## **1 INTRODUCTION**

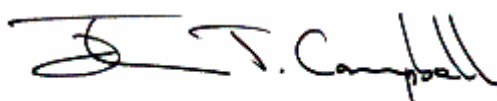
In line with the vision of North Hertfordshire District Council (NHDC) by making North Hertfordshire a vibrant place to live, work and prosper, NHDC will actively promote high standards of health, safety and welfare at work across the full range of its operations. By effectively managing health and safety risks NHDC can maximise the well being and productivity of all of its employees and preserve its reputation as a caring and committed employer. NHDC will take all reasonable measures to minimise the risk of injuries, occupational illness and damage to property or the environment.

## **2 SCOPE**

This corporate safety policy for NHDC is applicable across the entirety of its undertaking, covering those aspects of health and safety which NHDC has a legal responsibility for. It supersedes all other previous policies and shall be reviewed and revised as necessary in the light of changes and developments. The policy accords the same duty of care to both employees and non-employees to safeguard the health, safety and welfare of all.

The policy is augmented by Corporate Health and Safety Procedures and directorate local operating procedures, method statements and safe systems of work as are deemed appropriate.

As required under the Health and Safety at Work etc. Act 1974, Section 2.3, this policy provides a statement of intent, the organisational structure responsible for effecting this policy and the arrangements which comprise the procedures and systems for ensuring the protection of all people who could be put at risk from NHDC activities.



**John T. Campbell**

**Chief Executive**

December 2007

### **3 STATEMENT OF INTENT**

Health and safety is recognised as a core duty to be integrated into the mainstream of the NHDC organisation and all that is reasonably practicable will be done to provide a safe and healthy environment for NHDC employees.

NHDC recognises its duties to all who may be affected by its operations and will seek to minimise the risk of foreseeable injury and ill health, so far as is reasonably practicable. It shall ensure that all operations, as a minimum, meet with the relevant statutory requirements and associated codes of practice. It shall establish and maintain an effective system of communication on health and safety matters through all levels of the organisation and ensure that employees are actively consulted and involved in matters affecting health and safety in the workplace.

All employees with specific health and safety responsibilities shall have job descriptions that reflect those duties, be adequately trained and be made fully aware of how to discharge their duties and be allowed time and resource to discharge them effectively. Employees having no specific health and safety responsibilities shall also be given adequate induction, information, training and supervision to ensure that they understand their role in implementing this policy, with the necessary resources made available to enable this to be achieved in a timely manner.

Clear standards shall be set down and both reactive and active monitoring undertaken to check that these standards are being met. Audits and reviews shall also be carried out to continuously improve health and safety performance, with improvement programmes implemented where deemed necessary. As far as is reasonably practicable, the impact on health and safety performance of advances in knowledge and technology shall be regularly assessed with action taken as necessary.

Health and safety implications shall always be considered when procuring or changing plant, equipment or processes.

Procedures shall be established for managing serious & imminent danger and regular liaison undertaken with external services both in Hertfordshire and neighbouring counties.

All non-employees shall be made aware of the full range of health & safety controls in force. Contractors shall be selected with due regard to competence and resources for health and safety and their performance monitored to ensure that all agreed health and safety standards are being met, with non-conformance being deemed a material breach of contract.

NHDC shall regard all breaches of this policy by an employee as a potential disciplinary offence.

## **4 ORGANISATION**

### **4.1 The Council**

The Council as a corporate body is responsible for discharging the organisation's duties under the Health and Safety at Work etc. Act 1974.

### **4.2 Chief Executive**

The Chief Executive, with the power vested in him by the Council, bears ultimate responsibility for all health and safety matters within NHDC.

