

# Notice of meeting and agenda

## **The City of Edinburgh Council**

**10.00 am, Thursday, 10 March 2016**

Council Chamber, City Chambers, High Street, Edinburgh

This is a public meeting and members of the public are welcome to attend

### **Contact**

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## **1. Order of business**

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- 1.1 Including any notices of motion and any other items of business submitted as urgent for consideration at the meeting.

## **2. Declaration of interests**

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- 2.1 Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **3. Deputations**

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- 3.1 If any

## **4. Minutes**

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- 4.1 The City of Edinburgh Council of 4 February 2016 – submitted for approval as a correct record

## **5. Questions**

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- 5.1 By Councillor Rose – Statutory Repair Scope Expansion and Poor Communication – for answer by the Convener of the Finance and Resources Committee
- 5.2 By Councillor Rose – Allocation and Payment of Edinburgh World Heritage Grants – for answer by the Convener of the Finance and Resources Committee
- 5.3 By Councillor Rust – Oxgangs Primary School – for answer by the Convener of the Education, Children and Families Committee
- 5.4 By Councillor Burgess – Insulation of Homes – for answer by the Convener of the Health, Social Care and Housing Committee

## **6. Leader's Report**

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- 6.1 Leader's report

## **7. Appointments**

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- 7.1 Appointment to the Board of Smilechildcare - report by the Acting Executive Director of Communities and Families (circulated).
- 7.2 City of Edinburgh Placing in Schools Appeal Committee - Appointments – report by the Chief Executive (circulated)

## 8. Reports

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- 8.1 Edinburgh Tram - Phase 1b & 1c Land Acquisition – report by the Executive Director of Place (circulated)
- 8.2 St James Quarter - Update on Progress – report by the Executive Director of Place (circulated)
- 8.3 Energy for Edinburgh – report by the Executive Director of Place (circulated)
- 8.4 Best Value Audit Report 2016 – report by the Chief Executive (circulated)
- 8.5 Funding Package Proposal for a New Meadowbank – report by the Acting Executive Director of Communities and Families (circulated)
- 8.6 Governance Protocol for Community Council Elections – report by the Acting Executive Director of Communities and Families (circulated)
- 8.7 Annual Treasury Strategy 2016/17 - referral from the Finance and Resources Committee (circulated)
- 8.8 SESPLAN Governance Review and 2016/17 Operating Budget – referral from the Planning Committee (circulated)

## 9. Motions

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- 9.1 By Councillor Munro – Hibernian Football Club – Scottish League Cup Final  
“Council congratulates all at Hibernian Football Club on achieving a place in this year’s Scottish League Cup final.  
  
Council instructs officers to work with the club to ensure that Edinburgh can fully support them on cup final day, Sunday 13th March.”

### **Kirsty-Louise Campbell**

Interim Head of Strategy and Insight

### **Information about the City of Edinburgh Council meeting**

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The City of Edinburgh Council consists of 58 Councillors and is elected under proportional representation. The City of Edinburgh Council usually meets once a month and the Lord Provost is the Convener when it meets.

The City of Edinburgh Council usually meets in the Council Chamber in the City Chambers on the High Street in Edinburgh. There is a seated public gallery and the Council meeting is open to all members of the public.

## Further information

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If you have any questions about the agenda or meeting arrangements, please contact Allan McCartney, Committee Services, City of Edinburgh Council, Business Centre 2.1, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG, Tel 0131 529 4246, e-mail [allan.mccartney@edinburgh.gov.uk](mailto:allan.mccartney@edinburgh.gov.uk).

A copy of the agenda and papers for this meeting will be available for inspection prior to the meeting at the main reception office, City Chambers, High Street, Edinburgh.

The agenda, minutes and public reports for this meeting and all the main Council committees can be viewed online by going to [www.edinburgh.gov.uk/cpol](http://www.edinburgh.gov.uk/cpol).

## Webcasting of Council meetings

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## The City of Edinburgh Council

Edinburgh, Thursday 4 February 2016

**Present:-**

### **LORD PROVOST**

**The Right Honourable Donald Wilson**

### **COUNCILLORS**

Elaine Aitken  
Robert C Aldridge  
Norma Austin Hart  
Nigel Bagshaw  
Jeremy R Balfour  
Gavin Barrie  
Angela Blacklock  
Chas Booth  
Mike Bridgman  
Steve Burgess  
Andrew Burns  
Steve Cardownie  
Maureen M Child  
Bill Cook  
Nick Cook  
Gavin Corbett  
Cammy Day  
Denis C Dixon  
Marion Donaldson  
Karen Doran  
Paul G Edie  
Catherine Fullerton  
Nick Gardner  
Paul Godzik  
Joan Griffiths  
Bill Henderson  
Ricky Henderson  
Dominic R C Heslop

Lesley Hinds  
Sandy Howat  
Allan G Jackson  
Karen Keil  
David Key  
Richard Lewis  
Alex Lunn  
Melanie Main  
Mark McInnes  
Adam McVey  
Eric Milligan  
Joanna Mowat  
Gordon J Munro  
Jim Orr  
Lindsay Paterson  
Ian Perry  
Alasdair Rankin  
Vicki Redpath  
Lewis Ritchie  
Keith Robson  
Cameron Rose  
Jason G Rust  
Alastair Shields  
Stefan Tymkewycz  
David Walker  
Iain Whyte  
Norman Work

## 1. Outcome of the Statutory Consultation Process on Options to Address Primary School Capacity and Accommodation Pressures in South Edinburgh

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### a) Deputations

#### 1) South Morningside Primary School Parent Council

The deputation fully supported a permanent solution to address the accommodation issues in primary schools in the south of Edinburgh. They expressed their appreciation from the Assets and Planning team in bringing the new school proposals and indicated that they supported Option 1(c) in the report by the Acting Executive Director of Communities and Families.

The deputation urged the Council to work with the schools involved to reduce areas of concern which included transport and access, team teaching, the size of the site and playground and funding.

The deputation asked the Council to form a single Working Group involving parents from all schools involved.

#### 2) James Gillespie's Primary School Parent Council

The deputation indicated that they were delighted with Option 1(c) in the report by the Acting Executive Director of Communities and Families and asked that the Council make a financial commitment to the project.

They were concerned however that the the site of the former Astley Ainsley hospital was to be developed for residential use, which would add pressure on the school.

The deputation asked the Council to consider guaranteed sibling places, ensure that the new building was fit for purpose and that satisfactory short term solutions be put in place.

#### 3) Bruntsfield Primary School Parent Council

The deputation were supportive of the efforts of the Council to address the pressures of rising rolls across the south Edinburgh area and were supportive of Option 1(c) in the report by the Acting Executive Director of Communities and Families. They urged the Council to prioritise the project for funding as soon as possible.

b) Report by the Acting Executive Director of Communities and Families

Details were provided on the outcome of the consultation on options to address primary school capacity and accommodation pressures in south Edinburgh, this being defined as the area encompassing the three primary school catchments covered by Bruntsfield, James Gillespie's and South Morningside Primary Schools.

**Decision**

- 1) To agree that Option 1(c) be progressed, requiring the establishment of a new double stream primary school including nursery classes on the combined site of the existing South Morningside Primary School, Deanbank temporary annexe and the Oaklands Care Home and necessitating closure of the existing nursery classes of South Morningside Primary School based at Fairmilehead Church Hall.
- 2) To agree that the catchment boundaries of South Morningside Primary School, Bruntsfield Primary School, James Gillespie's Primary School and Tollcross Primary School be amended in accordance with Option 1(c) as set out in the statutory consultation paper *Options to Address Primary School Capacity and Accommodation Pressures in South Edinburgh*.
- 3) To agree that the date from when the catchment changes and the closure of the existing nursery classes of South Morningside Primary School would be effective was the school year at the start of which the new primary school could be completed and opened and that the new primary school would become the non-denominational catchment school for all P1 pupils living in the new school's catchment area at the time of P1 registrations in the preceding November.
- 4) To note the statutory requirement to refer the Council's decision to Scottish Ministers.
- 5) To note the intention to complete the transfer of ownership of the combined Deanbank and Oaklands site from Health and Social Care to Communities and Families.
- 6) To note that the new school was currently estimated to be required by August 2019 which would require the project to be initiated by summer 2016 to allow that delivery timescale to be met and therefore instructs the Acting Executive Director of Resources, Acting Executive Director of Communities and Families and Chief Officer, Edinburgh Health and Social Care Partnership to regularly review any changes to the current approved Capital Investment Programme which might allow

consideration to be given by Council to identifying the capital (and, in turn, revenue) funding required to deliver this project and the interdependent project to build a care home at Dumbryden. An update on these discussions would be highlighted in the “Capital Monitoring 2015/16 – Outturn and Receipts” report which would be presented to the Finance & Resources Committee in August 2016.

- 7) To note that if it was not possible to identify the required capital (and, in turn, revenue) funding to allow the respective school and care home projects to be initiated by summer 2016 the delivery date for the new school was likely to be delayed beyond August 2019 which might require temporary mitigation measures to be put into place (most likely to be at James Gillespie’s Primary School) pending the opening of the new school.
- 8) To note that the position would be considered on an annual basis by the Education, Children and Families Committee as part of the overall Rising Rolls update process, allowing the latest data regarding future roll projections and housing development in the area to be taken into consideration to assess what temporary mitigation measures might be required pending the delivery of the new school.
- 9) To note that, in view of the potential for temporary mitigation measures to be put in place in the future, a feasibility study would be undertaken at James Gillespie’s Primary School to identify means of temporarily extending the existing school to allow up to a full three stream intake of 21 classes should that ever be required.

(References – Education, Children and Families Committee 19 May 2015 (item 13); report by the Acting Executive Director of Communities and Families, submitted)

### **Declaration of Interests**

Councillor Balfour declared a non-financial interest in the above item as the parent of children attending South Morningside Nursery School.

## **2. Minutes**

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### **Decision**

To approve the minutes of the Council of 10 December 2015 and 21 January 2016 as correct records.



### 3. Questions

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The questions put by members to this meeting, written answers and supplementary questions and answers are contained in Appendix 1 to this minute.

### 4 Leader's Report

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The Leader presented his report to the Council. The Leader commented on:

- Debate on Local Government Funding
- Staff appreciation for dealing with storms across the City
- Carol Campbell - appreciation

The following questions/comments were made:

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|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Councillor Howat     | - Council budget - concerns                                                                                                                                                                                                   |
| Councillor Rose      | - Carol Campbell - appreciation<br>- Name checking<br>- High wage – low welfare economy - Edinburgh Guarantee Programme                                                                                                       |
| Councillor Burgess   | - Carol Campbell - appreciation<br>- Scottish Government Planning Report – overruling of Council decisions                                                                                                                    |
| Councillor Edie      | - Carol Campbell - appreciation<br>- Councillor McInnes – CBE - congratulations<br>- Scottish Government Planning Report – overruling of Council decisions<br>- Signing of Labour leader's statement<br>- Coalition timeframe |
| Councillor Donaldson | - Leith Walk Improvement Programme                                                                                                                                                                                            |
| Councillor Cardownie | - Carol Campbell - appreciation<br>- Civic Reception for Ken Buchanan                                                                                                                                                         |
| Councillor Work      | - Queensferry High School<br>- Loony Dook – celebration of 30 years                                                                                                                                                           |
| Councillor Lewis     | - Renovation of Writers Museum and Museum of Childhood<br>- Chinese New Year Celebrations – 8 February 2016                                                                                                                   |

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|----------------------|---------------------------------------------------------------------------------------------------------------------------|
| Councillor Day       | - One City Trust – Commendation of work<br>- Police Scotland – Review of SLA                                              |
| Councillor Tymkewycz | - Council budget – Council tax freeze – income tax increase                                                               |
| Councillor Lunn      | - Portobello High School – name of new park                                                                               |
| Councillor Ritchie   | - Areas of deprivation                                                                                                    |
| Councillor Booth     | - Leith decides                                                                                                           |
| Councillor Dixon     | - Civic reception – Ken Buchanan<br>- Heritage lottery funding - Saughton Park improvements – congratulations to bid team |
| Councillor Robson    | - Coding at Schools – adding to the Curriculum                                                                            |
| Councillor Barrie    | - Welcome the cancellation of the planned Roosh V events in Glasgow and Edinburgh                                         |
| Lord Provost         | - Carol Campbell - appreciation                                                                                           |

## 5. Appointments to Committees

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The Council had made appointments to Committees, Boards and Joint Boards for 2015/16. Following the resignation of Councillor Shields from the Scottish Liberal Democrat group, the overall political balance of the Council had altered and in accordance with the Committee Terms of Reference and Delegated Powers, vacancies on three Committees fell to be made the Conservative and Liberal Democrat Groups unless expressly agreed otherwise by the Council.

### Decision

To agree to Councillor Shields continuing as a member of the Governance, Risk and Best Value, Culture and Sport and Health, Social Care and Housing Committees.

(References – Act of Council No 5 of 17 September 2015; report by the Chief Executive, submitted)

## 6 Appointments to Outside Bodies

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The Lord Provost ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency to allow the Council to give early consideration to this matter.

The Council had made appointments to outside bodies for 2012-2017.

Councillors Fullerton and Lewis had now resigned from the Centre for Moving Image and the Edinburgh Jazz and Blues Festival, respectively and the Council was invited to appoint members in their place.

### **Decision**

- 1) To appoint the Councillor Lewis to the Centre for Moving Image.
- 2) To appoint Councillor Fullerton to the Edinburgh Jazz and Blues Festival.

(References - Act of Council No 2 of 24 May 2012, Act of Council No 9 of 25 June 2015; report by the Chief Executive (circulated))

## **7. Council Diary 2016-17**

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The draft Council diary for 2016-2017 was presented.

### **Decision**

- 1) To approve the Council diary for August 2016 to August 2017 as set out in Appendix 1 to the report by the Chief Executive.
- 2) To authorise the Chief Executive to make minor changes to the Council diary as required.

(Reference –report by the Chief Executive, submitted.)

## **8. Executive Management Structure – Scheme of Delegation to Officers**

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The Council had approved a revised Scheme of Delegation to Officers which had continued to be reviewed regularly to ensure that it remained fit for purpose.

Following a number of changes to the Council's executive management structure, details were provided on updates which were required to reflect the realignment of responsibilities.

### **Decision**

- 1) To repeal the existing Scheme of Delegation to Officers and approve in its place the draft Scheme set out in the appendix to the report by the Chief Executive, such repeal and approval to take effect from this meeting.
- 2) To delegate authority to the Chief Executive to take such actions and make such minor adjustments to the draft Scheme set out in the appendix to the

report as might be necessary in order to implement the decision of Council in relation to the report.

(References – Act of Council No 5 of 13 December 2012; report by the Chief Executive, submitted.)

## **9 Appointment of Monitoring Officer and Clerk to the Licensing Board**

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Details were provided on the appointment of the Council's Monitoring Officer and Clerk to the Licensing Board.

### **Decision**

To approve the appointment of Nick Smith, Interim Head of Legal and Risk, as Monitoring Officer and Clerk to the Licensing Board with effect from 6 February 2016.

(Reference – report by the Chief Executive, submitted)

## **10 Review of Council Depots Estate – Investment Strategy – referral from the Finance and Resources Committee**

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The Finance and Resources Committee had referred a report on the rationalisation of the depot estate, thereby releasing approximately £30 million of investment into the retained estate. The operational and property savings that would be applied to offset the cost of the investment were also identified. Approval was sought for the prudential borrowing of £20.85 million.

### **Decision**

To approve of the prudential borrowing of £20.85 million as outlined in the report by the Acting Executive Director of Resources.

(References – Finance and Resources Committee 2 February 2016 (item 7); referral report by the Finance and Resources Committee, submitted.)

## **11 Edinburgh Social Enterprise Network – Motion by Councillor Corbett**

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The following motion by Councillor Corbett was submitted in terms of Standing Order 16:

“Council notes and welcomes the huge rise in turnover in the Edinburgh social enterprise sector, from £44 million to £120 million in just two years; congratulates

both the individual enterprises and the Edinburgh Social Enterprise Network for that growth; and looks forward to sustained growth in the sector in the years ahead.”

### **Decision**

To approve the motion by Councillor Corbett.

## **12 UNICEF Blog – Motion by Councillor Jackson**

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The following motion by Councillor Jackson was submitted in terms of Standing Order 16:

“Council is pleased to note that 14 year old Jack Liddall who is a pupil at Trinity Academy has been selected out of 3000 worldwide applicants for a “blogging internship” with UNICEF which was set up to safeguard the rights of children and young people worldwide. One of its initiatives is the “Voices of Youth” project where young people (aged 14 to 25) across the world are invited to apply for the internship which aims to encourage international discussion amongst youth participants.

He is the only young person to be selected from the UK and youngest of the 20 bloggers selected worldwide.

Here are the links to his blogs

<http://www.voicesofyouth.org/en/posts/this-is-my-world>

<http://www.voicesofyouth.org/en/posts/the-voice-of-the-voiceless>

<http://www.voicesofyouth.org/en/posts/a-listening-ear>

<http://www.voicesofyouth.org/en/post/auld-lang-syne>

Council congratulates Jack and agrees to recognise his achievement in an appropriate manner.”

### **Decision**

To approve the motion by Councillor Jackson.

### **13 Management of Public Space - Grassmarket – Motion by Councillor Mowat**

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The following motion by Councillor Mowat was submitted in terms of Standing Order 16:

“Council is concerned that the management of the public space in the Grassmarket is insufficient and the lack of management is leading to a reduced quality of life for the residents and does not support the businesses in the area.

Calls for work to begin immediately on the public space manifesto for the Grassmarket, to include agreement around amplified noise and management of busking, to specify that the infrastructure invested in for events is always used rather than generators so that a manifesto can be in place for the Summer Festivals 2016.”

#### **Decision**

- 1) To recognise the concerns from local residents in the Grassmarket on issues relating to the use of public space which they believed were leading to a reduced quality of life for residents and do not support the businesses in the area.
- 2) To note that it had been agreed to produce a Public Space Manifesto and this was currently in preparation.
- 3) To agree that, in relation to the Grassmarket, the Manifesto should attempt to include management of amplified noise, busking and the use of the infrastructure invested in for events rather than generators.
- 4) In the meantime, to ask officers to put in place arrangements in the Grassmarket, taking account of the above issues, for the Summer Festivals 2016.

### **14 Festival Events – Motion by Councillor Mowat**

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The following motion by Councillor Mowat was submitted in terms of Standing Order 16:

“Council notes that during 2015 there were a number of incidences where last minute announcements were made to facilitate Festival Events which caused concern amongst local residents, businesses and the general public, for example;

- the late notification of road closure of George Street between Castle Street and Frederick Street (later amended unsatisfactorily for all parties),

- the introduction of ticketing the High Street for the Street of Light via a large temporary gate for the Winter Festival and the sudden closure of Calton Hill for the viewing of Hogmanay

Calls for a quick review within one cycle with a further report detailing the circumstances surrounding these events and the decision making processes surrounding them and how the processes can be improved to be more accountable and taken with sufficient time to allow proper discussion to be undertaken before making such decisions,”

## **Decision**

- 1) To note that a review of events governance by the Corporate Programme Office was reported to the Corporate Policy & Strategy Committee on 25<sup>th</sup> February 2014. The review set out principles, mechanisms and processes for the management of events in Edinburgh.
- 2) To note that the Events Management Group had strategic responsibility for hundreds of events that took place in the city each year, the majority of which passed with no incidents.
- 3) To note the pending Public Spaces Manifesto which would provide further clarification on the events planning process for city centre spaces.
- 4) To accept that no process was perfect and lessons could always be learned and request an update report to Corporate Policy & Strategy Committee in April 2016 on the red flag mechanism, in light of the issues flagged in Councillor Mowat’s motion, covering the two years since its implementation.

## **15 Museum of Fire – Motion by Councillor Day**

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The Lord Provost ruled that the following item, notice of which had been given at the start of the meeting, be considered as a matter of urgency to allow the Council to give early consideration to this matter.

The following motion by Councillor Day was submitted in terms of Standing Order 16:

“The Museum of Fire, honouring Edinburgh’s role as home of the first municipal fire brigade in Europe, faces an uncertain future and Council notes with grave concern that this asset to the city may be under threat of closure by the Scottish Fire and Rescue Service.

The Museum of Fire displays a unique collection of vintage fire engines and fire-fighting equipment from 1426 to the present day and charts the history of the Edinburgh brigade founded by pioneer James Braidwood in 1824.

Council also notes the fantastic learning experience the museum provides not only to the citizens of Edinburgh but visitors from around the world and how this matches with the Scottish Fire and Rescue Service's Strategic Plan to be a modern and outward-looking service that will play a leading role in ensuring community safety.

Council calls for a report to the Corporate Policy and Strategy Committee in two cycles outlining the current status of the building and options for its future."

### **Decision**

To approve the motion by Councillor Day.



## Appendix 1

(As referred to in Act of Council No 3 of 4 February 2016)

### QUESTION NO 1

**By Councillor Booth for answer by the Convener of the Transport and Environment Committee at a meeting of the Council on 4 February 2016**

#### Question

What progress has been made in considering the introduction of low emission zones as a means of improving air quality in the city to within statutory limits?

#### Answer

On 4<sup>th</sup> November 2015 at Scottish Transport Emissions Partnership (STEP) Annual Conference in Edinburgh, Scottish Government launched its national strategy "*Cleaner Air for Scotland – The Road to a Healthier Future*" ('CAFS' - formerly known as Low Emission Strategy).

This strategy includes developing a National Low Emission Framework (NLEF) to guide the type of measures introduced by local authorities, across Scotland, needed to improve air quality. Clean Air Zones / Low Emissions Zones are measures to be considered and it is a key objective of the framework to ensure that consistent and robust assessment processes are available to Councils.

It is clear that if we decide to promote Low Emission Zones in Edinburgh that this will require close partnership working with the Scottish Government. This will also include a requirement for appropriate funding to be made available and I have already fed this message quite clearly to Scottish Government Senior Civil Servants.

On 11<sup>th</sup> December 2015 in Edinburgh, the Scottish Government hosted the third of three elected member stakeholder events to update Councillors and seek their guidance and input on the best way forward to implement

the strategy, which I attended along with Councillor Rose. The other two events were held in Dundee and Glasgow.

It is anticipated that the NLEF will be finalised by April 2016 and a report will be sent to the Transport and Environment Committee, in summer 2016.

**Supplementary  
Question**

I thank the Convener for her response. For the benefit of those watching on the webcam, I asked about the progress in taking forward low emission zones and the response can best be summarised as “we’re in discussions with the Scottish Government on this issue” and while I absolutely accept that primary responsibility for taking forward low emission zones does indeed lie with the Scottish Government, is it not right that the City of Edinburgh Council, with allegedly the worst polluted street in Scotland, takes a more pro-active role in pressing the Scottish Government on this issue.

**Supplementary  
Answer**

No I don’t agree with his issue regarding being more robust and I suppose a more proactive – I don’t think this Council and this City can be more proactive than it has been in terms of looking at the air quality in our city and looking at low emission zones. Obviously low emission zones is one part of all of the action that we’re trying to take as a Council in partnership with many organisations, whether that be with Lothian Buses, in terms of low emission buses, looking at electric buses, looking at the HGVs of all the companies, so that we work in partnership to try to bring down and make sure all of our streets within our city have got good air quality. It is interesting Lord Provost that the low emission zones can only be in my view implemented if we have extra resources from the Scottish Government and I think Councillor Rose will back me up since there was only myself and Councillor Rose who went to the workshop, which all 58 Councillors including the Greens were invited to, to put forward their views regarding the low emissions strategy that the Scottish Government is putting together in partnership with Local Government and there was a number, Dundee, Edinburgh and Glasgow – and the Edinburgh event as I say there was myself and Councillor Rose there and I think you, be quite clear Councillor, I was very much strident about the money that we need to have in

order to bring in low emission zones and I think that's quite important – we don't have the resources in this Council to bring in low emission zones and it needs to be done in partnership with the Scottish Government. So I can assure you that I attended, that I've been interviewed by the Scottish Government who put together this strategy, I have been, and Councillor Rose attended that in order to see that we as a Council are doing everything proactively to ensure not just one street or two streets but every single street in this city can actually have good air quality and that's what we will do – action not just words and coming with questions to this Council.