### **4.3 Strategic Directors**

Strategic Directors shall:

- afford health and safety an equal status with other primary organisational duties and ensure that all Management Board decisions reflect the intent of this policy;
- advise members of the Council of the health and safety responsibilities of NHDC in matters of staffing, finance and materials considered necessary to meet its obligations under statutory law;
- accept formally and publicly their individual and collective role in providing health and safety leadership in the organisation and recognise their role in engaging the active participation of employees in improving health and safety;
- ensure that management systems provide for effective monitoring and reporting of the organisation's health and safety performance and report annually to the community at large on this performance as achieved against Government and Health & Safety Commission targets;
- ensure that NHDC policy, procedures and notices, relating to health and safety are observed and implemented within their areas of responsibility and ensure that sufficient resources are allocated for health, safety and welfare;
- ensure the availability of professional expertise on health and safety to provide adequate awareness of legislative requirements and good safety management practices;
- ensure the existence of adequate consultative arrangements involving management and employee representation;
- review health and safety performance annually and ensure that they are kept informed of, and alert to, relevant health and safety risk management issues.

#### **4.4 Heads of Service**

The Heads of Service shall:

- establish and maintain a safe place of work and safe systems of work by ensuring that the requirements of any health and safety arrangements in place are met in activities under their control;
- appoint key staff responsible for health, safety and welfare, allocate sufficient resources and ensure that health and safety training needs are identified and acted upon;
- ensure that staff and contractors responsible to them are aware of, understand and implement this policy;
- ensure that all hazardous work situations are identified and appropriate control measures are implemented;
- establish and review progress against health and safety performance indicators.

#### **4.5 Head of Financial Services**

- In addition to the above duties for heads of service the Head of Financial Services will be responsible for Corporate Health and Safety in accordance with legislation and the Council's adopted strategy.

#### **4.6 Managers & Supervisors**

Managers & Supervisors shall:

- ensure that all health and safety rules and procedures are applied in activities under their control and that sufficient time is allowed for staff to conduct all tasks in a safe manner;
- as necessary, implement and maintain method statements and local operating procedures concerning work activities not covered by Corporate Health and Safety Procedures;
- identify hazards and carry out regular risk assessments of their areas of responsibility, recording their findings as appropriate and implement control measures which, as far as is reasonably practicable, minimise the risk of injury or ill health to all those who may be affected.
- monitor work related ill health and accident statistics to identify where control measures are failing to adequately control risk and conduct preliminary accident investigations and initiate any remedial action;
- ensure that all employees under their control receive adequate information, instruction, training and supervision appropriate to the nature of the work; giving particular attention to new employees and young persons;
- consider employees' capabilities with regard to health and safety before allocation of tasks and pay particular regard to new or expectant mothers;

- ensure that all non-employees who may be affected by work under their control are given adequate information to ensure their health and safety;
- put in place effective measures to communicate and co-operate with third parties working on behalf of the organisation;
- encourage staff participation in all matters relating to their health and safety at work and ensure that all defects in the management of health and safety brought to their attention are investigated and acted upon in a timely manner;
- keep and make available records of health and safety activities as may be required by law.

#### **4.7 Health and Safety Officer**

The Health and Safety Officer shall:

- act as the principal advisor for NHDC on all corporate health and safety issues and provide specialist advice, guidance and support to NHDC to ensure that all statutory obligations are met and best practice applied;
- develop, review and draft corporate health and safety policies & procedures in consultation with appropriate employee and management representatives;
- ensure a consistent and definitive approach to health and safety matters across NHDC by the implementation of a corporate safety management system against which performance standards can be set with specific and measurable targets. Monitor and audit compliance with the requirements of policies and procedures and assist this process through the development and implementation of health and safety training;
- report regularly to Management Board on health and safety performance and bring to their attention any particular areas of risk and report on injuries, diseases and dangerous occurrences to external authorities;
- investigate accidents and occurrences as appropriate, report on findings and recommend actions to prevent a recurrence. Stop any activity which is considered to present an unacceptable risk to the health and safety of employees & others;
- seek specialist advice as necessary.

#### **4.8 Health and Safety Committee**

The Health and Safety Committee shall review and make recommendations on all preventative and protective measures employed by NHDC to ensure the health, safety and welfare of employees at work and others who may be affected by its operations. It shall also assist and advise in the development, implementation and review of this policy and any associated arrangements.