**QUESTION NO 2**

**By Councillor Nick Cook for answer  
by the Convener of the Transport and  
Environment Committee at a meeting  
of the Council on 4 February 2016**

**Question**

To ask the Convener of Transport and Environment for a progress update on securing a public bike hire scheme for Edinburgh?

**Answer**

The Transport and Environment Committee has approved further work to undertake market engagement with potential operators and to issue a tender for a public bike hire scheme. Since then potential procurement options have been identified and the Council is now initiating work on the market engagement exercise. It is expected that the procurement exercise will be completed by late autumn 2016.

Taking into account the Council's current financial circumstances, any such scheme will clearly require to be self financing.

**Comment by  
Councillor Nick  
Cook**

No supplementary as such Lord Provost but I thank the Convener for the progress update on delivering a public bike hire scheme. I look forward to an update in the autumn and also welcome the suggestion by the Leader of the Council that such a scheme would be called Cook's Cycles.

**QUESTION NO 3**

**By Councillor Booth for answer by the Convener of the Transport and Environment Committee at a meeting of the Council on 4 February 2016**

**Question**

How many a) fines for engine idling; and b) reports to the procurator fiscal for engine idling have been issued/made by the council in each of the last five years.

**Answer**

a) There have been no Fixed Penalty Notices issued for engine idling over the last five years.

The experience of our authorised officers in Edinburgh is that when a driver is approached and the offence explained, in every instance the driver has either complied by switching off the engine or had a valid reason covered by the exemptions and considerations below.

In Edinburgh our approach uses a combination of educational and preventative signage in hotspot areas, as well as patrols and direct engagement by our Environmental Wardens. These methods are used both in response to specific complaints or enquiries, as well as proactively around specific events such as the Edinburgh Tattoo which can attract large numbers of visiting buses.

There is no statutory minimum time the engine must be idling, however, authorised officers are required to follow Scottish Government guidance when enforcing this offence. This requires that in any instance the authorised officer first approaches the driver of the vehicle they believe may be committing an engine idling offence, explain to the driver that engine idling can constitute an offence and request that the driver switches off the engine. The actual offence only occurs if the driver continues to allow the engine to idle without good cause for a period of time. The guidance and legislation lays out specific exceptions to the offence, as well

as other factors to be considered before deeming that an offence has occurred. Examples of these exemptions and considerations include:

- queuing at traffic lights,
- where an engine is being run so that a defect can be traced and rectified,
- where machinery on a vehicle requires the engine to be running,
- on a cold day at a taxi rank,
- if the driver is elderly to keep warm;
- if the vehicle is a recovery vehicle carrying out a recovery, and
- to help defrost a windscreen in very cold weather.

b) There have been no Procurator Fiscal reports made by the council for engine idling over the last five years.

**Supplementary Question (1)** I thank the Convener for her response. For the benefit of those watching on the webcam, I asked about whether the Council is using its statutory powers over emissions idling to tackle idling of vehicles, and the response came back that in the five years that we've held these powers, we have issued no fixed penalty notices whatsoever. I merely note that despite air pollution in the city failing statutory limits that this is yet another power that the Council is not using to tackle air pollution. When will the Council take action to ensure that our air pollution is within statutory limits?

**Supplementary Answer (1)** Thank you Councillor Booth for that question. I will also repeat what is in the answer which obviously Councillor Booth has not given to the people out there who may well be watching this. There is no statutory minimum time the engine must be idling, however, authorised officers are required to follow Scottish Government guidance when enforcing this offence. This requires in any instance the authorised officer first must approach the driver of the vehicle they believe may be committing an engine idling

offence, explain to the driver that engine idling can be constituted as an offence and request that the driver switches off the engine.

The actual offence only occurs if the driver continues to allow the engine to idle without good cause for a period of time. The guidance and the legislation lays out specific exceptions to the offence as well as other factors to be considered before deeming that the offence has occurred – so Councillor Booth, it's very clear in the legislation and that we've been proactive in this Council to put up notices, to get our officers out there and actually make sure that drivers are complying in switching off the engine. If an officer approached someone who is in that position and they switch off their engine, then there is nothing else that as an authority we can do. So what we are being is proactive as a Council in terms of notices, in terms of officers going out there and I really wish that Councillor Booth would tell the whole story rather than just part of it.

**Supplementary Question (2)** If I could come back with a supplementary on that. The whole story Lord Provost is surely that we are still in this city failing statutory air pollution limits, we have the street that has allegedly the most polluted street in the whole of Scotland, we are not using powers on roadside emissions testing, apparently are not using powers on engine idling and yet we are still in breach of statutory limits. When are we going to take serious action to ensure that we tackle the problem of air pollution in the city.

**Supplementary Answer (2)** Thank you – I'll follow up again – action. As you will know Councillor Booth, I sent round a briefing note which explained exactly what we were doing with a long list of action that this Council is taking, and for Councillor Booth to continue to talk about individual streets which I have got a concern about and I'm sure the Councillors and the residents of those area have concerns. We have 97% of our streets meeting the statutory guidelines, I'd like them to get better, but 97% of the streets in this city meet the statutory guidelines. Please stop worrying people and actually start to take action and perhaps if you'd turned up to the workshops, you actually tried to do something, we actually might get something in this city of a consensus of a

way forward, but I can assure you that this Council along in partnership with a lot of other organisations are making sure we get the best air quality we can in this city and we take action yet again to repeat take action not words and questions to this Council.



## Item no 5.1

### QUESTION NO 1

**By Councillor Rose for answer by the  
Convener of the Finance and  
Resources Committee at a meeting  
of the Council on 10 March 2016**

#### Question

Despite the expensive processes to resolve outstanding statutory notice claims, the Scottish Public Services Ombudsman has, since November 2015, published findings in at least four cases against the City of Edinburgh Council (CEC) on issues of scope enlargement and inadequate communication where there was a formal finding against CEC e.g.

- a. Case 201402088: ‘. . . we were critical of the quality of their (CEC) communication throughout the project. . . ’
- b. Case 201407198: ‘. . . we noted there were significant delays in the council issuing the final invoice. . . ’
- c. Case 210403736 ‘. . . the council had acknowledged carrying out non emergency repairs under the emergency statutory notice
- d. Case 20105881: ‘We were critical of the council’s handling of the sizeable cost increase.’

What has been the Council’s response to these and other adverse findings since April 2015, including any others not yet published by the SPSO?

#### Answer

## Item no 5.2

### QUESTION NO 2

**By Councillor Rose for answer by the  
Convener of the Finance and  
Resources Committee at a meeting  
of the Council on 10 March 2016**

**Question** (1) How much money has been allocated by Edinburgh World Heritage for statutory notice repair work to or via the City of Edinburgh Council annually since 2007?

**Answer** (1)

**Question** (2) Which premises (statutory notices issued) were affected?

**Answer** (2)

**Question** (3) How has the money been applied to the payment of the works associated with each statutory notice?

**Answer** (3)

## Item no 5.3

### QUESTION NO 3

**By Councillor Rust for answer by the Convener of the Education, Children and Families Committee at a meeting of the Council on 10 March 2016**

**Question** (1) When is the structural engineers' final report due and when will this be released/published?

**Answer** (1)

**Question** (2) What discussions have taken place or are planned with Edinburgh Schools Partnership in relation to accountability?

**Answer** (2)

**Question** (3) What are the CEC contingency plans in place where a school has to be closed for a period of time?

**Answer** (3)

## **Item no 5.4**

### **QUESTION NO 4**

**By Councillor Burgess for answer by the Convener of the Health, Social Care and Housing Committee at a meeting of the Council on 10 March 2016**

#### **Question**

To ask what action the Council is taking to improve insulation of homes in the City.

#### **Answer**



March 2016

### Ensuring best value for Edinburgh



Last month I welcomed a report by Audit Scotland, which demonstrated just how far the Council has come over the last year to address its financial challenges.

The [Audit of Best Value 2016](#) recognised the Council's strategy for changing the way it delivers vital services while making necessary savings against an increasingly tough financial climate.

This was confirmed in a further report by the Accounts Commission last week, in which they highlighted the Council's four-year budget framework and strong leadership by elected members and officers.

Setting the budget involved some of the toughest decisions of my 17 years in local government but, in difficult circumstances, we aimed to prioritise those services that mattered most to Edinburgh residents. I am confident that we are now in a stronger position to meet the challenges ahead.

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### A new Meadowbank

Ever since 1970, when it played host to Scotland's first Commonwealth Games, Meadowbank has served residents and professional athletes well. And while it is still a much loved facility, with over half a million users every year, it is now close to 50 years old and its facilities are tired.

A report being considered by councillors next week outlines the investment required to transform the current venue into a sports centre fit for the 21<sup>st</sup> Century. Obviously this would involve significant investment for the Council but having a detailed design gives us greater clarity about how much money we need to find.

A new Meadowbank would better serve the sporting needs of the local community as well as the surrounding region with facilities for physical activity, health and wellbeing. In addition, the surplus land available would allow hundreds of new affordable homes to be built on the site, contributing to the city's housing needs.

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### Edinburgh St James

The Edinburgh St James development is set to take another important step forward with the Council, Scottish Government and TH Real Estate, the developer, finalising the details of an innovative funding package.

Known as the Growth Accelerator Model (GAM), it will fund essential public realm improvements to the Picardy Place area and has been key to helping unlock £850m of private sector investment at the heart of our city centre.

Not only will it provide much needed premium retail space for the city, it will also contain 250 new homes, 30 restaurants, a multi-screen cinema and a 5 star, world class hotel – creating 1,000 jobs in the process. We anticipate demolition will begin this May with an expected completion date of 2020.

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### Yet more awards

Edinburgh has been named one of [Europe's best cities to do business](#), having been crowned a winner in the annual fDi (foreign direct investment) awards chosen by the Financial Times Group.

The win is no surprise considering Edinburgh remains a highly attractive place to do business. Indeed, the Council's work to build relationships with other global cities was cited by the panel as a key driver for foreign direct investment into the Capital. I'm glad to see the success of the sector – and the part played by the Council – isn't going unnoticed.

There was further good news for the city when it was named one of the [world's most beautiful cities](#), and who could disagree? We were beaten only by Paris, Florence and Rome in a Rough Guide poll of its readers.

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### Be Able

I recently visited the excellent Be Able Service, part of a registered day care service for Older People in Drumbrae, and was delighted to hear that a similar service is set to open in Oxfords. This has been long planned and will meet a gap in current provision within the area.

Be Able works with older people over a period of 14-16 weeks to improve mobility, regain and increase their confidence doing every day activities such as getting out and about and preparing a meal to help them remain living at home for as long as possible. It also offers support to people with the earlier stages of dementia.

The service has had fantastic feedback from users in other areas of the city. You can learn more about what they do by [watching their short video](#).

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## ESCo incorporated

Late last year, some of the largest organisations in the city pledged their support to our [Sustainable Energy Action Plan](#) (SEAP), which aims to transform our energy use by reducing demand and encouraging local generation – the first plan of its kind in Edinburgh.

It's great news, then, that we're now taking the next step with the creation of our energy service company (ESCo). This will be wholly owned by the Council and have a key remit for delivering the strategic energy projects from the Plan.

The development of energy projects will be crucial to its success and work is already underway to identify projects across three areas of: energy efficiency; district heating and renewables. The hope is that it could become self sustaining – delivering real environmental and economic benefits for the city.

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## Stay in the picture

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◆ EDINBURGH ◆  
THE CITY OF EDINBURGH COUNCIL

10am, Thursday, 10 March 2016

## Appointment to the Board of Smilechildcare

Item number 7.1  
Report number  
Executive/routine  
Wards

### Executive Summary

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Councillor Fullerton has been invited to join the Board of Smilechildcare – an Edinburgh based affordable childcare provider. The Council, through Children and Families and Economic Development, has worked with Smilechildcare since 2006 to provide subsidised, affordable, high quality, flexible childcare to families on low income and families accessing further education/training.

### Links

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Coalition pledges [P6](#)  
Council outcomes [CO1](#)  
Single Outcome Agreement [SO3](#)

## Appointment to the Board of Smilechildcare

### 1. Recommendations

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- 1.1 The Council is asked to consider appointing Councillor Fullerton to the Board of Smilechildcare.

### 2. Background

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- 2.1 Smilechildcare has worked in partnership with CEC since 2006, providing subsidised childcare places and services for low income families.
- 2.2 In 2015, following a review of subsidised childcare funding, the Council awarded a contract to Smilechildcare, along with three other providers, to deliver affordable childcare in socially deprived areas. This contract is due for renewal in June 2017.

### 3. Main report

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- 3.1 Smilechildcare has a number of centres offering a wide range of provision to meet the needs of children and their families. These include:
  - 3.1.1 Early Years Centre based in the grounds of Canal View Primary School which has the capacity to offer 26 full time childcare places on a daily basis;
  - 3.1.2 Pre-School Centre based at 17 Calder Grove Edinburgh offering 48 full time childcare places for children aged between three and five;
  - 3.1.3 After School Care based in the premises of Murrayburn, Clovenstone & Stenhouse Primary Schools offering care for over 122 children, with more spaces available in schools holiday time;
  - 3.1.4 The Holiday Playscheme which operates from Murrayburn;
  - 3.1.5 Breakfast Club based in the premises of Corstorphine Primary School providing breakfast for up to 40 children on a daily basis.
- 3.2 Smilechildcare has requested that the Council appoint Councillor Fullerton to its Board to support its work in ensuring the continued provision of high quality, low cost childcare to those most in need in the community.



#### **4. Measures of success**

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- 4.1 Successful delivery of the Pledge P6 – Establish city-wide co-operatives for affordable childcare for working parents.

#### **5. Financial impact**

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- 5.1 There is no direct financial impact to the Council arising from the recommendation in this report.

#### **6. Risk, policy, compliance and governance impact**

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- 6.1 Smilechildcare is a registered charity SCO2760. Its Memorandum of Association provide that liability of members is limited and that each member undertakes to contribute such amount as may be required (not exceeding £1) to the Company's assets if it should be wound up while s/he is a member or within one year of ceasing to be a member, for payment of the Company's debts and liabilities.

#### **7. Equalities impact**

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- 7.1 Not applicable.

#### **8. Sustainability impact**

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- 8.1 Not applicable.

#### **9. Consultation and engagement**

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- 9.1 There is ongoing dialogue with SmileChildcare as they are already in partnership with CEC to deliver affordable childcare.

#### **10. Background reading/external references**

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- 10.1 Letter from Smilechildcare dated 8 October 2015

## Alistair Gaw

Acting Executive Director of Communities and Families

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### 11. Links

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Coalition pledges	P6 – Establish city-wide co-operatives for affordable childcare for working parents
Council outcomes	CO1 – Our children have the best start in life, are able to make and sustain relationships and are ready to succeed
Single Outcome Agreement	SO3 – Edinburgh's children and young people enjoy their childhood and fulfil their potential
Appendices	

10.00am Thursday 10 March 2016

## City of Edinburgh Placing in Schools Appeal Committee – Appointments

Item number	7.2
Report number	
Executive/routine	
Wards	All

### Executive summary

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This report outlines recommendations on the appointment of new members and the re-appointment of existing members to the City of Edinburgh Placing in Schools Appeal Committee.

### Links

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Coalition pledges	P5
Council outcomes	CO1 CO3 CO6
Single Outcome Agreement	SO3

## City of Edinburgh Placing in Schools Appeal Committee - Appointments

### Recommendations

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- 1.1 To appoint Fred Bell, Stephen Harrold, Lisa Murray and Ron Waddell as independent members of the City of Edinburgh Placing in Schools Appeal Committee for the period to 31 March 2019, subject to satisfactory completion of pre-service training and PVG disclosure checks.
- 1.2 To re-appoint Brenda Devlin, Neil Clarkson, Pru Irvine and Iain MacGillivray as Appeal Committee Chairs for the period to 31 March 2019.
- 1.3 To re-appoint Christine MacGillivray, Olivia Ramage, Julie-Ann Sime, Carol Swan, Katherine Taylor and Jennifer Walton as Appeal Committee members for the period to 31 March 2019 (or until each member's youngest child leaves school, whichever is sooner).

### Main report

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#### 2.1 Background

- 2.1.1 On 6 October 2015, the Education, Children and Families Committee established a Short Life Member/Officer Working Group to review the procedures governing school admissions and the appeal committee process.
- 2.1.2 The City of Edinburgh Placing in Schools Appeal Committee is set up under Section 28C of the Education (Scotland) Act 1980 to hear appeals from parents and carers and to decide whether the education authority has made the correct legal decision to turn down placing requests or exclude learners from schools in its area.
- 2.1.3 The Appeal Committee is made up of members from each of the following groups:
  - Panel 1: All Members of Council, religious, teacher and any parent representatives on the Education, Children and Families Committee.
  - Panel 2: Parents of children of school age.
  - Panel 3: Persons with experience in education or who have a knowledge of the educational conditions in the Council's area.

## 2.2 Appointment of New Appeal Committee Members

2.2.1 Following completion of a public recruitment exercise and subsequent interviews, four additional independent members are recommended for appointment to the Appeal Committee.

2.2.2 All new members will take up appointment subject to satisfactory completion of the relevant pre-service training and PVG disclosure checks.

## 2.3 Re-appointment of Existing Appeal Committee Members

2.3.1 Following consultation with existing Appeal Committee Chairs and members, four out of the five Chairs and all six committee members advised they wished to be considered for re-appointment for a further three year term.

## Measures of success

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3.1 Not applicable.

## Financial impact

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4.1 Travel and subsistence expenses are payable to Appeal Committee members.

## Risk, policy, compliance and governance impact

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5.1 Not applicable.

## Equalities impact

---

6.1 Not applicable.

## Sustainability impact

---

7.1 Not applicable.

## Consultation and engagement

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8.1 Not applicable.

## Background reading/external references

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[Education \(Scotland\) Act 1980](#)

[The Education \(Appeal Committee Procedures\) \(Scotland\) Amendment Regulations 2006](#)

[Minute of Education, Children and Families Committee of 6 October 2015](#)

## Andrew Kerr

Chief Executive

Contact: Lesley Birrell, Committee Services

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## Links

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<b>Coalition pledges</b>	P5 – Seek to ensure the smooth introduction of the curriculum for excellence and that management structures within our schools support the new curriculum
<b>Council outcomes</b>	CO1 – Our children have the best start in life, are able to make and sustain relationships and are ready to succeed CO3 – Our children and young people at risk, or with a disability, have improved life chances CO6 – Our children’s and young people’s outcomes are not undermined by poverty and inequality.
<b>Single Outcome Agreement</b>	SO3 – Edinburgh’s children and young people enjoy their childhood and fulfil their potential.
<b>Appendices</b>	None.

Thursday, 10 March 2016

## Edinburgh Tram Phase 1b & 1c Land Acquisition

Item number	8.1
Report number	
Executive/routine	
Wards	4 – Forth 5 – Inverleith 6 – Costorphine / Murrayfield

### Executive summary

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It was reported to Council on 10 December 2015 that the Council retains powers under the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 to acquire land under compulsory purchase powers, and to commence construction on new sections of tramway. The Council has not exercised its compulsory purchase powers to acquire land between Roseburn Delta to Granton Square (Phase 1b) or between Granton and Newhaven (Phase 1c).

This report sets out a recommended way forward for land acquisition for Phases 1b and 1c.

### Links

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Coalition pledges	<a href="#">P18</a> , <a href="#">P19</a> , <a href="#">P45</a> , <a href="#">P46</a> , <a href="#">P50</a>
Council outcomes	<a href="#">CO7</a> , <a href="#">CO8</a> , <a href="#">CO22</a>
Single Outcome Agreement	<a href="#">SO1</a>

## Edinburgh Tram – Phase 1b & 1c Land Acquisition

### Recommendations

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- 1.1 It is recommended that the Council:
  - 1.1.1 notes that the Council's existing powers to acquire land for Phases 1b and 1c expire on 7 May 2016;
  - 1.1.2 approves exercising the existing powers before 7 May 2016 and serving the necessary General Vesting Declarations (GVDs) in order to protect the Council's position in relation to Phase 1b and 1c; and
  - 1.1.3 approves the acquisition of land from third party landowners where third party agreements have been entered into and delegates authority to the Acting Executive Director of Resources to complete those acquisitions on terms and conditions approved by him.

### Background

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- 2.1 It was reported to Council on 10 December 2015 that the Council retains powers under the Edinburgh Tram (Line One) Act 2006 and the Edinburgh Tram (Line Two) Act 2006 to acquire land under compulsory purchase powers, and to commence construction on new sections of tramway. The Council has not exercised its compulsory purchase powers to acquire land between Roseburn Delta to Granton Square (Phase 1b) or between Granton and Newhaven (Phase 1c).
- 2.2 The compulsory purchase powers set out in the Line One Act cease on 7 May 2016 and there is no scope for a further extension within the Act.
- 2.3 The Council report in December broadly considered two options in relation to the acquisition of land between Roseburn Delta to Granton Square (Phase 1b), as follows:
  - Option 1** – Exercise the existing powers before they expire on 7 May 2016; or
  - Option 2** – Apply for new powers to acquire the land in the future through either a new private bill or Transport and Works Order.
- 2.4 In relation to Option 2, Council noted that there may be other means of securing lands in the future should the Council agree to further develop the line and therefore sought further legal advice confirming this position prior to making any final decision on how to proceed.



## Main report

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- 3.1 Following the Council meeting in December further legal advice has been taken on the alternative to exercising the existing powers before they expire on 7 May 2016. That is to apply for a new private bill or for a Transport and Works Order.
- 3.2 The request for legal advice was expanded to also include the acquisition of land for Phase 1c as this provides the link between Granton Square and Newhaven which in turn provides wider network connectivity in the future.
- 3.3 An order made under the Transport and Works (Scotland) Act 2007 (a TAWS) has in most cases, replaced the private bill process for authorising a new railway (which starts and ends in Scotland) or tramway system. This would therefore be the route adopted by the Council should it have to seek new powers in relation to Phases 1b and 1c, rather than the promotion of a new private bill.
- 3.4 Applications for TAWS orders are made to the Scottish Ministers. The Scottish Ministers consider each application on its merits, and make decisions after considering all the comments made, sometimes through a public inquiry. TAWS orders can be made (with or without amendments), or can be rejected. There is no certainty that a TAWS order would be granted.
- 3.5 There is no set time to complete a TAWS process as this mainly depends on how complicated the proposed order is and whether or not a public local inquiry is held. In the case of the tram extension it seems likely that a public hearing would be required.
- 3.6 Any application would be likely to generate a substantial interest, may be subject to legal challenge, and would likely take considerable time to complete from application to decision. It is worth noting that the progress of the Edinburgh Trams Private Bills through Parliament was a lengthy one, with 28 months between submission (January 2004) and Royal Assent (May 2006). This excludes the time and costs required to prepare the documentation to support the Bill – which commenced in early 2002.
- 3.7 Additional work has been undertaken to explore the process for obtaining a TAWS order, including meeting Transport Scotland. They concur with the legal advice obtained that there is no certainty that a TAWS order would be granted.
- 3.8 Given the requirements for external advisors to prepare any application, there would also be costs associated with preparing a TAWS application. Were the application to be successful, the cost of the land acquisition would still need to be budgeted for.
- 3.9 Further work has also been undertaken to explore in more detail the possibility of exercising the existing powers before they expire including a desktop technical assessment to review all land referenced under the Line One Act in relation to Phase 1b and key properties on Phase 1c.
- 3.10 This exercise has concluded that some of the land referenced will not be required for construction and that instances of severance are likely to be low.

This means severance claims will be less than anticipated and compensation costs are likely to reduce.

- 3.11 In parallel with the technical assessment a review of third party agreements relating to Phase 1b and Phase 1c has been carried out by the Council Legal and Risk team. Under the terms of each of the third party agreements, the Council could acquire certain land identified in the Line One Act from specific landowners though this may be subject to further discussion.
- 3.12 It remains the case that acquiring the land may be controversial with an attendant risk of challenge. However, this needs to be balanced with the Council's wider *Transport 2030 Vision* and the importance of taking all reasonable steps to protect the future tram alignment. Increased public transport capacity with better connections remains at the heart of the 2030 vision which is seeking to develop a well planned, physically accessible sustainable city.

### **Conclusion & Recommendations**

- 4.1 While previous discussions have centred around Phase 1b, this report also seeks approval to exercise existing powers before 7 May 2016 in relation to Phase 1c (Granton to Newhaven). In general, the acquisition of these plots is considered relatively straightforward as the majority of the land required for Phase 1c is either already in Council ownership or is covered by third party agreements.
- 4.2 The desktop technical exercise referred to above has now confirmed that the estimated compensation arising from the acquisition of the required land for Phase 1b and Phase 1c can be contained within the £1.75million estimate reported to Council in December 2015. It is therefore recommended that the land acquisition required for Phase 1c is progressed alongside the land acquisition for Phase 1b.
- 4.3 Given the uncertainty and cost attendant on an application for a TAWS order, and taking account of the Council's wider *Transport 2030 Vision*, the Council should proceed to exercise the powers it has to acquire the land required for Phases 1b and 1c before they expire. It would be prudent to also acquire land now from third party landowners with whom the Council has entered into third party agreements, again to give certainty that the Council could construct Phases 1b and 1c in future, should it resolve to do so.

### **Measures of success**

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- 5.1 Transport investment can increase effective density between places of residence and employment in two ways; firstly, by reducing transport costs and thereby improving accessibility around and between jobs and people.
- 5.2 The current tram line is currently performing ahead of expectations, and the Council has approved that work to develop a procurement package for an

extension of the line between York Place and Newhaven can move into the next stage.

- 5.3 The purpose of considering Edinburgh Tram extensions is to support the overall level of economic growth of Edinburgh through enhancing the viability and attractiveness of major housing and employment sites identified in the Local Development Plans. The tram extensions can help support a level of economic activity (jobs, development and housing) at a greater level that would otherwise be the case.
- 5.4 The Phase 1b and 1c alignments between Roseburn delta and Newhaven have the potential to enhance connectivity and better link the existing residential areas along the route with the City Centre as well as promote the development of the Granton area, which has historically suffered from poor transport links, which are seen as key to releasing the potential of this part of the city.

## Financial impact

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- 6.1 It is estimated that an allowance of £1.75million would be required for the purposes of settling compensation claims should a compulsory purchase process be initiated prior to the expiry of the existing tram powers.

## Risk, policy, compliance and governance impact

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- 7.1 The recommendations set out in this report are in alignment with the Transport 2030 Vision, the Local Transport Strategy, and the Local Development Plan and reflect the broader Council policy objectives of promoting and protecting development and stimulating economic activity in the city.
- 7.2 There is a small risk that the £1.75million estimate may not be sufficient depending on the outcome of discussions with landowners. The likelihood of this risk occurring is deemed to be low however and the desktop technical exercise referred to above has now confirmed that the estimated compensation arising from the acquisition of the required land for Phase 1b and Phase 1c can be contained within the £1.75million.
- 7.3 Any other legal and financial risks have been set out in the body of this report.

## Equalities impact

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- 8.1 The proposals and recommendations described in this report could contribute to the public sector general equality duty to: (i) advance equality of opportunity. There is no distinct relevance in respect of the general duties to; (ii) eliminate unlawful discrimination, harassment and victimisation, or; (iii) foster good relations.

- 8.2 An Equalities and Rights Impact Assessment has been prepared in respect of the Edinburgh Tram extensions project and is available as background reference. There are no direct negative equalities or human rights impacts anticipated.

## **Sustainability impact**

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- 9.1 The potential to extend the tram network aligns with and is cognisant of the requirement to reduce carbon emissions and the need to travel. In doing so, this will promote a shift to more sustainable modes of transport that will bring reduced carbon dioxide and nitrogen oxide emissions.
- 9.2 The promotion of a high capacity, high quality public transport system aligns with Transport 2030 Vision, the Local Transportation Strategy and draft Local Development Plan and will help achieve a sustainable Edinburgh, as both documents' actions include improving the extent of the public transport offered in Edinburgh, thus enhancing social inclusion and equality of opportunity.
- 9.3 The recommendation to safeguard the Phase 1b route under the Local Development Plan and Local Transport Strategy documents supports sustainable public transport opportunities into the future.

## **Consultation and engagement**

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Leaders Group

## **Background reading/external references**

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A Strategy for Jobs: The City of Edinburgh Council's Economic Strategy 2012-2017

[http://www.edinburgh.gov.uk/download/downloads/id/501/a\\_strategy\\_for\\_jobs\\_2012-17](http://www.edinburgh.gov.uk/download/downloads/id/501/a_strategy_for_jobs_2012-17)

Edinburgh City Local Plans

[http://www.edinburgh.gov.uk/downloads/download/229/edinburgh\\_city\\_local\\_plan](http://www.edinburgh.gov.uk/downloads/download/229/edinburgh_city_local_plan)

Edinburgh Local Development Plan – Proposed Plan March 2013

[http://www.edinburgh.gov.uk/download/downloads/id/122/proposed\\_local\\_development\\_plan\\_march\\_2013](http://www.edinburgh.gov.uk/download/downloads/id/122/proposed_local_development_plan_march_2013)

Local Transport Strategy 2014-2019

[http://www.edinburgh.gov.uk/info/20221/roads\\_and\\_transport/341/transport\\_policy](http://www.edinburgh.gov.uk/info/20221/roads_and_transport/341/transport_policy)

## **Paul Lawrence**

Executive Director of Place

City of Edinburgh Council

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## Links

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<b>Coalition pledges</b>	<b>P18</b> – Complete the Tram in accordance with current plans. <b>P19</b> – Keep Lothian Buses in public hands and encourage the improvement of routes and times. <b>P45</b> – Spend five per cent of the transport budget on provision for cyclists. <b>P46</b> – Consult with a view to extending current 20mph zones. <b>P50</b> – Meet greenhouse gas targets, including the national target of a 42 per cent reduction by 2020.
<b>Council outcomes</b>	<b>CO7</b> – Edinburgh draws new investment in developing regeneration <b>CO8</b> – Edinburgh’s economy creates and sustains job opportunities <b>CO22</b> – Moving efficiently – Edinburgh has a transport system that improves connectivity and is green, healthy and accessible.
<b>Single Outcome Agreement</b>	<b>SO1</b> – Edinburgh’s Economy Delivers increased investment, jobs and opportunities for all.
<b>Appendices</b>	None

# The City of Edinburgh Council

10.00 am, Thursday, 10 March 2016

## St James Quarter – Update on Progress

<b>Item number</b>	8.2
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	11 – City Centre

### Executive summary

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This report seeks to inform and update the Council on the working arrangements between the City of Edinburgh Council, the Scottish Government and TH Real Estate in the delivery of the Edinburgh St James development.

The report further informs on:

- (i) the Growth Accelerator Model (“GAM”) that was first reported on 1 May 2014;
- (ii) the Compulsory Purchase Order reported on 29 May 2014;
- (iii) progress generally on the Edinburgh St James project and surrounding area, viz Picardy Place, which was last reported on 25 September 2014;
- (iv) future Council project monitoring arrangements; and
- (v) the future cross-party Members oversight of the project during the construction phase and up to the new centre opening.

### Links

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<b>Coalition pledges</b>	<a href="#">P8</a> , <a href="#">P15</a> , <a href="#">P17</a>
<b>Council outcomes</b>	<a href="#">CO7</a> , <a href="#">CO8</a> , <a href="#">CO9</a> , <a href="#">CO19</a>
<b>Single Outcome Agreement</b>	<a href="#">SO1</a> , <a href="#">SO4</a>

## St James Quarter - Update on Progress

### Recommendations

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It is recommended that Council notes:

- 1.1 That Council has committed to the Growth Accelerator Model (“GAM”) Agreement with TH Real Estate under the delegated authority to the Chief Executive, which was approved by Council on 19 November 2015 (details of the Agreement are to be made available again to Members in the project data room);
- 1.2 That the Council has committed to the funding agreement with the Scottish Government as part of the Scottish Government annual contributions to the GAM agreement, as approved by Council on 1 May 2014 and 19 November 2015 (details available to Members in the project data room);
- 1.3 That up to £61.40 million new potential borrowing for GAM works which would be maintained and repaid over a period of up to 25 years through a combination of public and private sector investment, all as approved by Council on 1 May 2014. Further noting that the present GAM works budget has been reduced to £52.40 million.
- 1.4 That TH Real Estate (“THRE”) continues to seek a negotiated agreement to acquiring the remaining interests, in parallel with the Compulsory Purchase Process (CPO) and to note the CPO progress to date;
- 1.5 That the Minute of Agreement (Agency Agreement) with THRE, as approved by Council on 29 May 2014, was varied by the Council’s Chief Executive in March 2016 under paragraph A4 of the Council’s Committee terms of reference and delegated functions (details of the variation and original agreement will be available to Members in the project data room); and
- 1.6 The past and future governance of the GAM works programme and the cross-party Members oversight of the project as detailed in this update report.

### Background

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- 2.1 St James Edinburgh Limited (“the Developer”) bought the St James Centre, including the now vacant New St Andrews House (the former Scottish Office building next to the centre) in May and June 2006.

- 2.2 The Developer, St. James Edinburgh Limited, is wholly owned by the Henderson UK Shopping Centre Fund (“HSCF”) who own the existing St. James Shopping Centre, King James Hotel and New St. Andrews House. THRE manage HSCF including all development activities.
- 2.3 It has been the long stated intent of HSCF to take in one or two equal co-investment partners from the project construction stages onwards and in late 2015 they internationally marketed two one third equal shares in the project to numerous sovereign wealth, superannuation and institutional funds and property and insurance companies.
- 2.4 Presently initial bids from investors have been rationalised down to three parties, who are currently working through second stage technical and legal due diligence before confirming their final bids at the end of February 2016. This then allows an 8 week period for legal documentation to coincide with the anticipated property vesting and construction start dates in May 2016.
- 2.5 On 4 June 2009, the Council approved planning permission in principle (08/03361/OUT) for the redevelopment, refurbishment and demolition works to provide a major mixed use scheme on the site of the existing St James Centre.
- 2.6 In accordance with the Recommendations of the St James Quarter CPO report to Council dated 29 May 2014, a CPO has been made and implemented for the St James Quarter redevelopment area, for the purpose of acquiring the land and property interests shown in the CPO Plans and Schedule of Interests previously presented to Council.
- 2.7 The Council Minute of Agreement (Agency Agreement) with THRE provides and delivers that in executing the CPO and supporting the project, all costs to the Council are being fully reimbursed and there is no cost to the public purse.
- 2.8 The signing of the Minute of Agreement (Agency Agreement) by St James Edinburgh Limited and the City of Edinburgh Council was completed on 4 September 2014 in terms which were considered acceptable by the Chief Executive, in consultation with the Council Leader and Depute Leader, to suitably protect the interests of the Council and secure reimbursement of all costs, fees, expenses and compensation claims which might be incurred by the Council arising from the CPO and the subsequent transfer to St James Edinburgh Limited of the property interests acquired, and such other terms as the Chief Executive considered necessary or desirable. The Minute of Agreement (Agency Agreement) was varied by the Council’s Chief Executive in March 2016 under paragraph A4 of the Council’s Committee terms of reference and delegated functions.
- 2.9 Management, governance, risk control and financial control are being implemented, are controlled through the Minute of Agreement (Agency Agreement) and have been the subject of a series of all-party briefings on progress by the Council SRO and a representation of Council Officers, which have been held between May 2014 and March 2016.



### **Compulsory Purchase Order**

- 2.10 The Council at its meeting on 29 May 2014 delegated authority to the Chief Executive, in consultation with the Council Leader and Depute Leader, to make a CPO in respect of the property interests required for the St James Quarter redevelopment by the Developer, St James Edinburgh Limited (“SJEL”). The report also noted that various areas of Council owned land, which are required for the development, would be subject to a separate sale agreement, and the sale terms reported back to Committee for approval in due course. On 15 January 2015 the Finance and Resources Committee approved a delegation to the Director of Services for Communities and the Head of Legal, Risk and Compliance to agree terms and conditions for the sale and purchase of various pieces of land around the St James Centre to SJEL and also to grant a long lease of an area of ground to SJEL.
- 2.11 The Directorate for Local Government and Communities Planning and Architecture Division: Planning Decisions wrote to the City of Edinburgh Council on 22 February 2016. A copy of that letter will be issued to objectors. The letter contains the following paragraphs:

#### ***“Consideration by the Reporter***

*The reporter’s conclusions and recommendation that the Order be confirmed with modifications in accordance with the updated schedule of interest and updated maps lodged by the Council on 25 November 2015, are contained in Chapter 6.”*

#### ***“Scottish Minister’s Decision***

*Scottish Ministers have considered carefully all of the evidence presented at the Inquiry and the reporter’s findings, reasoning, related conclusions and recommendation. Ministers’ conclude that the order is required to secure the carrying out of redevelopment of the St James Quarter, a project supported by national and development plan policy, where planning permission is in force for the redevelopment proposals and for which they consider there is a strong public benefit.”*

#### ***“Subsequent Procedures***

*The order will become operative on the date on which notice of the confirmation is first published, but any person aggrieved may, within 6 weeks of that date make application to the Court of Session in terms of paragraph 15 of the First Schedule to the 1947 Act, as extended by Section 60 of the Land Compensation (Scotland) Act 1981.”*

## **Acquisitions and Negotiations with Landowners**

- 2.12 The Developer's approach to negotiations with landowners accords with the best practice guidance set out in paragraphs 7 and 8 of the Scottish Government Planning Circular 6/2011 - Compulsory Purchase Orders (the "Circular"), where the Scheme is large and complex with multiple interests to secure.
- 2.13 The Developer established a specialist land assembly team made up of Culverwell Property Consultants, Carter Jonas LLP and CBRE which has been and continues to progress negotiations with the remaining parties. These negotiations are monitored by Council officers and additionally key meetings are being chaired by the Council's SRO.
- 2.14 At the time of writing, six objectors remain, three of whom have interests which are not acquired by CPO.

## **Council Owned Land**

- 2.15 The Council land parcels (see Appendix A) have been independently valued and these values have been agreed with THRE. On completion of the land transaction, the Council has a net gain of land in the area of 1,186.11 sq.m. and there is a nett transfer value of £683,000 in the Council's favour.
- 2.16 The small parts of road or footpath and a portion of St James Place considered common good, were presented to the Court of Session. Consent to dispose of these has now been confirmed by the Council.

## **The Growth Accelerator Model ("GAM")**

### **Funding Mechanism**

- 3.1 Given current fiscal constraints, the Council is unable to shoulder the cost of required borrowing within existing resources. A collaboration with the Scottish Government and Scottish Futures Trust on the newly developed Growth Accelerator Model was therefore recommended.
- 3.2 The St James Programme Board will support the St James SRO in considering decisions required to maintain the St James Traffic Management and Communications controls, which are embedded in the GAM Agreement. In addition, the Board will actively review Council resources to ensure that the consents requested meet the project programme and statutory targets.
- 3.3 This innovative new model of financing previously proposed a total borrowing of up to £61.4 million which would require annual repayments of £4.77 million over a 23 year period. This is two years shorter than the proposed 25 year term of the model.
- 3.4 The proposed GAM funding mechanism itself is a partnership between the Scottish Government, the Council and the Developer. Council borrowing costs would ultimately be completely offset by new income streams, subject to proposed targets being achieved.

- 3.5 It is further proposed that the remainder of the annuity payment be tied to the achievement of the following deliverables, resulting in three separate income streams to cover the remaining funding gap of circa £52.40 million:
- I a predetermined uplift in rateable value derived from within the St James Quarter itself (55%);
  - II an uplift in rateable values from within a wider area (excluding the St James Quarter) as a result of the catalytic effects of the new Quarter (25%); and
  - III the achievement of employment and training targets to support the long term unemployed and the harder to reach groups and areas (20%).
- 3.6 The Scottish Government contribution of up to £4.27 million is linked to the delivery of these three outcomes, over three years initially from 2020. However the timeframe will be reviewed if the targets are not met in this initial period. The Government's contribution is also linked to a proportional percentage performance against targets. So, for instance, if 80% of the respective targets are achieved, the Scottish Government will only provide for 80% of its contribution.
- 3.7 The risk of not meeting the above targets would sit with the Council. However, should the Council be unable to achieve these objectives because of unprecedented market changes, it is proposed that there is a renegotiation of the previously agreed long stop dates. This could enable the Council to realise a full funding commitment over the life of the project.
- 3.8 Another important feature of the model is that overall funding by the Scottish Government would be capped at £98 million to cover principal and interest payments. This would not increase over the life of the project. Any reduction in borrowing, due to lower than forecast infrastructure costs would be reflected in a corresponding reduction in the annuity payment from the Scottish Government and THRE.
- 3.9 As an incentive for the Developer to drive down the cost of the supporting infrastructure, for the first £700,000 of any reduction in the annuity payment, there is a proposed even split in the reduction of contributions between the Scottish Government and THRE. This would roughly equate to the first 15%, equivalent to first £9 million reduction in infrastructure costs. At this point, all future reductions in the cost of infrastructure would also result in a reduction of the annuity payment for the Scottish Government alone. However, any increase in borrowing requirement, or change in interest rate above 5.5% assumed, would be met by the Council alone.
- 3.10 THRE has agreed to share any surplus above normal returns on the wider investment. This surplus or "super profit", should it occur, would be split between the public and private sector. The exact mechanism and split has been determined in detailed negotiations between the Council with the Scottish Government and the Developer. This mechanism is detailed in the confidential project data room.

3.11 The Council approved the following GAM recommendations on 1 May 2014:

- That Council officers enter detailed discussions with officials from the Scottish Government and the owners of the Quarter, so as to refine and agree the operation of the new financial model. Those negotiations are now complete.
- That Council officers take forward detailed negotiations on the proposed funding mechanism, including setting up an oversight group to oversee the development of the Quarter. Those negotiations are complete and are as illustrated in Appendix B.
- Agreement to the three performance targets set by the Scottish Government as part of the condition for their annual contribution to the model. Negotiations are complete.
- That a new retail and hospitality skills academy be established within the development to provide training support for targeted employment opportunities for those furthest away from the market. The Academy will be in the management suite of the St James Centre and is illustrated at Appendix C.
- That a permanent new Shop Mobility scheme be included within the programme of works.
- That new charging points for electric vehicles be included within the programme of works.

#### **Infrastructure Investment Plan**

3.12 The Council has identified a programme of infrastructure works which would provide the necessary impetus to take the redevelopment forward. These include improvements to the physical environment at James Craig Walk, designed to increase the accessibility, permeability and the user experience of the areas; new public realm at Picardy Place, together with the provision of a transport interchange at the junction of Leith Walk, Leith Street & York Place. A new energy centre designed to provide power, heat and cooling to the development and, potentially, the wider area will also be constructed. The value of the new infrastructure was projected at up to £61.4 million; it is presently targeted at £52.40 million and will be managed and overseen by the GAM Oversight Group, comprising the Council, the Scottish Government and the Scottish Futures Trust. The public realm detail of the works is illustrated in Appendix D.

3.13 Redevelopment of the St James Quarter provides an opportunity to complement the transport improvements that will be delivered through the Leith Walk Improvement Programme. With additional funding from Sustrans Scotland, the programme will deliver major improvements for pedestrians and cyclists for the entire length of Leith Walk. The design has been informed by an analysis of the streets functions and its importance locally, as well as across the city as a major connector. In bringing together those programmes, the developments' interfaces can be seen as agreed and illustrated in Appendix E.

## **Development Funding/Viability**

- 3.14 The issue of funding and viability is covered in the Circular noted under item 2.12 of this report. It states that the authority must satisfy itself that there is a “reasonable prospect” of (a) securing the funding both to acquire the land and then (b) to complete the Scheme over a “reasonable timescale” (i.e. scheme viability). The Council’s Head of Finance has been provided full access to all the Developer’s financial information and continues to monitor the full financial position.
- 3.15 In relation to the funding to cover the cost of the compensation claims and associated fees and expenses of making and implementing the CPO, these costs are covered by the Developer providing the Council with an indemnity to cover all such costs, all as detailed within the Minute of Agreement. The Minute of Agreement ensures that the Council is not legally committed to any acquisitions until the estimated compensation figures are agreed with the Developer and the Developer either places the Council in funds to cover the appropriate amounts or provides a bond to cover the costs. It is considered that the Council can be satisfied it has sufficient comfort on the ability of the Developer to cover the costs of the acquisition of the land which is likely to form part of the CPO. A variation to the Minute of Agreement (Agency Agreement) was made in February 2016 under the delegated authority that was given to the Chief Executive on 29 May 2014. External legal advice was sought and obtained in order to confirm that there is no risk to the Council in agreeing to this variation. The Minute of Agreement and the variation have been made available to members in a project data room.
- 3.16 THRE manage around £55.30 billion (as at June 2015) of real estate assets worldwide. The Henderson Fund has a net asset value of £680 million but despite the size of the fund, due to the length of development programme and scale of the project, the Henderson Fund is to secure both its own equity and that of a partner or group of partners who may in turn utilise a mix of debt and equity funding for the overall development costs currently estimated at £630 million. The marketing exercise for a partner/partners is now complete and the Developer has indicated that such agreements are to be in place by site start, as noted under item 2.4 of this report.

## **Economic Impact**

- 3.17 The development as consented would deliver 50,700m<sup>2</sup> of high-quality retail space, 3,200m<sup>2</sup> of assembly and leisure space, a 210-bedroom five-star hotel, a 52-bedroom apart-hotel and 143 residential units.
- 3.18 A Council commissioned economic impact assessment published in 2013 found that the redeveloped St James Quarter was projected to support a net increase in employment in Scotland of approximately 1,000 full-time equivalent jobs and a net increase in the gross value added of Scotland of approximately £45 million per annum.

## **Programme**

- 3.19 The Developer's indicative master programme for development shows demolition and site start in May 2016 with completion around 2019 for the retail element and around 2020/2021 for the remaining leisure and residential elements.
- 3.20 The Minute of Agreement stipulates that the Developer must start the development between 3 and 5 years after the CPO is confirmed by the Scottish Ministers and thereafter progress with all due diligence. The GAM works programme as at February 2016 is illustrated in Appendix F.

## **Consents and Agreements**

- 3.21 The following consents and agreements are required:
- Building Warrants, including individual shop fit out warrants;
  - Traffic Regulation and Redetermination Orders and Stopping Up Orders;
  - Section 21 Road Construction Consent;
  - Section 56 Road Works Consent;
  - Any consents from statutory undertakers; and
  - Scottish Government Funding, committed at the point of signing the GAM funding agreement with the Scottish Government and prior to committing the Council to the GAM funding agreement with THRE.
- 3.22 It is considered by THRE as at February 2016 that any outstanding consents can be obtained within the development timescale and will not result in delays to the delivery of the Scheme.