#### **4.9 Employees**

All Employees shall:

- take reasonable care of their own health and safety while at work and that of others who may be affected by their acts or omissions and co-operate with management on all matters relating to health and safety;
- follow safety rules, procedures and safe systems of work at all times and report all health and safety concerns through line management, particularly those which might present a serious or imminent danger;
- use correctly all items provided in the interests of their own health and safety and not interfere with or misuse anything provided for their health, safety or welfare.

#### **5 ARRANGEMENTS**

The arrangements comprise the procedures and systems in place to ensure the protection of all people who could be put at risk from NHDC activities.

The full details of these arrangements are not contained within this policy document. The Corporate Health and Safety Procedures are accessible via the local network or from the Safety officer. The procedures are augmented by Directorate Local Operating Procedures, risk assessments, method statements, safe systems of work etc, held locally in each directorate.

**TITLE OF REPORT: REFERRAL FROM CABINET – 8 APRIL 2008 – UPDATE OF MARKET TESTING – COUNCIL’S MARKET OPERATIONS**

*The following is an extract from the Draft Minutes of the Cabinet meeting held on 8 April 2008.*

**127. UPDATE ON MARKET TESTING – COUNCIL’S MARKET OPERATIONS**

The Portfolio Holder for Leisure & E-Government presented a joint report of the Heads of Leisure & Environmental Services and Financial Services updating Cabinet on the market testing of the Council’s Market Operations, and seeking consideration of an increase in the current budgets for the Council’s Market Operations.

The Portfolio Holder for Leisure & E-Government informed that the Council had undertaken a tender of the Council’s Markets in July 2007, but that unfortunately none of the tenderers achieved the criteria that was set. Therefore, the Council reviewed the process and undertook a second tender in November 2007. Three tenders were received and, of those, two passed the quality evaluation and their financial tenders had been opened.

As only one tender each had been received for Hitchin and Royston markets, the Council’s Contract Procurement Rules state: -

“To ensure adequate competition, there must be at least two satisfactory responses i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must obtain an additional quote or tender or obtain an exemption under 6.1G.”

An exemption under 6.1G would require the written approval of the Strategic Director responsible for markets, the Head of Legal and Democratic Services and the Strategic Director of Financial and Regulatory Services.

Cabinet was advised that the Markets Contracts would be for three years with an option to extend for an additional two years. The current contract commencement date was anticipated to be 1 June 2008.

In terms of the financial implications, the 2008/09 budget for the market undertaking was a net cost of £39,450 based on the 2007/08 original deficit budget. However, the income target had since been identified as unachievable and the current projected outturn for 2007/08 was a deficit of £104,000 an increase of £66,000. This was due to falling stall occupancy rates and the current trial rents system at Hitchin Market. If the service was not contracted out it was likely that a permanent base budget adjustment in the region of £68,000 would be required which would make the net cost of service £108,000.

It was noted that currently the markets service did not make a profit, but did contribute to corporate overheads. This contribution would no longer be made once the service had been contracted out, and was estimated to be £115,300 per annum. However, if the service was contracted out, this would free up officer time which could be dedicated to other services and activities. The additional funding requirements for the markets contracts would be £119,000 for 2008/09 (part year) and £125,000 (full year) from 2009/10 onwards.

The Portfolio Holder for Finance supported the comments made by the Portfolio Holder for Leisure & E-Government, but was mindful of expenditure levels indicated by officers should the markets operation be outsourced. He therefore proposed a series of additional recommendations aimed at enabling negotiations to take place with the preferred bidders to explore potential cost reductions on the bids, and for officers to examine the scope for reducing overheads. These additional recommendations were supported by Cabinet.

Cabinet further agreed that all future reports concerning the markets operation should show separately the finances for the Hitchin and Royston markets.

**RECOMMENDED TO COUNCIL:** That the Council's Markets Budgets be increased provisionally by up to a maximum of an additional £119,000 for 2008/09 and by £125,000 for 2009/10 onwards.