## **Delivery Process of GAM Works**

- 3.23 Agreement has been reached, based on a QC appraisal of the procurement and state aid regulations, as well as discussions with the Developer on a delivery process. This would allow, to the extent the public works fall within the relevant legislation, the publicly funded work packages to be procured by the Developer within OJEU, the procedural framework. Council officers would continue to monitor the situation as the detail of the work packages evolves to ensure no procurement regulations are breached. Reimbursement of these costs to the Developer, would only take place on practical completion of the whole project when new business rate revenues are being generated. The Developer will fund the works through the construction period. The Council and the Scottish Government will look to manage the approval process to ensure GAM value for money, maintain the upper limit of up to £61.40 million and continue to target a lower sum of £52.40 million.
- 3.24 The GAM works will be demonstrated to Council to be best value on an open book basis to the Council Monitor. The demonstration of best value will be to a detail of Bills of Quantities based on drawings and specification, all per the GAM Agreement as entered into by THRE and Council in February 2016.

## **Governance**

- 3.25 A project interface has been agreed, comprising senior representatives from the Council, the Scottish Government, the Scottish Futures Trust and the Developer, THRE, to govern the overall delivery of the GAM project. This governance structure would also ensure that the Developer successfully undertakes all development works in accordance with an agreed timetable. As part of the governance, the GAM Oversight Group board would include Council Officers and the Scottish Government, with the Developer as observer only (see Appendix B).
- 3.26 The Council Programme Board will ingather knowledge to consider risk to the Project, risk to the GAM works, communications, stakeholder issues, St James traffic management control and the Council resources to maintain the project programme. Contained within the GAM Agreement is provision for dispute escalation and resolution (see Appendix G).
- 3.27 Opportunities to regenerate a prime city centre site on this scale are rare. The redevelopment of the St James Centre is a key objective of both the Strategic and Local Development Plans. Only one party, the Developer, who owns the majority of the site, can deliver this much needed redevelopment. Consequently, there are no alternatives which can deliver this regeneration project on another suitable site.
- 3.28 To ensure that elected members continue to receive the same visibility and reporting as has been provided by the Council SRO between May 2014 and March 2016, an all-party oversight group will be established to oversee the combined Tram and Leith Programme and the technical interfaces between the project and Edinburgh St James, including traffic management and wider community engagement. This new all-party group will also be briefed in detail on the progress of the Edinburgh St James development.
- 3.29 Communications protocols have been agreed between the Council and THRE and are now detailed within the GAM Agreement.
- 3.30 There is an opportunity for the Council to re-use the Leith Street bridge link. This opportunity will be further examined by the St James GAM Board and reported to elected members for oversight group direction.

## **Picardy Place**

- 3.31 In the report to Council on 29 May 2014 a new development site at Picardy Place within the Council's ownership, created as a result of the junction reconfiguration at the top of Leith Walk, was proposed to accommodate the hotel relocation if required to facilitate the development of the St James Quarter. This site is no longer required to facilitate that development.
- 3.32 Given that the development site is no longer required by the St James development, at the Council meeting on 19 November 2015 the Council agreed to delegate authority to the Chief Executive to take forward the potential development site at Picardy Place to the open market, to engage marketing agents to provide a full marketing campaign and to seek tenders in order to

secure best value for the site's disposal. A report on the offers received will be brought back to Council for a decision on disposal and would also consider:

- i) The extent of any Common Good land and consent to dispose by the Court of Session;
- ii) The traffic implications of developing this site on wider traffic movements across the east of the city at this key traffic node; and
- iii) What the impact on active travel and place making would be if the site were released for development.

### **Lasting memorial to Nelson Mandela**

3.33 On 4 November 2014, the Council's Corporate Policy and Strategy Committee agreed that a lasting memorial to Nelson Mandela, the former president of South Africa, should be sited within the St James development. On 24 March 2015, the Corporate Policy and Strategy Committee agreed to delegate authority to the Director of Economic Development to determine what form the lasting memorial should take and to negotiate and enter into a formal agreement with the developer on the location for the proposed lasting memorial. Initial discussions have since been held with the developer with a view to identifying a suitable location. Initial discussions have been held with the Council Street Naming Officer on the scope for naming a street within the development in commemoration of Nelson Mandela. These discussions will be progressed as detailed design proposals for any streets that may be suitable become available.

## **Measures of success**

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- 4.1 The pursuance of the CPO process and the continued negotiations will allow the progression of the regeneration of the St James Quarter and the wider City Centre retail area.
- 4.2 Success will be measured by the quality and sustainability of the new retail led mixed use development, job creation and the regeneration of the wider City Centre.
- 4.3 The improved performance of Edinburgh as a retail destination reinforcing its role as the regional centre for SE Scotland will be a key measure of success.
- 4.4 In addition to the above, success will be measured in terms of the provision of high quality public realm improvements to the Picardy Place area ensuring optimum connectivity from this site into the redeveloped St James Centre and beyond to St Andrew Square, Princes Street and Leith Walk in the east.



## Financial impact

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- 5.1 As was reported in the May 2014 Report, the making of the CPO in respect of the St James Quarter incurred costs to the Council. However, under the signed Minute of Agreement, SJEL fully indemnifies the Council for all costs and compensation claims in respect of the CPO and any subsequent transfer of those property interests to the Developer, and is considered to suitably protect the Council, as well as ensuring no cost to the Council. To date, all costs incurred by the Council have been reimbursed by the Developer.

## Risk, policy, compliance and governance impact

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- 6.1 The developer's adherence to the terms of the Minute of Agreement will continue to be monitored by the SRO, the Head of Finance, the Head of Planning and the Head of Corporate Property. Appropriate management systems and regularity of reporting, together with a governance structure, are in place, reflecting the obligations of the Minute of Agreement. The structure is being revised as stated in this report in order to recognise the project programme stage.
- 6.2 There is a risk of damage to the Council's reputation should, for whatever reason, the CPO confirmed by the Scottish Ministers but the redevelopment does not progress. To mitigate against this the Minute of Agreement obliges the developer to commence the redevelopment within 3 to 5 years of the CPO being confirmed and it is considered that given the other protections the Council has obtained this is suitable security for the Council, especially when the developer's investment to date is considered and the fact it would only have 5 years to implement its detailed planning permission.

## Equalities impact

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- 7.1 Property rights adversely affected by the CPO will be entitled to compensation under the Land Compensation (Scotland) Act 1963 and the Land Compensation (Scotland) Act 1973. Compensation will be payable in accordance with the Compulsory Purchase Code.
- 7.2 The redevelopment of centre should have a positive impact on the Council's equality duties through improved accessibility and design, the provision of a training academy to help those furthest from the job market into work and extensive public consultation.
- 7.3 An independent economic impact assessment of the Edinburgh St James development prepared by SQW in 2013 found that, over the 26 year period 2015 to 2040, the development as proposed was expected to result in a net (i.e. the overall increase once any losses are taken into consideration) additional 27,048 person years of employment across Edinburgh – equivalent to approximately 2,700 permanent new jobs. The Council's Employability and Skills team will work

to ensure jobseekers in Edinburgh – in particular those facing barriers to employment – are well-placed to capitalise on these opportunities.

- 7.4 A dedicated training academy will be created in the new complex within the management suite. The academy will provide an attractive and welcoming destination where people seeking employment and training opportunities can be inducted and given basic training. Indicative designs for the academy have been prepared on the basis of information provided by the Council's Employability and Skills team. The academy will include a reception area, meeting room, flexible training suite and computer suite. Initial discussions have taken place on how the academy will be staffed.
- 7.5 The Employability and Skills team has secured agreement in principle from the Department of Work and Pensions for the use of the Jobcentre Plus on South St Andrew Street as a hub for recruitment and training opportunities associated with the development while construction is underway.
- 7.6 In line with emerging activities relating to the City Region Deal, and in view of the relatively low levels of worklessness in Edinburgh at present, the Employability and Skills team is considering the potential for working with people not in employment, education or training in the surrounding local authorities of the city region to help them take advantages of the job opportunities within Edinburgh St James.
- 7.7 The Employability and Skills team has strategies for assisting any people made redundant as a result of businesses closures upon the closure of the existing St James shopping centre in spring 2016.
- 7.8 There are likely to be negative impacts throughout the construction stage on the accessibility of the area which can be addressed through the Planning, Building Control and Road Construction processes. To that end, the developer has and is committed within the GAM Agreement to participate in the traffic management protocol and to oversee contract traffic management works in conjunction with the Council's Roads department, public utility companies, emergency services, the St James contractor and other city centre projects.

## **Sustainability impact**

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- 8.1 The impact of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered, and the outcomes are summarised below.
- 8.2 The sustainability impacts of the redevelopment of the St James Centre have been assessed in the determination of the application for planning permission in principle. The proposals are considered to have no significant environmental impacts and comply with the requirements of the Planning Service. The principle considerations are detailed below.

- 8.3 The proposed redevelopment of the St James Centre has been assessed against the most relevant, up to date sustainability indicators available, as the design of the Scheme has progressed. As a result, the principles of sustainability have been incorporated within the design, wherever feasible, in order to ensure that the proposals are as sustainable as possible.
- 8.4 The Sustainability Appraisal comprised a desktop policy review and development of a sustainability framework, two sustainability workshops with the design team, ongoing scheme review and evaluation and finally, appraisal of the final proposals and production of the sustainability statement.
- 8.5 Any negative impacts would be offset by a much more energy efficient development than exists in the current aging buildings. A combined, heating, cooling and power centre is proposed as part of the development as is wider access and shop mobility. There will be electric car charging points, extensive facilities for cyclists, photovoltaic panels, solar tubes and a city car club.
- 8.6 The applications for approval of matters specified in condition will be required to contain updated sustainability appraisal information.

## **Consultation and engagement (Comms Protocol)**

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- 9.1 The City of Edinburgh Council is working closely with the developer and its agencies to ensure, per the GAM Agreement, that through comprehensive consultation and an engagement strategy, key audiences are kept informed of the project's progress.
- 9.2 There is agreement from all partners on communications that they will work together in an open, transparent and collaborative manner in order to deliver an effective communications programme.

## **Background reading/external references**

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Planning Application 08/03361/OUT - Report to Development Management Sub Committee of 25 February and 4 June 2009  
Report to Planning Committee 6 August 2009 and 5 December 2013 – Compulsory Purchase Order St James  
Edinburgh City Local Plan  
St James Centre Development Brief  
Proposed Local Development Plan  
Picardy Place Development Principles 2009  
Report to Full Council by Director of Economic Development on 1 May 2014  
Report to Full Council by Acting Director of Services for Communities on 29 May 2014  
Report to Full Council by Acting Director of Services for Communities on 25 September 2014  
Report to Full Council by Deputy Chief Executive on 19 November 2015

## **Paul Lawrence**

Executive Director of Place

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<b>Coalition pledges</b>	<p>P8 Make sure the City's people are well housed including encouraging developers to build residential communities, starting with brownfield sites</p> <p>P15 Work with public organisations, the private sector and social enterprise to promote Edinburgh to investors</p> <p>P17 Continue efforts to develop the City's gap sites and encourage regeneration</p>
<b>Council outcomes</b>	<p>CO7 Edinburgh draws in new investment in development and regeneration</p> <p>CO8 Edinburgh's economy creates and sustains job</p> <p>CO9 Edinburgh residents are able to access job opportunities</p> <p>CO19 Attractive Places and Well maintained – Edinburgh remains an attractive City through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.</p>
<b>Single Outcome Agreement</b>	<p>SO1 Edinburgh's economy delivers increased investment, jobs and opportunities for all.</p> <p>SO4 Edinburgh's communities are a safer and have improved physical and social fabric.</p>
<b>Appendices</b>	<p>Appendix A – Schedule of Council Land Parcels</p> <p>Appendix B – Process for GAM Works Approval</p> <p>Appendix C – Indicative Layout of St James Recruitment &amp; Skills Centre</p> <p>Appendix D – Summary of GAM works (Public Realm detail)</p> <p>Appendix E - Picardy Junction Layout and Interface</p> <p>Appendix F - GAM works programme as at February 2016</p> <p>Appendix G - Provision for Dispute Escalation and Resolution</p> <p>Appendix H - Elected Members Quarterly Oversight Group Briefing</p>

## Appendix A - Schedule of Council Land Parcels

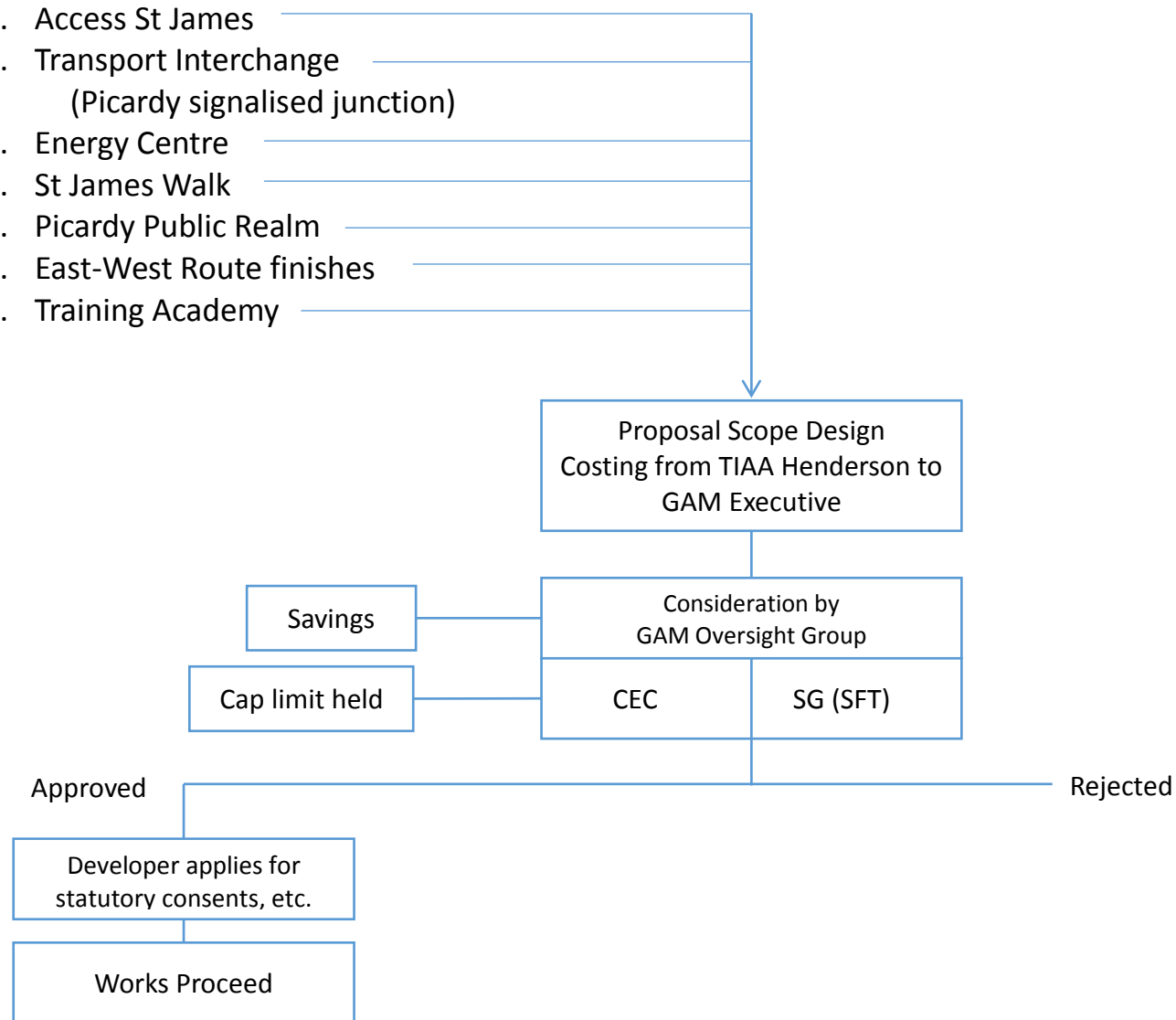
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<b>ST JAMES QUARTER LAND TRANSACTIONS</b>		
<b>Non Common Good Land to be sold to St James Quarter</b>		
<b>Plot No.</b>	<b>Address</b>	<b>Area</b>
<b>1</b>	Non Common Good - Cathedral Lane less substation area leased to Scottish Power	192.63 sq.m.
<b>2</b>	Non Common Good - St James Place excluding area currently leased to St James	40.99 sq.m.
	St James Place area currently leased to St James	144.00 sq.m.
<b>3</b>	St James Place	253.34 sq.m.
<b>5</b>	St James Square	160.63 sq.m.
<b>6</b>	Leith Street	72.15 sq.m.
<b>7</b>	Leith Street	120.29 sq.m.
<b>Common Good Land to be sold to St James Quarter</b>		
<b>A</b>	Cathedral Lane Common Good Land	96.37 sq.m.
<b>B</b>	St James Place Common Good Land	37.49 sq.m.
<b>Site to be sold to CEC</b>		
<b>8</b>	Leith Street	220.00 sq.m.
<b>9</b>	Leith Street	140.00 sq.m.
<b>10</b>	James Craig Walk/Leith Street - long leased back to St James at peppercorn	1,944.00 sq.m.

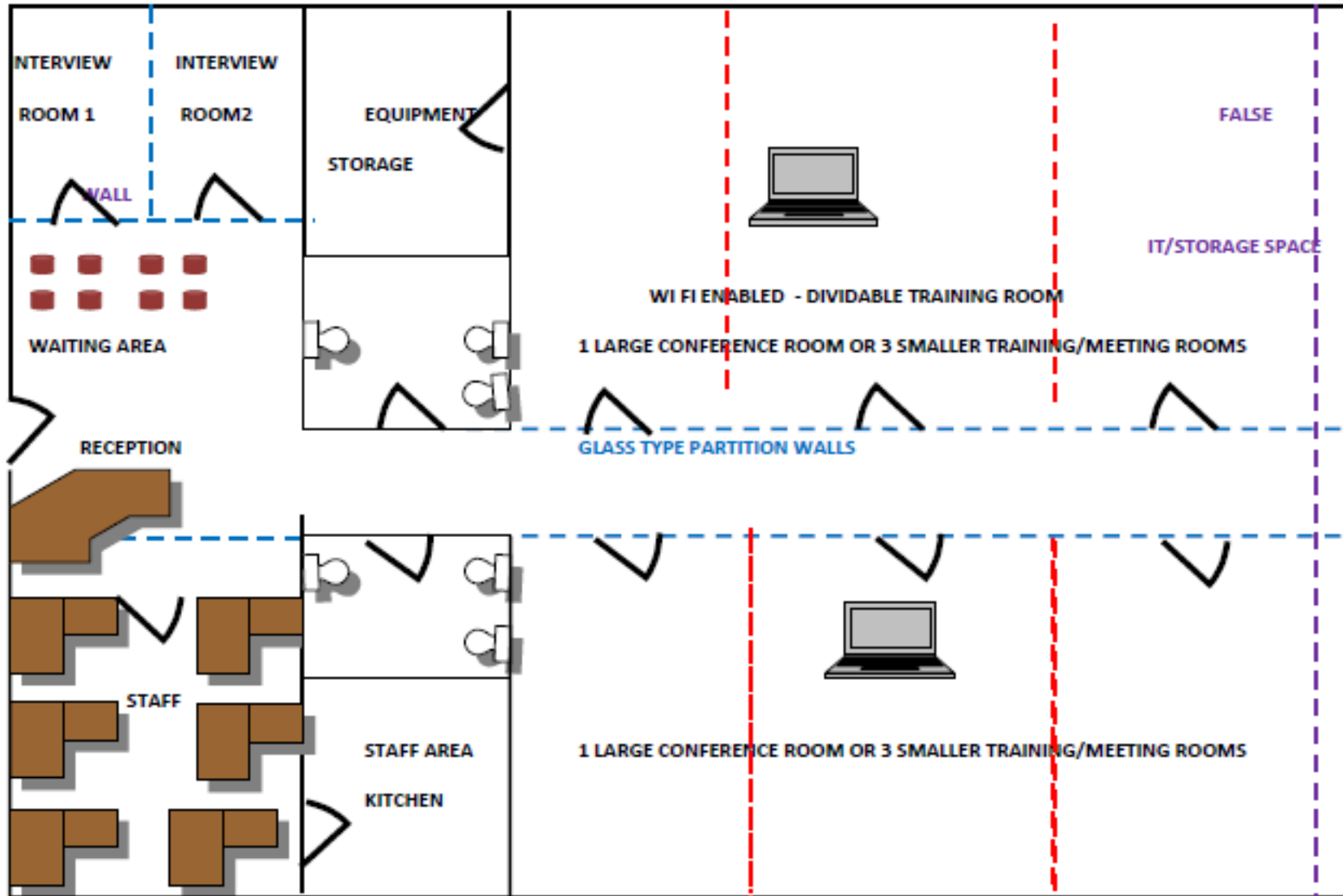
## Appendix B – Process for GAM Works Approval

### Works Package

1. Access St James
2. Transport Interchange  
(Picardy signalised junction)
3. Energy Centre
4. St James Walk
5. Picardy Public Realm
6. East-West Route finishes
7. Training Academy

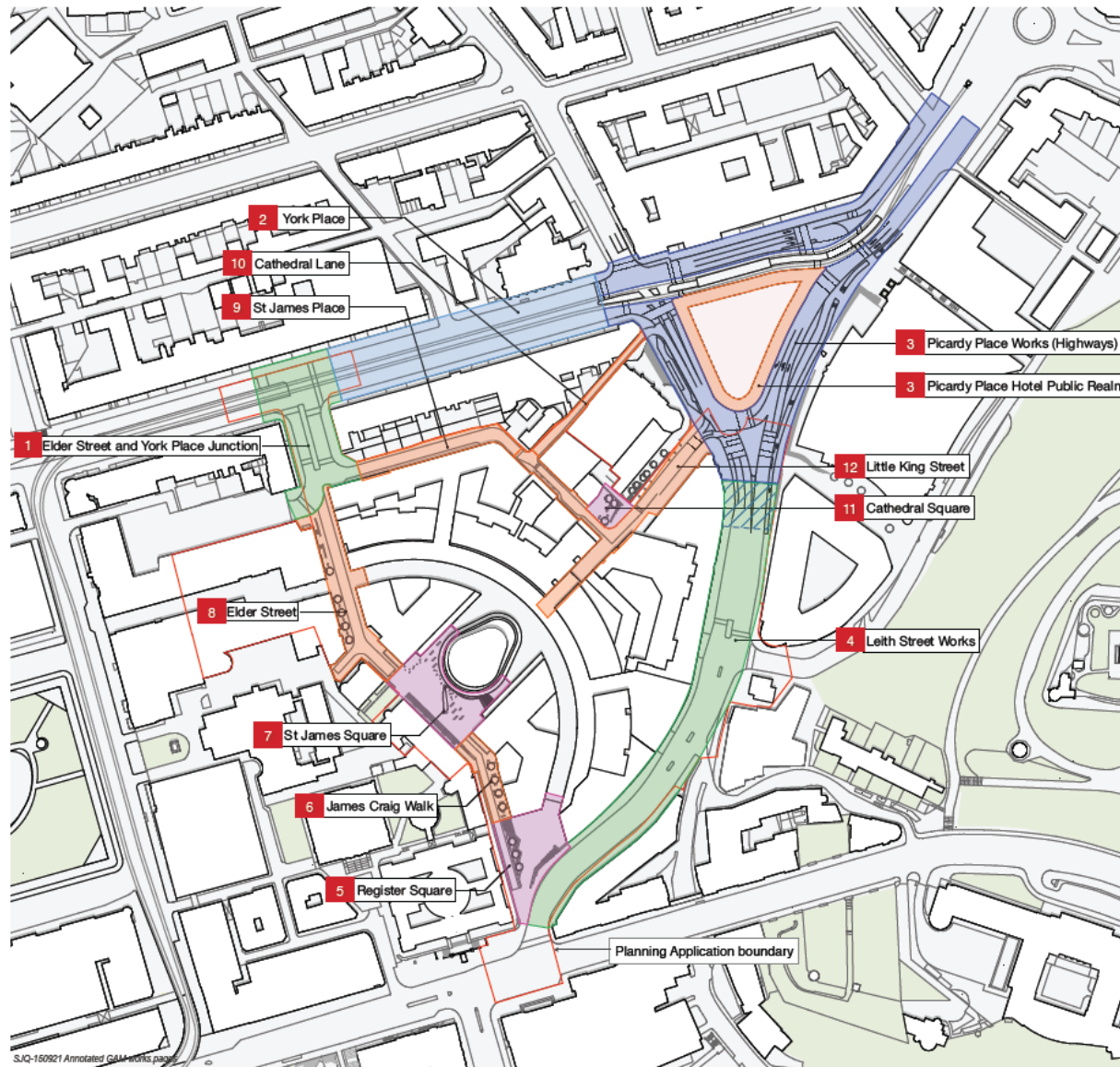


## Appendix C – Indicative Layout of St James Recruitment and Skills Centre





# Appendix D – Summary of GAM Works (Public Realm Detail)



**Summary of GAM works** (taken from the current draft of the agreement)

- 1 Elder Street & York Place Junction**  
Realignment of road junction and pavements.  
Reconfiguration of road layout and signalled junctions to bus station, service access, St James Place and Elder Street.  
Upgraded surfaces to pedestrian routes.  
Reconfigured cycle route.
  - 2 York Place**  
Realigned road and pavement to allow for tram alterations and provision of cycle route.
  - 3 Picardy Place Works (Highways)**  
**3 Picardy Place Hotel Public Realm**  
Construction of gyratory with extended and repaved footways.  
Formation of new pavement to perimeter of central site.  
Alter highway layout of Leith Street for connection to gyratory.  
Temporary surfacing to area of future tram works.  
Traffic management & protection.
  - 4 Leith Street Works**  
Stone pavings to footpaths.  
Removal of central island and re levelling carriageway to falls and new lighting.  
Works to Waterloo Place and Princes St junction to accommodate new road layout.
  - 5 Register Square**  
Paving and lighting.  
Upgrading of access route to James Craig Walk to support emergency vehicle access.
  - 6 James Craig Walk**  
Levels adjusted to accommodate raised St James Square.  
Formation of a emergency access route with shared pedestrian surface.  
Paving and lighting.
  - 7 St James Square**  
Level raised to reflect historic relationship to existing buildings.  
Paving and lighting.
  - 8 Elder Street**  
Formation of a shared surface to improve public realm.  
Paving and lighting.
  - 9 St James Place**  
Realignment of carriageway and pavements.  
Improved street lighting.
  - 10 Cathedral Lane**  
Replacement of carriageway and footway.  
Creation of a shared surface.  
Existing kerb relaid.
  - 11 Cathedral Square**  
Creation of new landscaped public square.  
Lighting and seating.
  - 12 Little King Street**  
Upgrading of surfaces and realignment of pavements.  
Improved street lighting.
- Public Facilities within the Edinburgh St James**  
Public toilets.  
Shop mobility facilities.  
Circulation route and services to East/West route.
- General External & Highways Works**  
Street furniture, bollards, bus stops, balustrading, cycle stands etc.  
Soft landscaping, retaining walls, services, feature lighting, CCTV etc.
- General diversions**  
Scottish Water  
BT Open Reach  
Thrus / Vodafone  
Existing HV and LV cables  
Scotland Gas Networks

Edinburgh St James

**TH** TMAA Henderson  
Real Estate

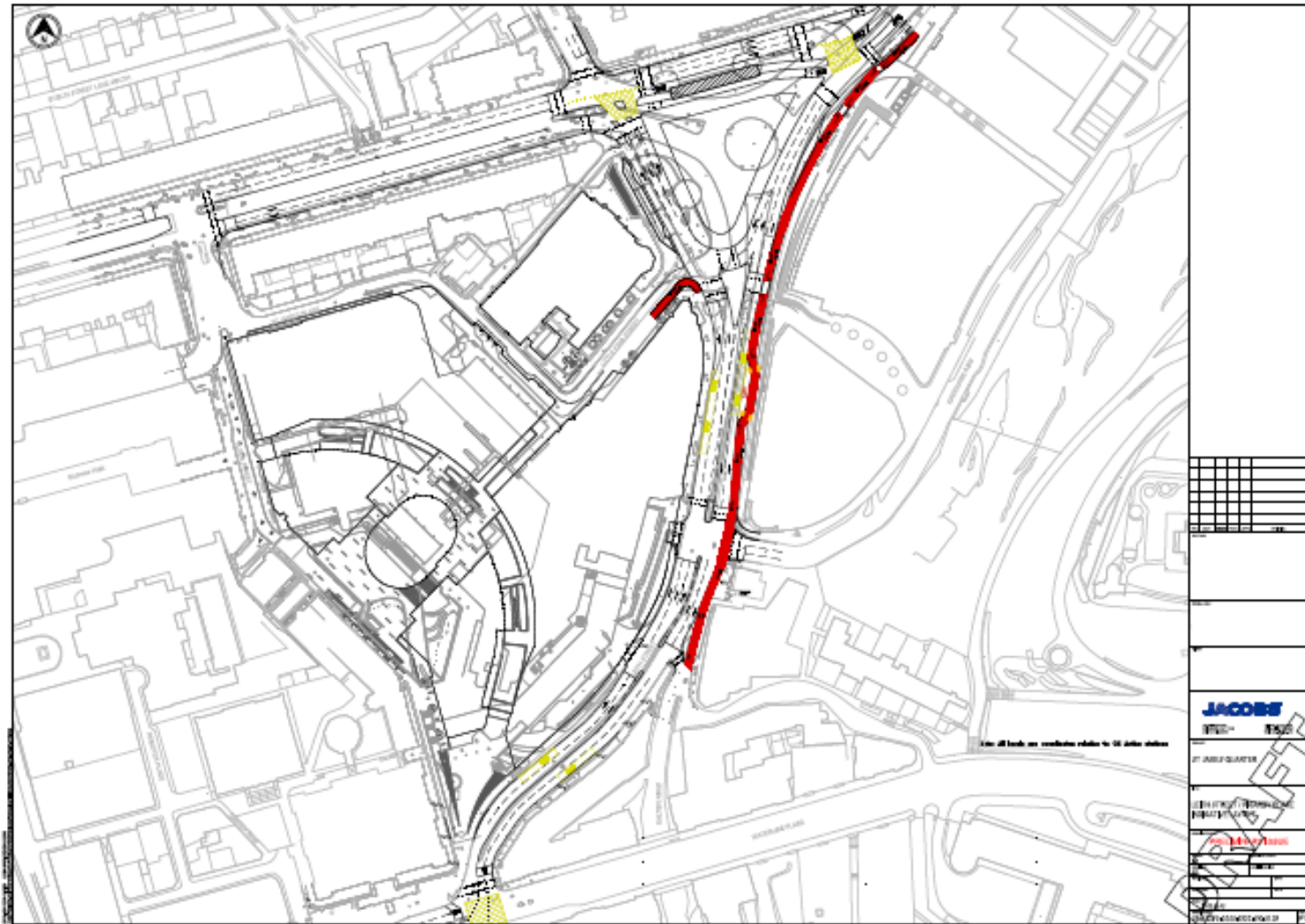
**Allan Murray Architects**  
architecture + urbanism  
9 Hanson Gardens, Edinburgh, EH11 1SU  
0131 383 1999 www.allanmurray.co.uk

Proposed Public Realm Works including York Place  
ESJ-AMA-00-22-01A-00-64 P03  
**Source drawing**

Plan to be used in connection with the planning application for the proposed works. This is not a final drawing and is not to be used for any other purpose. It is the property of the City of Edinburgh Council and is not to be reproduced or used in any way without the prior written consent of the City of Edinburgh Council. It is the property of the City of Edinburgh Council and is not to be reproduced or used in any way without the prior written consent of the City of Edinburgh Council.

## Appendix E – Picardy Junction Layout and Interface

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## Appendix F – GAM Works Programme as at February 2016

Line	Name	Start	Finish	Duration	5		6		7		8		9		10		11	
					2015		2016		2017		2018		2019		2020		2021	
					A	O	D	F	A	J	A	O	D	F	A	J	A	O
<b>MAIN SCHEME SUMMARY BARS</b>																		
13	<b>GAM WORKS</b>	01/06/2015	16/12/2019	230w														
14	JLP Phase 1A Utility Diversions & Package Plant Installations	Mon 01/06/15	Tue 10/05/16	46w														
15	New Primary Substation	Mon 01/06/15	Tue 10/05/16	46w														
16	HV/LV Diversions & Associated Works (In Relation to JLP Infill Zone) - PLOT 9	Tue 27/10/15	Tue 05/01/16	8w	16													
17	Communications Diversions & Associated Works (In Relation to JLP Infill Zone) - PLOT 9	Tue 27/10/15	Tue 05/01/16	8w	17													
18	Gas Diversions & Associated Works (In Relation to JLP Infill Zone) - PLOT 9	Fri 25/09/15	Tue 05/01/16	12w	18													
19	Water Diversions & Associated Works Within JLP Demise (In Relation to JLP Infill Zone) - PLOT 9	Wed 30/09/15	Tue 05/01/16	12w	19													
20	Energy Centre Level B1 to B3	01/05/2018	27/05/2019	56w														
21	Temporary weather protect energy centre roof	Tue 01/05/18	Mon 28/05/18	4w														
22	Access available to energy centre	Mon 28/05/18	Mon 28/05/18															
23	Form energy centre	Tue 29/05/18	Mon 08/08/18	10w														
24	Plant installations	Tue 07/08/18	Mon 08/04/19	35w														
25	M&E installations with energy centre	Tue 07/08/18	Mon 04/03/19	30w														
26	Energy centre commissioning	Tue 05/03/19	Mon 27/05/19	12w														

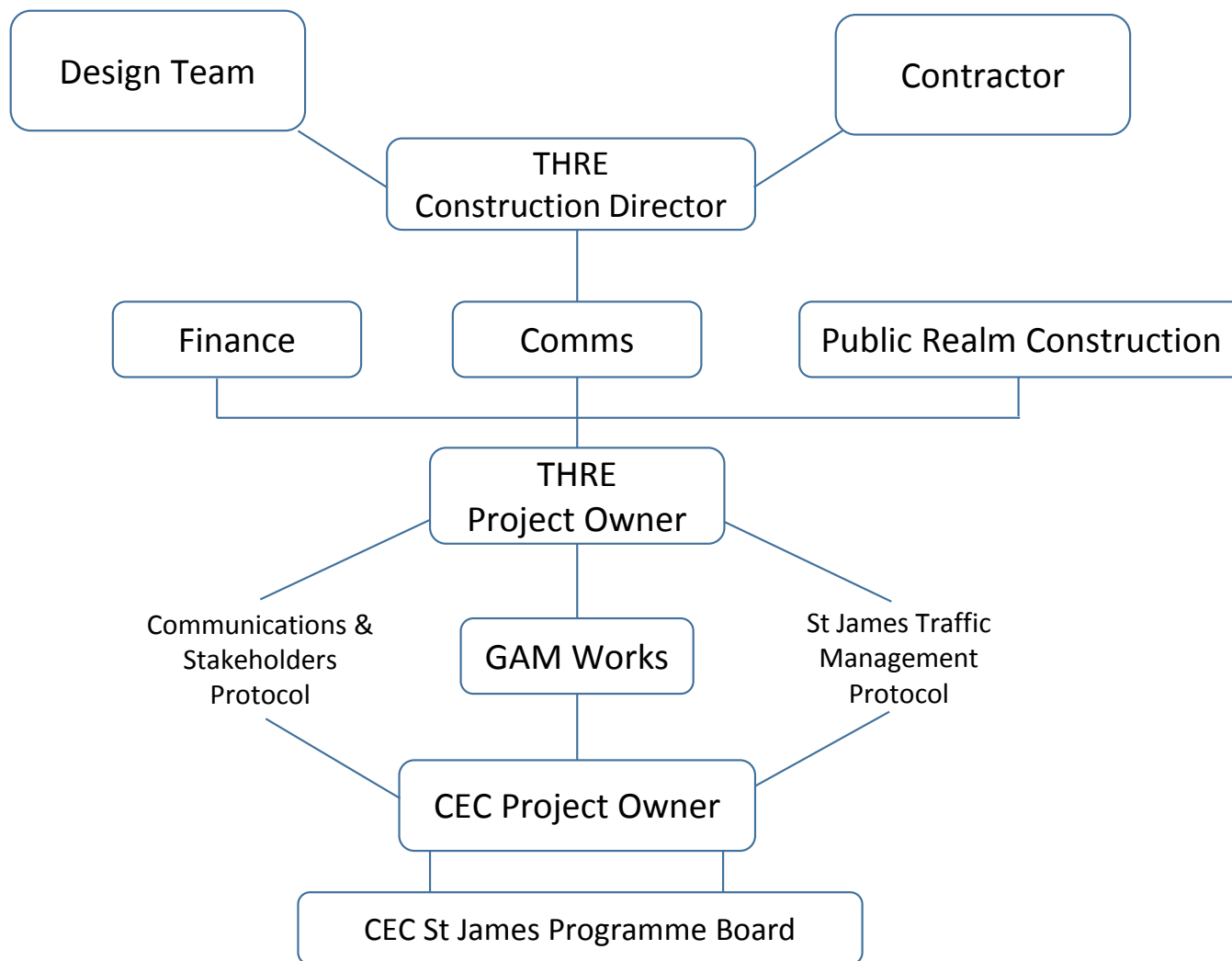
  

Project	St. James	Dated		Drawn by	PH/JM	Classification	Restricted
Programme		Revision comment	GAM Detail	Notes			
Client	TIAA Henderson Real Estate	Programme No	Opt11/001	Revision	Q2		
						Sheet 1 of 6	

C:\Users\Jonathan.Marshall\Desktop\DESK TOP 12.5.15\JLP Minimum Programme\Latest Programme\Base Offer\GAM Works\GAM Programme.pp

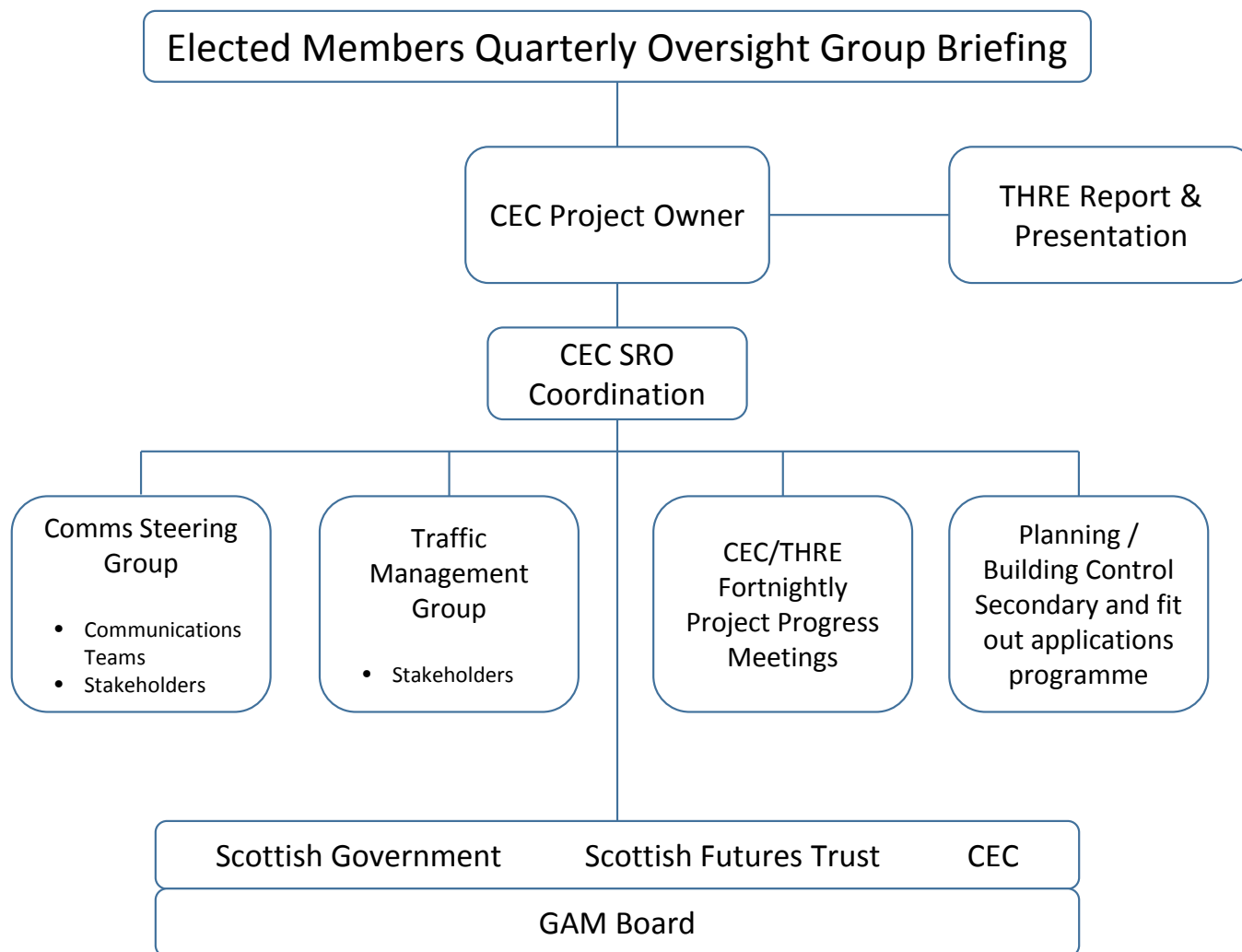
## Appendix G - Provision for Dispute Escalation and Resolution

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## Appendix H - Elected Members Quarterly Oversight Group Briefing

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10am, Thursday, 10 March 2016

## Energy for Edinburgh

<b>Item number</b>	8.3
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	All

### Executive summary

---

The Council has indicated its interest in setting up an arms length energy services company (ESCo). This is to demonstrate its commitment to reducing carbon emissions across the city and deliver sustainable energy for all consumers including businesses. Work has progressed on the establishment of an ESCo with draft legal documents completed, including the Articles of Association and the Shareholders Agreement. A draft Business Plan has been developed which will require to be approved by the new Board once established.

The development of energy projects will be crucial to the ESCo's success and work has been underway to identify projects across three areas of energy efficiency, district heating and renewables. A number of these are currently at the Investment Grade stage with others about to be progressed past feasibility. A project manager will be recruited who will oversee day to day operations for the new company.

The ESCo would be wholly owned by the Council as the single shareholder and have a key remit for delivering the strategic energy projects from the Council's Sustainable Energy Action Plan.

### Links

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<b>Coalition pledges</b>	<a href="#">P50</a> <a href="#">P53</a>
<b>Council outcomes</b>	<a href="#">CO18</a> <a href="#">CO19</a>
<b>Single Outcome Agreement</b>	<a href="#">SO4</a>

## Energy for Edinburgh

### Recommendations

---

- 1.1 The Council is asked to approve the establishment of an Energy Services Company and specifically:
- approve the Articles of Association;
  - note that the appointment of Directors to the Board will need to be approved by Council at a subsequent meeting;
  - approve the Shareholders Agreement between the Council and the Company;
  - note the draft Business Plan which will need to be approved by the Company Board once established and submitted back to Council for further approval; and
  - note that a further report will be submitted to Council on progress within six months.

### Background

---

- 2.1 The Council has made a number of political pledges to the reduction of carbon emissions across the city. The Sustainable Energy Action Plan (SEAP) approved in February 2015 is the key programme for this agenda. It details a number of sustainable energy projects aimed at reducing carbon emissions and delivering social, economic and environmental benefits including, alleviating fuel poverty, providing affordable energy, new jobs and greater energy security.
- 2.2 An energy services company (ESCo) is seen as an important vehicle for achieving the SEAP's objectives and a key response from the Council to delivering affordable energy for Edinburgh's residents and businesses. The Council has already given approval for the next steps in developing an ESCo.
- 2.3 In terms of developing the company, a number of structures were established:
- an internal working group with officers from Legal, Procurement, Finance, Housing, Corporate and Economic Development;
  - an external Technical Advisers Group with representatives from Scottish Government, Scottish Enterprise, Green Investment Bank, Scottish Futures Trust, Changeworks and the Edinburgh Business Forum. Through regular meetings, this group has been providing expertise, advice and support for

- the establishment of the ESCo, as well as contributing to the development of the Business Case; and
  - a Project Board chaired by the previous Executive Director of City Strategy and Economy.
- 2.4 This report provides details on the proposed ESCo structure, governance and activities and now recommends that the Council progress with the incorporation of the company.

## Main report

---

- 3.1 The proposal is for the setting up of an Edinburgh ESCo, to be named Energy for Edinburgh (EfE). This will be an arms length company, wholly owned by the Council who will be the sole shareholder. It will therefore be a private company limited by shares. This is the recommended legal structure by the external legal advisers.
- 3.2 EfE will have five key objectives aligning with those in the SEAP:
- reduce carbon emissions;
  - deliver affordable energy (with a particular focus on alleviating fuel poverty);
  - generate income;
  - encourage wider community benefits; and
  - access and leverage the use of private sector finance where appropriate and where its use meets the above objectives.
- 3.3 The vision for EfE is:
- Delivering the Council's energy aspirations, supporting Edinburgh's citizens and businesses in becoming more sustainable by reducing energy demand and encouraging local energy generation.*
- 3.4 A series of documents have been drafted by the external legal advisers which set out the formal arrangements for how the company will function and govern itself. These have been approved by the Council's internal legal service.

### Articles of Association

- 3.5 The Articles set out the objectives of EfE and stipulate that the Company will be established primarily for the benefit of the citizens of Edinburgh. The objectives have been designed to provide maximum flexibility for the company including the potential for it to operate outwith Edinburgh provided it meets the benefit of the citizens test above. In addition to the objectives at Paragraph 3.2 above, EfE can also focus on:
- developing strategies designed to deliver energy and resource efficiency, renewables, district heating, and sustainable transport;



- delivering income and generating revenue; and
  - providing consultancy and training.
- 3.6 Unlike other ESCos, Energy for Edinburgh will therefore have a clear strategic focus and will act as a delivery hub for major energy initiatives across the City. In many respects this makes it quite unique and an alternative model to other existing local authority energy companies. It will also have a strong ethical focus as a key objective will also be to deliver affordable energy and alleviate fuel poverty.
- 3.7 While the Articles also allow EfE to generate, supply and trade in electricity and heat, this will not be an initial focus for the company.
- 3.8 The Articles are drafted as standard under company law and detail the issues and procedures such as general conduct at meetings, arrangements for reporting, conflict of interest, resolution of disputes and records of decisions.
- 3.9 The Articles provide for dividends to be paid to the Council and also for discretion as to interim dividends.
- 3.10 The draft Articles are detailed in Appendix 1.

### **Appointment of Directors**

- 3.11 The number of Directors appointed to the Board of the Company is proposed as a minimum of three and maximum of nine comprising:
- three Council Directors (these will be elected members, one of whom will always be Chair); and
  - **up to six** external Directors, subject to availability of high calibre candidates.
- 3.12 Directors will be in place for a three year tenure. There will be no remuneration or fee for Directors.
- 3.13 In selecting external Directors, particular attention will be given to the need for:
- appropriate skills and knowledge of the low carbon and/or energy agendas;
  - financial and commercial experience; and
  - ensuring a mix of private, public sector and community representation.
- 3.14 A rigorous recruitment process will be applied but the appointment of external Directors will in any case be subject to Council approval.