**RESOLVED:**

- (1) That officers meet with the preferred bidders to explore whether cost reductions on the bids can be secured;
- (2) That officers closely examine the scope for reducing overheads charges to the Market cost centre;
- (3) That, subject to the foregoing, the Portfolio Holders for Leisure and E-Government and Finance determine whether to accept either bids in accordance with their existing delegated authority;
- (4) That officers be requested to report back on the outcome at the next meeting of Cabinet;
- (5) That all future reports concerning the markets operation should show separately the finances for the Hitchin and Royston markets.

**REASON FOR DECISION:** To allow the Council's Markets to be tendered out to two bidders.

***The following is the report considered by Cabinet at its meeting held on 8 April 2008.***

**TITLE OF REPORT : UPDATE OF MARKET TESTING – COUNCIL'S MARKET OPERATIONS**

JOINT REPORT OF THE HEADS OF LEISURE AND ENVIRONMENT SERVICES AND FINANCIAL SERVICES

PORTFOLIO HOLDERS: COUNCILLORS IAN KNIGHTON AND TERRY HONE

**1. PURPOSE OF REPORT**

- 1.1 To seek approval from Cabinet to increase the current budgets for the Council Markets operation.
- 1.2 To update Cabinet Members on the Market testing for the Councils markets operations.

**2. FORWARD PLAN**

- 2.1 This Report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on the 1<sup>st</sup> July 2006.

**3. BACKGROUND**

- 3.1 Officers presented a report to Cabinet Members on 25th July 2006 providing an options appraisal for the future arrangements of the Council's markets, the committee resolved: -

***RESOLVED:***

- (1) That the outsourcing of the whole of the market function for Royston and Hitchin be agreed, subject to consultation with the Portfolio Holder for Leisure and E-Government;
- (2) That the development of a specification and timetable for the outsourcing of the markets functions for a period of three to five years be agreed, subject to a further report to Cabinet;

**REASON FOR DECISIONS:** To improve the vibrancy, vitality and economic viability of the Councils markets.

- 3.2 As part of the July 2006 report, Officers identified a number of reason for undertaking a tendering process for the Council's Markets, the following identifies some of the key reasons.

1. With the continuous decline in our council operated markets this is having an adverse impact on traders which has led to criticism of markets staff, market manager, senior managers and Councillors. This has led to diminishing confidence locally in the existing management arrangements
2. The Councils systems and procedures do not allow for the autonomy flexibility and decisive decision making that is required for the dynamic and ever changing retail economy of markets. The Councils financial regulation and standing orders and the financial risks associated to the markets requires stringent processes and procedures that regularly need to be independently audited.

3. Outsourcing the markets operation should allow a dynamic operator to improve the vitality vibrancy of the markets, whilst at the same time considerably reducing the amount of time spent by the Council on management issues.
4. Recent Council restructuring has resulted in officers having a wider remit of responsibilities. Consequently, increasing operational issues within the markets is having an adverse impact on other service areas.
5. Taking into account the escalating issues within this service area the option to retain the service in-house is considered unsustainable.

#### **4. FUTURE MANAGEMENT ARRANGEMENTS**

- 4.1 The Council undertook a tender of the Council's Markets in July 2007, unfortunately none of the tenderers achieved the criteria that was set. Therefore, the Council reviewed the process and undertook a second tender in November 2007. Three tenders were received, of this two passed the quality evaluation and their financial tenders have been opened.
- 4.2 As only one tender each has been received for Hitchin and Royston markets, the Council's Contract Procurement Rules state: -

To ensure adequate competition, there must be at least two satisfactory responses i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must obtain an additional quote or tender or obtain an exemption under 6.1G.

- 4.3 An exemption under 6.1G will require the written approval of the Strategic Director responsible for markets, the Head of Legal and Democratic Services and the Strategic Director of Financial and Regulatory Services.
- 4.4 The Markets Contracts will be for three years with an option to extend for an additional two years. The current contract commencement date is the 1<sup>st</sup> June 08.