## **Shareholders Agreement**

- 3.15 A Shareholders Agreement has also been drafted by the external legal advisers. This is a formal legal document that details the relationship between the Council and EfE.
- 3.16 The Agreement is detailed in Appendix 2. This sets out the expectations of the Council with respect to the company's performance and reporting, the structure of the Business Plan and financial accounting. It details the process around disputes or changes to the Agreement.
- 3.17 An important element of the Shareholders Agreement is the provision of data and information by the Council and the access to Council assets including land, buildings and operational and non operational property. This is designed to enable the company to develop initiatives to maximise the benefits to the Council. For example, EfE may be able to engage in wider commercial activities or with other partners where the Council may be unable to.

## **Business Plan**

- 3.18 A draft Business Plan has been developed and is detailed in Appendix 3. This sets out the:
- structure of the business;
  - how it will be governed;
  - risks and mitigation; and
  - project ideas with indicative timelines.
- 3.19 The Business Plan will form a suite of documents along with the Articles of Association and Shareholders Agreement providing a framework through which the company can develop.
- 3.20 In terms of the Business Plan the Board will have a number of activities including engaging with key partners, approving projects, considering and approving Project Business Plans, financing projects and generating revenue. The Board will look to optimise revenue returns by reviewing the mix of project investments and balancing risks and rates of return.
- 3.21 The draft Business Plan suggests an initial operating plan which details some of the key operational activities and milestones for the company over the first 12 months of operation.
- 3.22 Following incorporation of the company, the Business Plan will need to be formally reviewed and approved by the Board as they will be responsible for its implementation. This will also include a final operating plan which will detail the delivery of individual projects. The Business Plan may therefore be subject to some changes.

## Project Development

- 3.23 The development of project activities is crucial to EfE's viability. Advice from legal advisers was that, while developing the governance and formal processes could lead to the company being incorporated earlier, it would be more beneficial to develop projects to feasibility stages first. In particular it would be important to assess where there would be added value from EfE as opposed to the Council undertaking the projects itself. The intention was to co-ordinate the timings of these studies such that the projects would be ready to take to delivery stage once the company was incorporated and Directors and staff recruited. However this has led to some delay as resources have been switched to the development of feasibility cases and drafting of technical specifications.
- 3.24 In terms of project activities, it is proposed that efforts are concentrated on three principle areas namely; district heating, energy efficiency and renewables. This will be the focus for the company over the next 12-18 months.
- 3.25 The projects are summarised as follows:
- **Solar Photovoltaic (PV):** A feasibility study currently underway focusing on the large scale application of PV canopies at Park and Ride sites across the city, as well as developing solar farms on unused Council land or former landfill sites. The aim is to maximise value from CEC owned assets and generate income and green electricity for CEC. This will allow the above options to be fully appraised within a business case and determine which approach would be best for EfE to adopt.
  - **District Heating:** Two investment grade business cases are underway exploring the feasibility of district heating schemes at the Edinburgh BioQuarter (Gas CHP generation) and Saughton Park (ground source heat pumps). Liaison has also taken place with EDI on their plans to deliver a district heating scheme at Fountainbridge and what role the Council ESCo may play.
  - **Non Domestic Energy Efficiency:** EfE could potentially extend the current retrofit programme for non-domestic buildings further across the city. The implementation of Section 63 legislation for commercial properties offers other opportunities for retrofit projects. One route would be for EfE to offer a service in co-ordinating contracts for consortia via the Scottish Government's new retrofit framework. This could provide opportunities to work with other public sector organisations and potentially private sector companies.
- 3.26 Income from these projects (potentially in the form of fees, re-charges or investment returns) will be managed and used to promote future expansion and development of subsequent projects. Delivery of individual projects will be managed at an operational level by project managers or teams co-ordinated by EfE staff. These projects may be delivered through a variety of vehicles such as Special Purpose Vehicles (SPVs), partnership Joint Ventures (JVs), Council departments or simple concession arrangements with private sector suppliers.

## **Resourcing and Roles**

- 3.27 To support the Board, an experienced Project Manager will be recruited for two years. This will be funded from the £150k funding identified for the start up of the company. The ESCo will also receive some initial support from Council staff particularly in the project development areas. This is in line with the Shareholders Agreement which states that the Council will ensure that the Company is aware of any projects that might be taken forward to maximise synergies and potential collaborative opportunities
- 3.28 The main role of the Project Manager will be responsibility for the day to day operations of EfE, developing project proposals and reporting on overall performance and progress. This post will be the key contact with the Council and appropriate staff. Other roles and responsibilities are detailed in the Business Plan.

## **Governance Arrangements**

- 3.29 As the Council is the only shareholder of EfE, a robust governance arrangement will be necessary. This is detailed in the draft Business Plan.
- 3.30 A Shareholder Group will be set up between the Company and the Council with a number of senior managers appointed. This will ensure that the requirements of the Shareholders Agreement are met and that the Council's interests are protected. There will be clear governance and approvals processes for both EfE and the Council, ensuring that key decisions are made collaboratively and with full transparency. The frequency of meetings will be determined once the company is established.

## **Communication Strategy and Engagement**

- 3.31 A detailed communications plan will need to be developed by the new Board as it will be important that it has ownership of any activities associated with promoting and profiling the new company. The Plan should also contain details of partnership relationships and collaboration with other stakeholders.
- 3.32 The "branding" of the company will also be developed, ensuring that there is a clear link to the Council SEAP.

## **Partnership**

- 3.33 An early focus for EfE will be to explore and foster initiatives with public and private sector organisations, community interest companies and other social enterprise bodies in the city. This will be building on partnership working that has

already been taking place between the Council and strategic partners such as the ESDP, the largest businesses in the City, EDI and Our Power, among others, which will bring wider benefits, including: economic growth, inward investment and robust renewable energy provision in Edinburgh.

- 3.34 In terms of delivering projects a further option for EfE is to engage with appropriate strategic delivery partners where there are mutual benefits. Currently, “Our Power” is a new Scotland wide mutual co-operative fully licensed to supply energy. This new ESCo could provide a partnership arrangement with EfE by focusing on Edinburgh specific projects where the objectives of both organisations are similar. One such agreement may be that Our Power agrees to buy any renewable energy generated by EfE projects and sells this back at a favourable rate to vulnerable consumers in Edinburgh. Options like these may make a real impact on addressing fuel poverty.

### **Benefits**

- 3.35 A consistent issue from both the internal working group and Project Board has been the need to ensure that there are clear benefits from establishing the ESCo as opposed to delivering any strategic energy projects in house. While the Council is delivering a number of energy projects, these are usually both service specific and budget constrained. Currently there is no central strategic energy function within the Council that brings projects together to pool expertise, explore synergies or maximise social, environmental and economic benefits. This approach also means that any opportunities to increase effectiveness of any available resources are missed.
- 3.36 However, even if such a function existed there are other benefits from an external ESCo. There has been considerable interest from external partners including private sector developers who seem more receptive to discussions that might bring about a partnership arrangement with an ESCo rather than a Council service.
- 3.37 EfE offers a “different way of doing things”, which complements the idea of transformation in council services creating a small company that can focus exclusively on sustainable energy for the good of the city. Potentially EfE can also offer a commercial approach to low carbon initiatives for the Council, something that Aberdeen Heat and Power are now looking at.
- 3.38 Prospects of obtaining larger scale funding are also reduced when there are numerous smaller and disparate projects. The existence of an ESCo as a single point for all strategic energy initiatives across the Council, and potentially wider across the city, offers a major advantage for leveraging in a wide range of funding sources (some of which may the Council itself may not be eligible for).

- 3.39 Crucially before any projects can be formally approved by the Council, the EfE Board will be required to identify how it will add value to the project's development, over and above what could be achieved internally by the Council.

### **Next Steps**

- 3.40 If the Council agrees to the setting up of EfE the next immediate steps would be as follows:
- Legal Incorporation of the company;
  - Recruitment of Directors to the Board and approval by Council; and
  - Recruitment of a Project Manager.
- 3.41 Once appointments have been made and approved by the Council, the first meeting of the Board would begin the process of agreeing the Business Plan and developing detailed delivery plans for projects.
- 3.42 The intention would be to review the progress of the company every six months.

### **Measures of success**

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- 4.1 The success of EfE will be measured qualitatively and quantitatively through key performance indicators (KPIs). These KPIs might include number of projects delivered or carbon reduction achieved or financial measurements. For the purposes of the first Business Plan, a number of KPIs will be developed with agreement between the Shareholder Group and EfE Board for monitoring performance. A key focus for the Shareholder Group will be on assessing what is going well, what is not being achieved, the reasons for both, and accordingly identifying and implementing changes to ensure the Business Plan is met.

### **Financial impact**

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- 5.1 The intention is that EfE will become financially self sustaining. The company could earn income through various means, for example, margins on heat / electricity sales, margins on operating and maintenance costs amongst others. EfE could generate income via management fees or provide consultancy. There may be options to generate revenue depending on the project. These will need to be fully appraised within the business cases that are due to be completed for the various projects in the next few months. This will determine what approach provides an appropriate balance of risk and reward to EfE once the company is established.
- 5.2 The Council has already approved funding of up to £150K as start up funding for EfE, on the proviso that match funding be secured from Scottish Government. The Scottish Government has confirmed this financial support for the ESCo. The Council funding will be used over the first two years to recruit staff while the match funding from Scottish Government will be used for further project

development including both feasibility, full business case and development costs.

## **Risk, policy, compliance and governance impact**

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- 6.1 A table of risks are detailed in the draft Business Plan. A key risk will be to ensure the financial viability of the company post the ending of the start up funding from the Council. Robust projects and Business Plans will be required to ensure that there are defined projects to be taken forward that can provide a funding stream for EfE. There are now a number of funding schemes that provide finance for the development of full Business Cases. The Council has already applied for funding for these and a number of Business Cases are already underway. These are projects that can be handed over to the Company to take forward although it does not preclude it from pursuing other projects.
- 6.2 The development of EfE as a company focusing exclusively in sustainable energy will provide a means of co-ordinating energy activity across the city which will contribute (potentially) significantly to the aims and objectives of the SEAP. This will contribute to the relevant legislation for local authorities including compliance with the Climate Change (Scotland) Act 2009 as well as the mandatory Climate Change reporting (commencing this October).

## **Equalities impact**

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- 7.1 A key objective of the ESCO will be to deliver affordable energy and alleviate fuel poverty. By delivering this objective, the Council ESCO will contribute positively to key equalities outcomes of reducing inequality, poverty and deprivation.

## **Sustainability impact**

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- 8.1 The creation of a Council ESCO will potentially have a significant impact on the sustainability of the city. By taking a strategic role and overseeing energy initiatives across the city, it will contribute positively to the Council's pledges and targets on carbon. The ESCO is seen as a key delivery mechanism for the SEAP which aims to meet a 42% reduction in carbon emissions by 2020.

## **Consultation and engagement**

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- 9.1 There has been ongoing consultation and engagement in the development of the ESCo with Council officers and the Technical Advisers group. In addition regular updates have been provided through the Edinburgh Sustainable

Development Partnership. There has been keen interest from a range of external groups and a positive reception to the proposal of an ESCo.

## Background reading / external references

---

None

### Paul Lawrence

Executive Director of Place

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E-mail: [Janice.pauwels@edinburgh.gov.uk](mailto:Janice.pauwels@edinburgh.gov.uk) | Tel: 0131 469 3804

## Links

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<b>Coalition pledges</b>	P50 - Meet greenhouse gas targets, including the national target of 42% by 2020. P53 - Encourage the development of Community Energy Co-operatives.
<b>Council outcomes</b>	CO18 - Green- we reduce the local environmental impact of our consumption and production. CO19 - Attractive Places and well maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.
<b>Single Outcome Agreement</b>	SO4 - Edinburgh's communities are safer and have improved physical and social fabric.
<b>Appendices</b>	Appendix 1: Articles of Association Appendix 2: Shareholders Agreement Appendix 3 Business Plan



**Final Draft – 2 June 2015**

**THE COMPANIES ACT 2006  
PRIVATE COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION  
of  
ENERGY FOR EDINBURGH LIMITED  
Incorporated on [     ] 2016**

**Brodies LLP  
15 Atholl Crescent  
Edinburgh EH3 8HA  
Tel: +44 (0) 131 228 3777  
Ref: CS/FKB/CIT13.291**

## TABLE OF CONTENTS

<a href="#">PART 1 - INTERPRETATION AND LIMITATION OF LIABILITY</a> .....	1
<a href="#">1 Definitions and interpretation</a> .....	1
<a href="#">2 Liability of members</a> .....	3
<a href="#">PART 2 – OBJECTS</a> .....	3
<a href="#">3 Objects</a> .....	3
<a href="#">PART 3 - DIRECTORS</a> .....	4
<a href="#">4 Number of Directors</a> .....	4
<a href="#">5 Appointment and removal of Council Directors</a> .....	4
<a href="#">6 Appointment and removal of External Directors</a> .....	4
<a href="#">7 Term of office</a> .....	5
<a href="#">8 Termination of Director's appointment</a> .....	6
<a href="#">9 Directors' remuneration and expenses</a> .....	6
<a href="#">10 Directors' general authority</a> .....	7
<a href="#">11 Shareholders' reserve power</a> .....	7
<a href="#">12 Directors may delegate</a> .....	7
<a href="#">13 Committees</a> .....	7
<a href="#">14 Directors to take decisions collectively</a> .....	8
<a href="#">15 Unanimous decisions</a> .....	8
<a href="#">16 Calling a Directors' meeting</a> .....	8
<a href="#">17 Participation in Directors' meetings</a> .....	8
<a href="#">18 Quorum for Directors' meetings</a> .....	9
<a href="#">19 Council observers at Directors' meetings</a> .....	10
<a href="#">20 Chairing of Directors' meetings</a> .....	10
<a href="#">21 Directors' conflicts of interest in transactions or arrangements</a> .....	10
<a href="#">22 Records of Directors' decisions</a> .....	11
<a href="#">23 Directors' discretion to make further rules</a> .....	12
<a href="#">24 Board authorisation of situational conflicts</a> .....	12
<a href="#">25 Authorisation of situational conflict of Council Directors</a> .....	13
<a href="#">PART 4 - SHARES AND DISTRIBUTIONS</a> .....	14
<a href="#">26 All Shares to be Fully Paid up</a> .....	14

<a href="#">27</a>	<a href="#">Issuing Shares</a>	14
<a href="#">28</a>	<a href="#">Trusts</a>	14
<a href="#">29</a>	<a href="#">Share certificates</a>	15
<a href="#">30</a>	<a href="#">Replacement Share certificates</a>	15
<a href="#">31</a>	<a href="#">Share transfers</a>	15
<a href="#">32</a>	<a href="#">Transmission of Shares</a>	16
<a href="#">33</a>	<a href="#">Exercise of Transmitters' rights</a>	17
<a href="#">34</a>	<a href="#">Transmitters bound by prior notices</a>	17
<a href="#">35</a>	<a href="#">Procedure for declaring dividends</a>	17
<a href="#">36</a>	<a href="#">Payment of dividends and other distributions</a>	18
<a href="#">37</a>	<a href="#">No interest on distributions</a>	18
<a href="#">38</a>	<a href="#">Unclaimed distributions</a>	19
<a href="#">39</a>	<a href="#">Non-cash distributions</a>	19
<a href="#">40</a>	<a href="#">Waiver of distributions</a>	20
<a href="#">41</a>	<a href="#">Authority to capitalise and appropriation of capitalised sums</a>	20
	<b>PART 5 - DECISION-MAKING BY SHAREHOLDERS</b>	21
<a href="#">42</a>	<a href="#">Convening a general meeting</a>	21
<a href="#">43</a>	<a href="#">Attendance and speaking at general meetings</a>	21
<a href="#">44</a>	<a href="#">Quorum for general meetings</a>	22
<a href="#">45</a>	<a href="#">Chairing general meetings</a>	22
<a href="#">46</a>	<a href="#">Attendance and speaking by Directors and non-Shareholders</a>	23
<a href="#">47</a>	<a href="#">Adjournment</a>	23
<a href="#">48</a>	<a href="#">Voting: general</a>	24
<a href="#">49</a>	<a href="#">Errors and disputes</a>	24
<a href="#">50</a>	<a href="#">Poll votes</a>	24
<a href="#">51</a>	<a href="#">Content of Proxy Notices</a>	25
<a href="#">52</a>	<a href="#">Delivery of Proxy Notices</a>	26
<a href="#">53</a>	<a href="#">Amendments to resolutions</a>	26
<a href="#">54</a>	<a href="#">Written resolutions</a>	27
	<b>PART 6 - ADMINISTRATIVE ARRANGEMENTS</b>	27
<a href="#">55</a>	<a href="#">Means of communication to be used</a>	27

<a href="#">56</a>	<a href="#">No right to inspect accounts and other records</a>	27
<a href="#">57</a>	<a href="#">Provision for employees on cessation of business</a>	27
<a href="#">58</a>	<a href="#">Indemnity</a>	27
<a href="#">59</a>	<a href="#">Insurance</a>	28
<a href="#">60</a>	<a href="#">Winding up</a>	29
<a href="#">61</a>	<a href="#">Amendment of these Articles</a>	30

## PART 1 - INTERPRETATION AND LIMITATION OF LIABILITY

### 1 Definitions and interpretation

1.1 In the Articles, unless the context requires otherwise:

- 1.1.1 "**Act**" means the Companies Act 2006;
- 1.1.2 "**Articles**" means the company's articles of association;
- 1.1.3 "**Bankruptcy**" includes individual insolvency proceedings in a jurisdiction other than Scotland which have an effect similar to that of bankruptcy;
- 1.1.4 "**Chair**" has the meaning given in article 20;
- 1.1.5 "**Chair of the Meeting**" has the meaning given in article 45.3;
- 1.1.6 "**Clear Days**" means the period of the length specified in the Articles excluding the day of the meeting and the day on which the notice is given. Where the notice is sent by post to an address in the United Kingdom, and the company can show that it was properly addressed, pre-paid and posted, notice is deemed to have been given to the intended recipient 48 hours after it was posted;
- 1.1.7 "**Companies Acts**" means the Companies Acts (as defined in section 2 of the Act), in so far as they apply to the company;
- 1.1.8 "**Council**" means The City of Edinburgh Council, constituted under the Local Government etc. (Scotland) Act 1994 and having its principal offices at City Chambers, High Street, Edinburgh EH1 1YJ;
- 1.1.9 "**Council Director**" means a Director appointed under article 5;
- 1.1.10 "**Director**" means a director of the company (or, where the context requires, of a Subsidiary or of an associated company), and includes any person occupying the position of director, by whatever name called;
- 1.1.11 "**Distribution Recipient**" has the meaning given in article 36.2;
- 1.1.12 "**Document**" includes, unless otherwise specified, any document sent or supplied in Electronic Form;
- 1.1.13 "**Electronic Form**" means, in relation to the sending or supply of a document or information, the sending or supply by electronic means (such as by e-mail or fax) or by any other means while in an electronic form (such as sending a disk by post);

- 1.1.14 **"Eligible Director"** means a Director who would be entitled to vote on the matter at a meeting of Directors, but excluding any Director whose vote is not to be counted in respect of the particular matter;
- 1.1.15 **"External Director"** means a Director appointed under article 6;
- 1.1.16 **"Fully Paid"** in relation to a Share means that the nominal value and any premium to be paid to the company in respect of that Share have been Paid to the company;
- 1.1.17 **"Group Undertaking"** has the meaning given in section 1161(5) of the Act;
- 1.1.18 **"Holder"** in relation to Shares means the person whose name is entered in the register of members as the holder of the Shares;
- 1.1.19 **"Instrument"** means a document in paper copy or similar form capable of being read;
- 1.1.20 **"Objects"** means the objects for which the company is established as set out in article 3.1;
- 1.1.21 **"Ordinary Resolution"** has the meaning given in section 282 of the Act;
- 1.1.22 **"Paid"** means paid or credited as paid;
- 1.1.23 **"Participate"**, in relation to a Directors' meeting, has the meaning given in article 17 and "Participating" shall be construed accordingly;
- 1.1.24 **"Proxy Notice"** has the meaning given in article 51;
- 1.1.25 **"Share"** or **"Shares"** means a share or shares in the company;
- 1.1.26 **"Shareholder"** means a person who is the Holder of a Share;
- 1.1.27 **"Special Resolution"** has the meaning given in section 283 of the Act;
- 1.1.28 **"Subsidiary"** has the meaning given in section 1159 of the Act;
- 1.1.29 **"Transmittee"** means a person entitled to a Share by reason of the death or Bankruptcy of a Shareholder or otherwise by operation of law; and
- 1.1.30 **"Writing"** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise and "written" shall be construed accordingly.

1.2 Unless the context otherwise requires:-

- 1.2.1 other words or expressions contained in the Articles bear the same meaning as in the Act as in force on the date when these Articles become binding on the company;
  - 1.2.2 words in the singular include the plural and in the plural include the singular; and
  - 1.2.3 a reference to one gender includes a reference to the other gender.
- 1.3 These Articles apply instead, and to the exclusion, of the model articles for private companies limited by shares set out in schedule 1 of The Companies (Model Articles) Regulations 2008.

## **2 Liability of members**

- 2.1 The liability of the members is limited to the amount, if any, unpaid on the Shares held by them.

## **PART 2 – OBJECTS**

### **3 Objects**

- 3.1 The company is established for the benefit of the citizens of the City of Edinburgh, and subject to that qualification and to the proviso that the company is not precluded from carrying on activities outwith the City of Edinburgh so long as there is reasonably considered to be benefit, whether financial or non-financial, to the citizens of the City of Edinburgh from so doing, the objects for which the company is established are:
- 3.1.1 To consider, develop and implement, and revise and update from time to time, a strategy or strategies for delivering energy and resource efficiency, energy savings, reductions in carbon and other emissions, the production of renewable or sustainable energy, district heating, and/or sustainable transport ("Energy Services"), and/or income and revenue generation from Energy Services;
  - 3.1.2 To carry on in any manner the company thinks fit the businesses of delivering Energy Services, and/or income and revenue generation from Energy Services and/or the promotion of community benefits from Energy Services;
  - 3.1.3 To carry on in any manner the company thinks fit the businesses of generating and supplying electricity and space and water heating, selling surplus electricity and heat commercially, purchasing and trading electricity and heat and generally trading and dealing in the wholesale and retail markets in commodities, fuels and others of all kinds;
  - 3.1.4 To provide in any manner the Company thinks fit affordable energy to persons who by reason of age, ill health, disability, financial hardship or other disadvantage would benefit from the supply of affordable energy, and in doing so to seek to reduce levels of fuel poverty;

- 3.1.5 To provide consultancy and advisory services relating to Energy Services and to provide training programmes and dissemination of information and advice relating to Energy Services;
- 3.1.6 To design, engineer, manufacture, construct, extend, demolish, execute, carry out, equip, improve, purchase or otherwise acquire, lease, develop, administer, manage or control buildings, facilities, works and conveniences of all kinds in the furtherance of any of the above objects; and
- 3.1.7 To carry on in any manner the company thinks fit the business of implementing projects which are desirable for the furtherance of any of the above objects.

### **PART 3 - DIRECTORS**

#### **NUMBER, APPOINTMENT AND REMOVAL OF DIRECTORS**

##### **4 Number of Directors**

- 4.1 The minimum number of Directors shall be three and the maximum number of Directors shall be nine comprising:
  - 4.1.1 a maximum of three Council Directors; and
  - 4.1.2 a maximum of six External Directors.

##### **5 Appointment and removal of Council Directors**

- 5.1 The Council, for so long as it remains a Shareholder, may by written notice, signed on its behalf by an appropriate officer, and given to the company:
  - 5.1.1 subject to article 4, appoint any elected member or officer (of chief officer status or above) of the Council who is willing so to act to be a Council Director; and
  - 5.1.2 remove any Council Director from the office of Director.
- 5.2 Any appointment or removal of a Council Director under this article 5 shall be effective from the date on which the relevant notice is given to the company or, if later, the date specified in the relevant notice.

##### **6 Appointment and removal of External Directors**

- 6.1 Subject to article 4, each appointment of an External Director shall be made by a decision of the Directors but, for so long as the Council remains a Shareholder, each such appointment shall require the Council's prior written consent. The Directors shall consider and make recommendations to the Council regarding the appointment of External Directors the basis of their having skills and experience which, in the opinion of the Directors, would be of assistance to the board of Directors.



6.2 The Council, for so long as it remains a Shareholder, may by written notice, signed on its behalf by an appropriate officer, and given to the company, remove any External Director from the office of Director.

6.3 Any removal of a Director under this article 6 shall be effective from the date on which the notice is given to the company or, if later, the date specified in the notice.

## **7 Term of office**

7.1 Each Director shall be appointed for an initial period of up to three years ("Initial Period").

7.2 On or before expiry of a Director's Initial Period:

7.2.1 in the case of a Council Director, the Council may, by written notice, signed on its behalf by an appropriate officer and given to the company, direct that such Council Director's appointment be renewed for a further period of up to three years; and

7.2.2 in the case of an External Director, the remaining Directors may resolve that her/his appointment be renewed for a further period of up to three years provided that the Council (for so long as it is a Shareholder) has given prior written consent to such renewal

and any such period of renewal shall be called "Subsequent Period".

7.3 On or before expiry of a Director's Subsequent Period and only in exceptional circumstances:

7.3.1 in the case of a Council Director, the Council may, by written notice, signed on its behalf by an appropriate officer and given to the company, direct that such Council Director's appointment be renewed for a further period specified by the Council (but not exceeding three years); and

7.3.2 in the case of an External Director, the remaining Directors may resolve that her/his appointment be renewed for a further period of not exceeding three years provided that the Council (for so long as it is a Shareholder) has given prior written consent to such renewal

and any such period of renewal shall be called "Additional Period".

7.4 A Director's term of office expires automatically on the expiry of the Initial Period unless she/he is appointed for a Subsequent Period.

7.5 If she/he is appointed for a Subsequent Period, a Director's term of office expires automatically on the expiry of the Subsequent Period unless she/he is appointed for an Additional Period.

7.6 If she/he is appointed for an Additional Period, a Director's term of office expires automatically on the expiry of the Additional Period.

## **8 Termination of Director's appointment**

8.1 Notwithstanding article 8, a person ceases to be a Director as soon as:-

- 8.1.1 that person ceases to be a Director by virtue of any provision of the Act or is prohibited from being a Director by law;
- 8.1.2 a Bankruptcy order is made against that person;
- 8.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 8.1.4 a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months;
- 8.1.5 notification is received by the company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms;
- 8.1.6 that person is removed from office in terms of articles 5.1.2 or 6.2; or
- 8.1.7 that person is absent without permission of the board from three consecutive meetings of Directors and the other Directors resolve that she/he vacate office.

8.2 A Council Director ceases to be a Director as soon as she/he ceases to be an elected member or officer (of chief officer status or above) of the Council.

## **9 Directors' remuneration and expenses**

9.1 Unless (for so long as it is a Shareholder) the Council gives prior written consent:

- 9.1.1 no Director shall be entitled to receive any remuneration or fee in respect of her/his office, or her/his services to or for the company; and
- 9.1.2 no benefit (in money or money's worth) shall be given by the company to any Director except for the repayment of reasonable out of pocket expenses as set out in article 9.2.

9.2 The company may pay any reasonable expenses which the External Directors and the secretary (if any) properly incur in connection with their attendance at:-

- 9.2.1 meetings of Directors or committees of Directors;
- 9.2.2 general meetings; or
- 9.2.3 separate meetings of the Holders of any class of Shares or holders of debentures of the company

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

## **DIRECTORS' POWERS AND RESPONSIBILITIES**

### **10 Directors' general authority**

10.1 Subject to the Articles, the Directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

### **11 Shareholders' reserve power**

11.1 The Shareholders may, by Special Resolution, direct the Directors to take, or refrain from taking, specified action.

11.2 No such Special Resolution invalidates anything which the Directors have done before the passing of the resolution.

### **12 Directors may delegate**

12.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles:-

12.1.1 to such person or committee;

12.1.2 by such means (including by power of attorney);

12.1.3 to such an extent;

12.1.4 in relation to such matters or territories; and

12.1.5 on such terms and conditions

as they think fit.

12.2 If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

12.3 The Directors may revoke any delegation, in whole or part, or alter its terms and conditions.

### **13 Committees**

13.1 Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by Directors.

13.2 The Directors may make rules of procedure for all or any committees, which prevail over rules derived from the Articles if they are not consistent with them.

## **DECISION MAKING BY DIRECTORS**

### **14 Directors to take decisions collectively**

14.1 Any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with article 15.

### **15 Unanimous decisions**

15.1 A decision of the Directors is taken in accordance with this article when all Eligible Directors indicate to each other by any means that they share a common view on a matter.

15.2 Such a decision may take the form of a resolution in Writing where each Eligible Director has signed one or more copies of it or to which each Eligible Director has otherwise indicated agreement in Writing.

15.3 A decision may not be taken in accordance with this article if the Eligible Directors would not have formed a quorum at such a meeting.

### **16 Calling a Directors' meeting**

16.1 Directors shall hold Directors' meetings at least once every 3 months.

16.2 Subject to article 16.1, any Director may call a Directors' meeting at any time by giving notice of the meeting to the Directors or by authorising the company secretary (if any) to give such notice.

16.3 Notice of any Directors' meeting must indicate:-

16.3.1 its proposed date and time;

16.3.2 where it is to take place; and

16.3.3 if it is anticipated that Directors Participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

16.4 Notice of a Directors' meeting must be given in Writing to each Director.

16.5 Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

### **17 Participation in Directors' meetings**

17.1 Subject to the Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting ("**Participate**"), when:-

- 17.1.1 the meeting has been called and takes place in accordance with the Articles; and
- 17.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- 17.2 In determining whether Directors are Participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- 17.3 If all the Directors Participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

## **18 Quorum for Directors' meetings**

- 18.1 At a Directors' meeting, unless a quorum is Participating, no proposal is to be voted on except a proposal to call another meeting.
- 18.2 For a Directors' meeting (or part of a meeting) to be quorate:
  - 18.2.1 at least three Directors must Participate unless article 18.4 applies or the company by Ordinary Resolution shall specify a different number; and
  - 18.2.2 at least one of the Directors Participating must be a Council Director unless article 18.4 applies.
- 18.3 If all Council Directors Participating in a Directors' meeting (or part of a meeting) are excluded from the decision-making process as a result of article 21.2, then article 18.2.2 does not apply in respect of that meeting, or part of meeting (as the case may be).
- 18.4 For the purposes of any meeting (or part of a meeting) held pursuant to article 24 to authorise a Director's conflict, if only:
  - 18.4.1 two Eligible Directors are Participating other than the Interested Directors (as defined in that article), the quorum for such meeting (or part of a meeting) shall be two Eligible Directors provided at least one of those is a Council Director; or
  - 18.4.2 one Eligible Director is Participating other than the Interested Directors, the quorum for such meeting (or part of a meeting) shall be one Eligible Director provided that such Director is a Council Director.
- 18.5 If the total number of Directors for the time being is less than the quorum required in terms of article 18.2, the Directors must not take any decision other than a decision to call a general meeting or propose a written resolution so as to enable the Shareholders to appoint further Directors.

## **19 Council observers at Directors' meetings**

- 19.1 For so long as the Council is a Shareholder, the Directors shall allow such people as are nominated by the Council from time to time to attend and speak (but not vote) at any meeting of the Directors. Any such person shall not be entitled to exercise any of the powers of a Director, and shall not be deemed to constitute a Director for the purposes of the Act or any provision of these Articles.

## **20 Chairing of Directors' meetings**

- 20.1.1 The Directors shall appoint a Council Director to chair their meetings.
- 20.1.2 The person so appointed for the time being is known as the Chair.
- 20.1.3 The Directors may terminate the Chair's appointment with the Council's prior written consent (provided it is, at that time, a Shareholder).
- 20.1.4 If the Chair is not Participating in a Directors' meeting within ten minutes of the time at which it was to start, the Participating Directors must appoint another Council Director to chair it.
- 20.1.5 The Chair or other Director chairing the meeting does not have a casting vote.

## **21 Directors' conflicts of interest in transactions or arrangements**

- 21.1 If a proposed decision of the Directors is concerned with an existing or proposed transaction or arrangement with the company in which a Director is interested (whether directly or indirectly), that Director shall disclose the nature and extent of that interest to the other Directors in accordance with sections 177 or 182 of the Act as applicable.
- 21.2 Save as provided in article 21.3, a Director shall not count toward the quorum or vote at a meeting of Directors or at a meeting of a committee of Directors on any resolution concerning a matter in which she/he has, directly or indirectly, an interest which conflicts or may conflict with the interests of the company. The Director shall leave the meeting while such matter is being discussed and voted on.
- 21.3 A Council Director is entitled to:
- 21.3.1 receive information on transactions or arrangements with the company in which she/he has an interest in terms of sections 177 or 182 of the Act solely as a consequence of her/his being an elected member or officer (of chief officer status or above) of the Council; and
- 21.3.2 to Participate in any decision-making process relating thereto on the basis that she/he does so in such a way as she/he considers, in good faith, will be most likely to promote the success of the company for the benefit of its members as a whole.

- 21.4 For the purposes of article 21.1:
- 21.4.1 an interest of a person who is connected with a Director in terms of the Act, shall be treated as an interest of the Director; and
  - 21.4.2 a Director shall be deemed to have a personal interest in relation to a particular matter if a body in relation to which she/he is an employee, director, member of the management committee, officer or elected representative has an interest in that matter.
- 21.5 The company may by Ordinary Resolution suspend or relax to any extent, either generally or in relation to any particular matter, the provisions of this article 21.
- 21.6 Subject to the provisions of the Act, and provided that she/he has complied with article 21.1, a Director:
- 21.6.1 may be a party to, or otherwise interested in, any transaction or arrangement:
    - 21.6.1.1 with the company;
    - 21.6.1.2 with any Group Undertaking or with any other body corporate in which the company is otherwise interested; or
    - 21.6.1.3 in which the company is otherwise interested, directly or indirectly;
  - 21.6.2 may be a director or other officer of, or employed by, or otherwise interested in, any Group Undertaking or in any other body corporate in which the company is otherwise interested; and
  - 21.6.3 shall not, save as she/he otherwise may agree, be accountable to the company for any remuneration or other benefit which she/he (or a person connected with him as defined in section 252 of the Act) derives from any of the matters described in articles 21.6.1 and 21.6.2. No such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of her/his duty under section 176 of the Act.

## **22 Records of Directors' decisions**

- 22.1 The Directors shall ensure that the company:
- 22.1.1 records minutes of proceedings at Directors' meetings;
  - 22.1.2 creates written records of decisions made by Directors other than at meetings; and

22.1.3 keeps such minutes and records for at least 10 years from the date of the relevant meeting or decision.

## **23 Directors' discretion to make further rules**

23.1 Subject to the Articles, and provided it does not conflict with the Articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

## **DIRECTORS' SITUATIONAL CONFLICTS OF INTEREST**

### **24 Board authorisation of situational conflicts**

24.1 For the purposes of section 175 of the Act, the Directors shall have the power to authorise any matter which would or might otherwise constitute or give rise to a breach of the duty of a Director under that section to avoid a situation in which she/he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.

24.2 Authorisation of a matter under this article shall be effective only if:-

24.2.1 the matter in question shall have been proposed in Writing for consideration by the Directors in accordance with the board's normal procedures or in such other manner as the Directors may approve;

24.2.2 where the matter is to be considered at a Directors' meeting, any requirement as to the quorum at such meeting is met without counting the Director in question and any other interested Director (together "Interested Directors"); and

24.2.3 the matter was agreed to without the Interested Directors voting or would have been agreed to if the votes of the Interested Directors had not been counted.

24.3 Any authorisation of a matter under this article (whether at the time of giving the authorisation or subsequently) may:-

24.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;

24.3.2 be for such duration and subject to such terms, conditions or limitations as the Directors may determine (including, without limitation, as to the Director's entitlement to receive information on the matter, and her/his entitlement to Participate in any subsequent decision-making process relating to the matter); and

24.3.3 be varied or terminated by the Directors at any time.

24.4 In authorising a matter under this article, the Directors may decide that if a Director has obtained any information through her/his involvement in the matter otherwise than as a Director of the



company and in respect of which she/he owes a duty of confidentiality to another person, then the Director is under no obligation to:-

24.4.1 disclose such information to all or any of the Directors or other officer or employee of the company; or

24.4.2 use or apply any such information in performing her/his duties as a Director

where to do so would amount to a breach of that confidence.

24.5 Where the Directors authorise a matter under this article, the Director will:-

24.5.1 conduct herself/himself in accordance with any terms imposed by the Directors in relation to the matter; and

24.5.2 not infringe any duty she/he owes to the company by virtue of sections 171 to 177 of the Act provided she/he acts in accordance with such terms, conditions and limitations (if any) which the Directors have imposed in respect of its authorisation.

24.6 A Director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director) to account to the company for any remuneration, profit or other benefit which she/he (or a person connected with him as defined in section 252 of the Act) derives from or in connection with any matter authorised:-

24.6.1 by the Directors under this article; or

24.6.2 by the company in general meeting

subject in each case to any terms, limits or conditions attaching to that authorisation. Any contract, transaction or arrangement relating thereto shall not be liable to be avoided on such grounds.

## **25 Authorisation of situational conflict of Council Directors**

25.1 Without prejudice to article 21.6, a Director may be an elected member or officer (of chief officer status or above) of the Council. The general duty of that Director in section 175(1) of the Act is qualified to allow him to hold any such position even where that conflicts or possibly may conflict with the interests of the company.

25.2 A Council Director is entitled to disclose confidential information of the company to the Leader of the Council, the Chief Executive of the Council, or the Convenor of any Committee of the Council which, having regard to its remit, can reasonably be considered to have an interest in the information, but shall not otherwise disclose confidential information of the company without the prior written consent of the Directors.

- 25.3 If a Council Director obtains any information as a result of being an elected member or officer (of chief officer status or above) of the Council, and in respect of which she/he owes a duty of confidentiality, then the Council Director is under no obligation to:
- 25.3.1 disclose such information to all or any of the Directors or other officer or employee of the company; or
- 25.3.2 use or apply any such information in performing her/his duties as a Director
- where to do so would amount to a breach of that confidence.

## **PART 4 - SHARES AND DISTRIBUTIONS**

### **SHARES**

#### **26 All Shares to be Fully Paid up**

- 26.1 No Share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- 26.2 This does not apply to Shares taken on the formation of the company by the subscribers to the company's memorandum.

#### **27 Issuing Shares**

- 27.1 Save to the extent authorised from time to time by an Ordinary Resolution of the Shareholders, the Directors shall not exercise any power to allot Shares or to grant rights to subscribe for, or to convert any security into, any Shares in the company.
- 27.2 Subject to the Articles, but without prejudice to the rights attached to any existing Share, the company may issue Shares with such rights or restrictions as may be determined by Ordinary Resolution.
- 27.3 The company may issue Shares which are to be redeemed, or are liable to be redeemed at the option of the company or the Holder.

#### **28 Trusts**

- 28.1 The company shall be entitled, but shall not be bound, to accept and, in case of acceptance, shall be entitled to record in such manner as it may think fit, notices of any trusts in respect of any of the Shares. Notwithstanding any such acceptance and/or the making of any such record, the company shall not be bound to see to the execution, administration or observance of any trust, whether expressed, implied or constructive in respect of any Shares, and shall be entitled to recognise and give effect to the acts and deeds of the Holders of such Shares as if they were absolute owners thereof. For the purpose of this article, "trust" includes any right in respect of any Shares other than an absolute right thereto in the Holder thereof for the time being or such other rights in case of transmission of Shares as are set out in the Articles.

## **29 Share certificates**

- 29.1 The company must issue each Shareholder, free of charge, with one or more certificates in respect of the Shares which that Shareholder holds.
- 29.2 Every certificate must specify—
- 29.2.1 in respect of how many Shares, of what class, it is issued;
  - 29.2.2 the nominal value of those Shares;
  - 29.2.3 that the Shares are Fully Paid; and
  - 29.2.4 any distinguishing numbers assigned to them.
- 29.3 No certificate may be issued in respect of Shares of more than one class.
- 29.4 If more than one person holds a Share, only one certificate may be issued in respect of it.
- 29.5 Certificates must be executed in accordance with the Companies Acts.

## **30 Replacement Share certificates**

- 30.1 If a certificate issued in respect of a Shareholder's Shares is:-
- 30.1.1 damaged or defaced; or
  - 30.1.2 said to be lost, stolen or destroyed
- that Shareholder is entitled to be issued with a replacement certificate in respect of the same Shares.
- 30.2 A Shareholder exercising the right to be issued with such a replacement certificate:-
- 30.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - 30.2.2 must return the certificate which is to be replaced to the company if it is damaged or defaced; and
  - 30.2.3 must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

## **31 Share transfers**

- 31.1 Shares may be transferred by means of an Instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor.

- 31.2 No fee may be charged for registering any Instrument of transfer or other Document relating to or affecting the title to any Share.
- 31.3 The company may retain any Instrument of transfer which is registered.
- 31.4 The transferor remains the Holder of a Share until the transferee's name is entered in the register of members as Holder of it.
- 31.5 When a transfer of Shares has been lodged with the company, the company must either
- 31.5.1 register the transfer or approve the transfer for registration subject only to stamping; or
  - 31.5.2 subject to article 31.6, give the transferee notice of refusal to register the transfer together with its reasons for the refusal.

This must be done as soon as practicable and in any event within 2 months after the date on which the transfer is lodged with the company.

- 31.6 The Directors may refuse to register the transfer of a Share only if:-
- 31.6.1 the Share is not Fully Paid;
  - 31.6.2 the transfer is not lodged at the company's registered office or such other place as the Directors have appointed;
  - 31.6.3 the transfer is not accompanied by the certificate for the Shares to which it relates, or such other evidence as the Directors may reasonably require to show the transferor's right to make the transfer, or evidence of the right of someone other than the transferor to make the transfer on the transferor's behalf; or
  - 31.6.4 the transfer is in respect of more than one class of Share.

If the Directors refuse to register the transfer, the Instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

## **32 Transmission of Shares**

- 32.1 If title to a Share passes to a Transmitlee, the company may only recognise the Transmitlee as having any title to that Share.
- 32.2 A Transmitlee who produces such evidence of entitlement to Shares as the Directors may properly require:-
- 32.2.1 may, subject to the Articles, choose either to become the Holder of those Shares or to have them transferred to another person; and

32.2.2 subject to the Articles, and pending any transfer of the Shares to another person, has the same rights as the Holder had.

32.3 Transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of Shares to which they are entitled, by reason of the Holder's death or Bankruptcy or otherwise, unless they become the Holders of those Shares.

### **33 Exercise of Transmittees' rights**

33.1 Transmittees who wish to become the Holders of Shares to which they have become entitled must notify the company in Writing of that wish.

33.2 If the Transmitttee wishes to have a Share transferred to another person, the Transmitttee must execute an Instrument of transfer in respect of it.

33.3 Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the Transmitttee has derived rights in respect of the Share, and as if the event which gave rise to the transmission had not occurred.

### **34 Transmitttees bound by prior notices**

34.1 If a notice is given to a Shareholder in respect of Shares and a Transmitttee is entitled to those Shares, the Transmitttee is bound by the notice if it was given to the Shareholder before the Transmitttee's name (or the name of any person nominated pursuant to article 32.2.1) has been entered in the register of members.

## **DIVIDENDS AND OTHER DISTRIBUTIONS**

### **35 Procedure for declaring dividends**

35.1 The company may by Ordinary Resolution declare dividends, and the Directors may decide to pay interim dividends.

35.2 A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.

35.3 No dividend may be declared or Paid unless it is in accordance with Shareholders' respective rights. If any Share is issued on terms providing that it ranks for dividend as from a particular date, that Share ranks for dividend accordingly.

35.4 Unless the Shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which Shares are issued, specify otherwise, it must be Paid by reference to each Shareholder's holding of Shares on the date of the resolution or decision to declare or pay it.

35.5 If the company's share capital is divided into different classes, no interim dividend may be Paid on Shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

35.6 The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

35.7 If the Directors act in good faith, they do not incur any liability to the Holders of Shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on Shares with deferred or non-preferred rights.

### **36 Payment of dividends and other distributions**

36.1 Where a dividend or other sum which is a distribution is payable in respect of a Share, it must be Paid by one or more of the following means:-

36.1.1 transfer to a bank or building society account specified by the Distribution Recipient either in Writing or as the Directors may otherwise decide;

36.1.2 sending a cheque made payable to the Distribution Recipient by post to the Distribution Recipient at the Distribution Recipient's registered address (if the Distribution Recipient is a Holder of the Share), or (in any other case) to an address specified by the Distribution Recipient either in Writing or as the Directors may otherwise decide;

36.1.3 sending a cheque made payable to such person by post to such person at such address as the Distribution Recipient has specified either in Writing or as the Directors may otherwise decide; or

36.1.4 any other means of payment as the Directors agree with the Distribution Recipient either in Writing or by such other means as the Directors decide.

36.2 In the Articles, "Distribution Recipient" means, in respect of a Share in respect of which a dividend or other sum is payable:-

36.2.1 the Holder of the Share; or

36.2.2 if the Share has two or more joint Holders, whichever of them is named first in the register of members; or

36.2.3 if the Holder is no longer entitled to the Share by reason of death or Bankruptcy, or otherwise by operation of law, the Transmittree.

### **37 No interest on distributions**

37.1 The company may not pay interest on any dividend or other sum payable in respect of a Share unless otherwise provided by:-

37.1.1 the terms on which the Share was issued; or

37.1.2 the provisions of another agreement between the Holder of that Share and the company.

### **38 Unclaimed distributions**

38.1 All dividends or other sums which are:-

38.1.1 payable in respect of Shares; and

38.1.2 unclaimed after having been declared or become payable

may be invested or otherwise made use of by the Directors for the benefit of the company until claimed.

38.2 The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

38.3 If:-

38.3.1 twelve years have passed from the date on which a dividend or other sum became due for payment; and

38.3.2 the Distribution Recipient has not claimed it

the Distribution Recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

### **39 Non-cash distributions**

39.1 Subject to the terms of issue of the Share in question, the company may, by Ordinary Resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a Share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

39.2 For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution:-

39.2.1 fixing the value of any assets;

39.2.2 paying cash to any Distribution Recipient on the basis of that value in order to adjust the rights of recipients; and

39.2.3 vesting any assets in trustees.

#### **40 Waiver of distributions**

40.1 Distribution Recipients may waive their entitlement to a dividend or other distribution payable in respect of a Share by giving the company notice in Writing to that effect, but if:-

40.1.1 the Share has more than one Holder; or

40.1.2 more than one person is entitled to the Share, whether by reason of the death or Bankruptcy of one or more joint Holders, or otherwise

the notice is not effective unless it is expressed to be given, and signed, by all the Holders or persons otherwise entitled to the Share.

#### **CAPITALISATION OF PROFITS**

#### **41 Authority to capitalise and appropriation of capitalised sums**

41.1 Subject to the Articles, the Directors may, if they are so authorised by an Ordinary Resolution:-

41.1.1 decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and

41.1.2 appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.

41.2 Capitalised sums must be applied:-

41.2.1 on behalf of the persons entitled; and

41.2.2 in the same proportions as a dividend would have been distributed to them.

41.3 Any capitalised sum may be applied in paying up new Shares of a nominal amount equal to the capitalised sum which are then allotted credited as Fully Paid to the persons entitled or as they may direct.

41.4 A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.

41.5 Subject to the Articles the Directors may:-

41.5.1 apply capitalised sums in accordance with articles 41.3 and 41.4 partly in one way and partly in another;



41.5.2 make such arrangements as they think fit to deal with Shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and

41.5.3 authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of Shares and debentures to them under this article.