#### **5. LEGAL IMPLICATIONS**

- 5.1 Under the Council's Terms of Reference Chief Officers can award contracts under their delegated powers where these are within budget. Where the contract value exceeds their allocated budgets authority must be sought to extend the budget so as to award the contract.
- 5.2 Cabinet's role is to keep the budget under review and recommend to Council any alterations to the budget. It is for Council to agree the allocation of financial resources to different services and projects.
- 5.3 If Cabinet does not agree the recommendation the tender process will terminate. The tenderers are bound by the conditions of tender which makes clear that they are responsible for the costs of preparing the tender and that the Council is not bound to accept any tender.

#### **6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS**

- 6.1 As part of the Corporate Business planning process for 2008/09 budget setting, the market operation was highlighted as a high budget risk. A portion

of the Council's reserves has been set aside to cover the risk of keeping the markets in-house, £25,000 (50% of £50,000). This provision falls short of the revised budget required to allow the service to be contracted out and Council approval is needed for the revised budget.

- 6.2 The 2008/09 budget for the market undertaking is a net cost of £39,450 based on the 2007/08 original deficit budget, however the income target has since been identified as unachievable and the current projected outturn for 2007/08 is £104K an increase of £66K. This is due to falling stall occupancy rates and the current trial rents system at Hitchin Market. If the service is not contracted out it is likely that a permanent base budget adjustment in the region of £68K is required which will make the net cost of service £108K.
- 6.3 Currently the markets service, does not make a profit, but does contribute to corporate overheads, this contribution will no longer be made once the service has been contracted out, these are estimated to be £115,300 per annum. However, if the service is contracted out, this will free up officer time which can be dedicated to other services and activities. The additional funding requirements for the markets contracts will be £119K for 2008/09.
- 6.4 The tenders that have been received to operate both markets will cost the Council approximately £50k per annum. Therefore the total cost to the Council for operating the market including the Council corporate overheads is approximately £165k per annum. If the Council do not tender out the market an additional £68k would be required to cover the current loss of income due to the reduction in the market utilisation.
- 6.5 The proposed contract costs, would make the ongoing net cost of service £164K which consists of the contract cost of £49K and the overhead costs of £115K.. This cost is £60K higher than the current estimated 2007/08 cost of service (£104K).
- 6.6 The utilisation of market stalls has decreased by 24% over the last five years, and this has reduced the long-term viability of the markets. If the markets are not contracted out the Council could be at risk of declining market stall income and increasing costs.
- 6.7 Transfer of Undertakings (Protection of Employment) TUPE applies to the existing market's staff employed by the Council so that their employment is protected and they transfer with the contract. However under the TUPE rules staff are currently assigned to the Hitchin Market contract only. This means that any employee(s) taken on by the RTCF to manage the Royston Market may become an employee of the Council when the market contract comes to an end. In other words the employees follow the service whomever provides it.

## **7. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

- 7.1 General discussions have been held with Hitchin Market Traders Association and North Hertfordshire District Councillors.

## **8. RECOMMENDATIONS**

- 8.1 For Cabinet to recommend to Council an increase in the Council's Markets budgets by an additional £119,000 for 2008/09 and by £125,000 for 2009/10 onwards.

## **9. REASONS FOR RECOMMENDATIONS**

9.1 To allow the Council's markets to be tendered out to the two bidders.

## **10. APPENDICES**

10.1 None.

## **11. CONTACT OFFICERS**

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<b>COUNCIL</b> <b>10 APRIL 2008</b>
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<b>PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b>  <b>8A</b>
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**TITLE OF REPORT: QUESTIONS FROM MEMBERS**

The following question has been submitted by Members of the Council, in accordance with Standing Order 10.4(a):

**(1) Section 106 Contributions**

From Councillor Lee Downie to the Portfolio Holder for Planning & Transport (Councillor R.A.C. Thake):

“What is the total of unspent Section 106 contributions currently held by the Council and what is the total interest income that has been generated by unspent Section 106 contributions in the last five years?”

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<b>PART 1 – PUBLIC DOCUMENT</b>	<b>AGENDA ITEM No.</b> <b>9</b>
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**TITLE OF REPORT: NOTICE OF MOTION**

To consider any motions submitted by Members of the Council, due notice of which has been given in accordance with Standing Order 11.1.

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