## **PART 5 - DECISION-MAKING BY SHAREHOLDERS**

### **ORGANISATION OF GENERAL MEETINGS**

#### **42 Convening a general meeting**

42.1 The Directors of the company may call a general meeting of the company.

42.2 In accordance with the provisions of the Act, the Shareholders of the company may require the Directors to call a general meeting of the company provided the request is made by Shareholders representing at least 5% of such of the paid-up capital of the company as carries the right of voting at general meetings.

42.3 A general meeting must be called by notice of at least 14 Clear Days. It may be called by shorter notice than this if agreed to by a majority in number of Shareholders having a right to attend and vote at the meeting, being a majority who together hold not less than 90% in nominal value of the shares giving a right to attend and vote at the meeting.

42.4 Notice of a general meeting must be sent to every Shareholder, every Director and the company's auditors (if any).

42.5 A notice of a general meeting must include:-

42.5.1 the time, date and place of the meeting;

42.5.2 the general nature of the business to be dealt with at the meeting; and

42.5.3 notification of the Shareholder's right to appoint one or more proxies to exercise all or any of her/his rights to attend, speak and vote at a meeting as set out in section 324 of the Act.

#### **43 Attendance and speaking at general meetings**

43.1 A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

43.2 A person is able to exercise the right to vote at a general meeting when:-

- 43.2.1 that person is able to vote, during the meeting, on resolutions put to the vote at the meeting; and
- 43.2.2 that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- 43.2.3 The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- 43.2.4 In determining attendance at a general meeting, it is immaterial whether any two or more Shareholders attending it are in the same place as each other.
- 43.2.5 Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

#### **44 Quorum for general meetings**

- 44.1 No business other than the appointment of the Chair of the Meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 44.2 If and for so long as the company has only one Shareholder, the quorum is one qualifying person. In any other case, the quorum is two qualifying persons subject to section 318(2) of the Act. A "qualifying person" means an individual who is a Shareholder of the company, a corporate representative duly authorised under section 323 of the Act, or a person appointed as a proxy of a Shareholder in relation to a meeting.

#### **45 Chairing general meetings**

- 45.1 If the Directors have appointed a Chair, the Chair shall chair general meetings if present and willing to do so.
- 45.2 If the Directors have not appointed a Chair, or if the Chair is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start:-
  - 45.2.1 the Directors present; or
  - 45.2.2 (if no Directors are present), the meetingmust appoint a Director or Shareholder to chair the meeting, and the appointment of the Chair of the Meeting must be the first business of the meeting.
- 45.3 The person chairing a meeting in accordance with this article is referred to as "the Chair of the Meeting".

## **46 Attendance and speaking by Directors and non-Shareholders**

46.1 Directors may attend and speak at general meetings whether or not they are Shareholders.

46.2 The Chair of the Meeting may permit other persons who are not:-

46.2.1 Shareholders of the company; or

46.2.2 otherwise entitled to exercise the rights of Shareholders in relation to general meetings to attend and speak at a general meeting.

## **47 Adjournment**

47.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chair of the Meeting must adjourn it.

47.2 The Chair of the Meeting may adjourn a general meeting at which a quorum is present if:-

47.2.1 the meeting consents to an adjournment; or

47.2.2 it appears to the Chair of the Meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

47.3 The Chair of the Meeting must adjourn a general meeting if directed to do so by the meeting.

47.4 When adjourning a general meeting, the Chair of the Meeting must:-

47.4.1 either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors; and

47.4.2 have regard to any directions as to the time and place of any adjournment which have been given by the meeting.

47.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 Clear Days' notice of it:-

47.5.1 to the same persons to whom notice of the company's general meetings is required to be given; and

47.5.2 containing the same information which such notice is required to contain.

47.6 52.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

## **VOTING AT GENERAL MEETINGS**

## **48 Voting: general**

- 48.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the Articles.
- 48.2 Subject to any rights or restrictions attached to any Shares, on a vote on a resolution on a show of hands:-
- 48.2.1 every Shareholder who (being an individual) is present in person shall have one vote;
- 48.2.2 every proxy present who has been duly appointed by one or more Shareholders entitled to vote on the resolution shall have one vote unless article 48.2.4 or article 48.2.5 applies;
- 48.2.3 every Shareholder who (being a corporation) is present by a duly authorised corporate representative shall have one vote and if such Shareholder appoints more than one corporate representative, each such representative shall have one vote;
- 48.2.4 a proxy has one vote for and one vote against the resolution if she/he has been duly appointed by more than one Shareholder entitled to vote on the resolution and she/he has been instructed by one or more of those Shareholders to vote for the resolution and by one or more other of those Shareholders to vote against it;
- 48.2.5 where a proxy has been duly appointed by more than one Shareholder entitled to vote on the resolution and has received concrete instructions to vote in the same way from one or more of those Shareholders and been given a discretion as to how she/he votes by one or more other of those Shareholders, she/he may, if she/he chooses, cast a second vote the other way under the discretionary authority.
- 48.3 On a vote on a resolution on a poll taken at a meeting, every Shareholder has one vote in respect of each Share held by him. On a poll, votes may be given personally or by proxy.

## **49 Errors and disputes**

- 49.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 49.2 Any such objection must be referred to the Chair of the Meeting, whose decision is final.

## **50 Poll votes**

- 50.1 A poll on a resolution may be demanded:-
- 50.1.1 in advance of the general meeting where it is to be put to the vote; or

- 50.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 50.2 A poll may be demanded by:-
  - 50.2.1 the Chair of the Meeting;
  - 50.2.2 the Directors;
  - 50.2.3 two or more persons having the right to vote on the resolution; or
  - 50.2.4 a person or persons representing not less than one tenth of the total voting rights of all the Shareholders having the right to vote on the resolution.
- 50.3 A demand for a poll may be withdrawn if:-
  - 50.3.1 the poll has not yet been taken; and
  - 50.3.2 the Chair of the Meeting consents to the withdrawal.
- 50.4 Polls must be taken immediately and in such manner as the Chair of the Meeting directs.

## **51 Content of Proxy Notices**

- 51.1 Proxies may only validly be appointed by a notice in Writing (a "Proxy Notice") which:-
  - 51.1.1 states the name and address of the Shareholder appointing the proxy;
  - 51.1.2 identifies the person appointed to be that Shareholder's proxy and the general meeting in relation to which that person is appointed;
  - 51.1.3 is signed by or on behalf of the Shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - 51.1.4 is either delivered to the company in accordance with the Articles and any instructions contained in or accompanying the notice of the general meeting or the proxy form, or whose delivery is otherwise accepted by the Chair of the Meeting at her/his discretion.
- 51.2 The company may require Proxy Notices to be delivered in a particular form, and may specify different forms for different purposes.
- 51.3 Proxy Notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- 51.4 Unless a Proxy Notice indicates otherwise, it must be treated as:-
  - 51.4.1 allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and

51.4.2 appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

## **52 Delivery of Proxy Notices**

52.1 A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid Proxy Notice has been delivered to the company by or on behalf of that person.

52.2 An appointment under a Proxy Notice may be revoked by delivering to the company a notice in Writing given by or on behalf of the person by whom or on whose behalf the Proxy Notice was given.

52.3 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

52.4 If a Proxy Notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

## **53 Amendments to resolutions**

53.1 An Ordinary Resolution to be proposed at a general meeting may be amended by Ordinary Resolution if:-

53.1.1 notice of the proposed amendment is given to the company in Writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chair of the Meeting may determine); and

53.1.2 the proposed amendment does not, in the reasonable opinion of the Chair of the Meeting, materially alter the scope of the resolution.

53.2 A Special Resolution to be proposed at a general meeting may be amended by Ordinary Resolution, if:-

53.2.1 the Chair of the Meeting proposes the amendment at the general meeting at which the resolution is to be proposed; and

53.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

53.3 If the Chair of the Meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, her/his error does not invalidate the vote on that resolution.

## **WRITTEN RESOLUTIONS**

**54 Written resolutions**

- 54.1 The Shareholders may pass any resolution (other than a resolution to remove a Director or auditor before expiry of her/his term of office) as a written resolution in accordance with Chapter 2 of Part 13 of the Act.

**PART 6 - ADMINISTRATIVE ARRANGEMENTS**

**55 Means of communication to be used**

- 55.1 Subject to the Articles, anything sent or supplied by or to the company under the Articles may be sent or supplied in any way in which the Act provides for Documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the company.
- 55.2 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.
- 55.3 A Director may agree with the company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

**56 No right to inspect accounts and other records**

- 56.1 The Council, for as long as it is a Shareholder, is entitled to inspect any of the company's accounting or other records or Documents.
- 56.2 Save as provided in article 56.1, or by law, or as authorised by the Directors or an Ordinary Resolution of the company, no person is entitled to inspect any of the company's accounting or other records or Documents merely by virtue of being a Shareholder.

**57 Provision for employees on cessation of business**

- 57.1 The Directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its Subsidiaries (other than a Director or former Director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that Subsidiary.

**DIRECTORS' AND COMPANY SECRETARY'S INDEMNITY AND INSURANCE**

**58 Indemnity**

- 58.1 Subject to article 58.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:-
- 58.1.1 each relevant officer may be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer:-

58.1.1.1 in the actual or purported execution and/or discharge of her/his duties or in relation to them; and

58.1.1.2 in relation to the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Act);

including (in each case) any liability incurred by him in defending any civil or criminal proceedings in which judgement is given in her/his favour or in which she/he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on her/his part or in connection with any application in which the court grants him, in her/his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's or an associated company's affairs; and

58.1.2 the company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 58.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

58.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

58.3 In this article:-

58.4 companies are associated if one is a Subsidiary of the other or both are Subsidiaries of the same body corporate; and

58.5 a "relevant officer" means any Director, secretary, former Director or former secretary of the company or an associated company.

## **59 Insurance**

59.1 The Directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.

59.2 In this article:-

59.2.1 a "relevant officer " means any Director, secretary, former Director or former secretary of the company or an associated company;

59.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant Director or relevant secretary in connection with that Director's or secretary's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and



- 59.2.3 companies are associated if one is a Subsidiary of the other or both are Subsidiaries of the same body corporate.
- 59.3 The terms of such insurance must, however, be framed to exclude the provision of any indemnity in respect of any liability incurred by the Director:
- 59.3.1 to pay a fine imposed in criminal proceedings;
- 59.3.2 to pay a sum payable to a regulatory authority by way of a penalty in respect of non-compliance with any requirement of a regulatory nature;
- 59.3.3 in respect of representation in any criminal proceedings in which the Director is convicted of an offence arising out of any fraud or dishonesty, or wilful or reckless misconduct, by the Director;
- 59.3.4 to the company that arises out of any conduct which the Director knew (or must reasonably be assumed to have known) was not in the interests of the company or in the case of which the Director did not care whether or not it was in the interests of the company.
- 59.4 For the purposes of article 59.3, the reference to conviction does not include a conviction:
- 59.4.1 quashed by an order under section 118(1)(b) or 183(1)(c) of the Criminal Procedure (Scotland) Act 1995;
- 59.4.2 quashed by an order under section 118(1)(c) of that Act and which order has the effect of an acquittal by virtue of section 119(9) of that Act or otherwise;
- 59.4.3 in relation to which the verdict is set aside by an order under section 183(1)(d) of that Act and which order has the effect of an acquittal by virtue of section 185(9) of that Act or otherwise.

## **60 Winding up**

- 60.1 If the company is wound up, the liquidator may, with the sanction of a Special Resolution and any other sanction required by the Act or other applicable law, divide among the Shareholders in specie the whole or any part of the assets of the company. The liquidator may for that purpose value any assets and determine how the division shall be carried out as between the Shareholders or different classes of Shareholders.
- 60.2 The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the Shareholders as she/he with the like sanction determines but no Shareholder shall be compelled to accept any assets upon which there is liability.

**61 Amendment of these Articles**

61.1 For so long as the Council is a Shareholder, the following provisions of these Articles shall not be modified without the Council's written consent:

61.1.1 articles 3 to 6 inclusive;

61.1.2 article 7;

61.1.3 article 8.2;

61.1.4 article 9;

61.1.5 articles 18 to 21 inclusive;

61.1.6 article 25;

61.1.7 article 27;

61.1.8 article 31;

61.1.9 article 57;

61.1.10 articles 59.3 and 59.4; and

61.1.11 article 61.

61.2 The Council's consent may (without limitation) take the form of an assent to a Special Resolution to modify these Articles or to adopt new articles of association.

**SHAREHOLDER AGREEMENT**

**between**

**THE CITY OF EDINBURGH COUNCIL**

**and**

**ENERGY FOR EDINBURGH LIMITED**

**Draft 4 – 10 OCTOBER 2015**

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## TABLE OF CONTENTS

<a href="#">1</a>	<a href="#">Definitions and interpretation</a>	1
<a href="#">2</a>	<a href="#">Business of the Company</a>	6
<a href="#">3</a>	<a href="#">Directors</a>	7
<a href="#">4</a>	<a href="#">Observer rights</a>	8
<a href="#">5</a>	<a href="#">Business Plan, accounts, financial and other information</a>	8
<a href="#">6</a>	<a href="#">Undertakings of the Company</a>	11
<a href="#">7</a>	<a href="#">Confidentiality</a>	13
<a href="#">8</a>	<a href="#">Disputes</a>	15
<a href="#">9</a>	<a href="#">Breach/Termination</a>	16
<a href="#">10</a>	<a href="#">Review of Agreement</a>	16
<a href="#">11</a>	<a href="#">Assignment</a>	16
<a href="#">12</a>	<a href="#">Waiver</a>	16
<a href="#">13</a>	<a href="#">Notices</a>	17
<a href="#">14</a>	<a href="#">Conflict with the Articles</a>	17
<a href="#">15</a>	<a href="#">Unlawful fetter on the Company's statutory powers</a>	17
<a href="#">16</a>	<a href="#">Exercise of powers</a>	17
<a href="#">17</a>	<a href="#">General</a>	18
<a href="#">18</a>	<a href="#">Governing Law and Jurisdiction</a>	19
	<a href="#">SCHEDULE</a>	21
	<a href="#">PART 1 - Reserved Matters</a>	21
	<a href="#">PART 2 - Schedule of Notifiable Interests</a>	23
	<a href="#">PART 3 - Director's Undertaking</a>	24
	<a href="#">PART 4 – Articles</a>	26

## SHAREHOLDER AGREEMENT

### BETWEEN

- 1) **THE CITY OF EDINBURGH COUNCIL**, established by the Local Government etc. (Scotland) Act 1994 and having its principal office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (the "**Council**"); and
- 2) **ENERGY FOR EDINBURGH LIMITED** a company incorporated in Scotland (company number: [    ]) and having its registered office at Waverley Court, 4 East Market Street, Edinburgh EH8 8BG (the "**Company**").

### BACKGROUND

- (A) This Agreement sets out the terms on which the Parties have agreed that the Company will operate.
- (B) The Company has agreed with the Council that it will comply with the terms and conditions of this Agreement insofar as they relate to the Company and insofar as it can lawfully do so.

### AGREED TERMS

#### 1 Definitions and interpretation

1.1 In this Agreement the following expressions have the following meanings:

" <b>Acceleration Notice</b> "	means a notice given by the Company to the Council in accordance with clause 6.3;
" <b>Adequate Procedures</b> "	means adequate procedures, as referred to in section 7(2) of the Bribery Act 2010 and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010;
" <b>Agreement</b> "	means this agreement and the Schedule;
" <b>Annual Budget</b> "	means the annual budget prepared for each Financial Year in accordance with clause 5.4 and adopted by the Company in accordance with this Agreement;
" <b>Articles</b> "	means the articles of association of the Company as set out in Part 4 of the Schedule, as the same may be amended from time to time, and references to an <b>Article</b> shall mean a specific article in the Articles as amended from time to time;

<b>"Board"</b>	means the Directors, or such of those Directors present at a duly convened meeting of the Directors at which a quorum is present in accordance with the Articles (and where the context so admits means a duly convened meeting of the directors of an EFE Group Company at which a quorum is present in accordance with the articles of association of the relevant company);
<b>"Board Meeting"</b>	means in respect of the Company or any EFE Group Company a duly convened meeting of the relevant Board;
<b>"Business"</b>	means the business as described in clause 2.1 and such other business as the Council and the Company may agree in writing from time to time in accordance with this Agreement;
<b>"Business Day"</b>	any day, other than a Saturday or a Sunday, on which banks are open in Edinburgh for normal banking business;
<b>"Business Plan"</b>	means the business plan prepared in accordance with clause 5 and adopted by the Company in accordance with this Agreement;
<b>"Commercially Sensitive"</b>	means any matter or information the disclosure of which outside of the Company is reasonably likely to be materially detrimental to the Business;
<b>"Confidential Information"</b>	<p>means all confidential information of whatever nature and in whatever form, disclosed or made available, directly or indirectly, by one Party to the other Party, or to such other Party's officers, employees, professional advisers or agents, whether or not such information is labelled or designated as confidential, including but not limited to:</p> <p>(a) any information relating to the other Party's business, finances, operations, products and services, marketing affairs and opportunities, customers, and suppliers, plans, inventions, processes, trade secrets, know how, design rights, software</p>

and Intellectual Property Rights or any other information of a confidential or proprietary nature;

- (b) any information designated as confidential information by the other whether belonging to that Party or a third party;
- (c) the subject matter and provisions of this Agreement and all other documents entered into pursuant to this Agreement; and
- (d) any information obtained by a Party as a result of negotiations and entering into or performing this Agreement;

and "**Confidential Information**" shall include confidential information of any EFE Group Company;

<b>"Director"</b>	means any duly appointed director of the Company for the time being or a duly appointed alternate of any director;
<b>"EFE Group Company"</b>	means any Subsidiary or Subsidiary Undertaking of the Company;
<b>"Encumbrance"</b>	means any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignation, hypothecation, security interest, title retention or any other security agreement or arrangement having similar effect;
<b>"Energy Services"</b>	has the meaning given in clause 2.3;
<b>"External Director"</b>	means a Director appointed under Article 6;
<b>"Financial Year"</b>	means any accounting reference period of the Company, of whatever duration;
<b>"Intellectual Property Rights"</b>	means any and all intellectual property or industrial rights of any description anywhere in the world including but not limited to any patents and supplementary protection certificates, trademarks,

domain names, registered designs, copyright (including but not limited to rights in computer software, object and source code), rights in the nature of copyright, database rights, semi-conductor topography rights, unregistered design rights, any rights in plant varieties, rights in and to trade names, business names, product names and logos, inventions, databases, discoveries, specifications, formulae, processes, know how, trade secrets, confidential information and any analogous or similar right in any jurisdiction (whether any such rights referred to in this definition are registered, unregistered, registerable or not and any applications or rights to apply for registration of any of them, any and all divisions and continuations of said applications and the right to claim priority from any of the applications together with any registered rights resulting from any such applications or rights to apply for registration);

**"Material Developments"**

means any development, issue or matter that has or is reasonably likely to have a significant effect on financial, reputational or operational risk and/or a significant impact on service delivery or performance;

**"Observer"**

means the individual appointed pursuant to clause 4.1 or an individual appointed pursuant to Article 19;

**"Parties"**

means each of the parties to this Agreement;

**"Reserved Matter"**

means each of the matters set out in Part 1 of the Schedule;

**"Project Board"**

means the project board established by the Council to provide oversight of the Company's activities;

**"Schedule"**

means the schedule, in four parts, to this Agreement;

**"Subsidiary"**

has the meaning given in section 1159 of the Companies Act 2006 provided that for the purpose of that section a company shall be deemed to be a member of another when its shares in the other company are registered in the name of another person either in connection with the taking of security



or as a nominee, and wholly-owned subsidiary shall have the meaning given in that section; and

**"Subsidiary Undertaking"**

has the meaning given in section 1162 of the Companies Act 2006.

- 1.2 References to any statute or statutory provision include, unless the context otherwise requires, a reference to the statute or statutory provision as modified, replaced, re-enacted or consolidated and in force from time to time and any subordinate legislation made under the relevant statute or statutory provision (as so modified, replaced, re-enacted or consolidated) in force prior to the date of this Agreement.
- 1.3 References to any gender include references to each other gender (including neuter) and references to the singular include the plural and vice versa.
- 1.4 References to a person include references to any individual (including that individual's legal personal representatives), firm, company, corporation or other body corporate, government, state, agency of a state, local authority or any unincorporated association, joint venture or partnership (whether or not having a separate legal personality).
- 1.5 The clause and schedule headings in this Agreement do not affect its interpretation.
- 1.6 References to clauses and the Schedule are to clauses and to the Schedule to this Agreement and references to paragraphs are to paragraphs in the Schedule in which such references appear.
- 1.7 The Schedule forms part of this Agreement and has the same force and effect as if set out in the body of this Agreement.
- 1.8 Any phrase introduced by the term "include", "including", "in particular", "other", or any similar general term is not limited by any particular examples preceding or following those general terms.
- 1.9 Where any obligation in this Agreement is expressed to be undertaken or assumed by any Party, that obligation shall be interpreted to require the Party concerned to exercise all rights and powers of control over the affairs of any other person which it is able to exercise (whether directly or indirectly) in order to secure performance of the obligation.
- 1.10 In construing this Agreement the *contra proferentem* rule shall not apply and accordingly wording shall not be given a restricted meaning by operation of such rule.
- 1.11 In deciding whether and, if so, how to exercise any right or discretion conferred upon it by this Agreement, the Council may act in its complete discretion.
- 1.12 A reference to a "notice" is to a notice in writing signed by or on behalf of the person sending it and given in accordance with clause 13.

- 1.13 Unless otherwise expressly provided, all covenants, agreements, undertakings, indemnities, representations and warranties in this Agreement by more than one person are entered into, given or made by such persons severally.

## **2 Business of the Company**

- 2.1 Subject to the Reserved Matters referred to in clauses 6.1.7 and 6.2 and set out in Part 1 of the Schedule, the Business of the Company (carried out itself and through any EFE Group Companies) shall be as specified in Article 3.
- 2.2 The Company undertakes to the Council that for so long as this Agreement remains in effect it will:
- 2.2.1 co-operate and use its reasonable endeavours to promote and develop the Business to the best advantage in accordance with good business practice and the highest ethical standards;
  - 2.2.2 conduct the Business on the basis of, and in accordance with, the Annual Budget and the Business Plan;
  - 2.2.3 generally do, or cause to be done, all acts necessary or desirable to give effect to the terms of this Agreement; and
  - 2.2.4 observe the provisions of the Articles.
- 2.3 The Council and the Company agree that the Company has been established by the Council, among other things, as the vehicle to consider, develop and implement, and revise and update from time to time, a strategy or strategies for delivering energy and resource efficiency, energy savings, reductions in carbon and other emissions, the production of renewable or sustainable energy, district heating, and/or sustainable transport ("**Energy Services**"), and/or income and revenue generation from Energy Services, as set out in Article 3.1.1.
- 2.4 In light of clause 2.3, the Council undertakes to the Company that it shall provide the Company with information about any projects relating to Energy Services that are being considered or discussed by or within the Council and that it shall use all reasonable endeavours to procure that such information is provided in respect of projects relating to Energy Services being considered or discussed by or within arm's length entities established by the Council.
- 2.5 The Council undertakes to the Company that it will provide information about and access to assets of the Council so as to enable the Company to promote and develop the Business. Reference to assets of the Council includes land, buildings, and operational and non-operational property. The Council also undertakes to the Company that it shall use all reasonable endeavours to procure information about and access to such assets as are in the ownership or otherwise under the control of any arm's length entities established by the Council.

- 2.6 The Council shall notify the Company of its policies relating to Energy Services from time to time, and of any amendments to these policies. The Company undertakes to the Council that it will, in carrying on the Business, have regard to these policies and to any amendments to them or replacements of them.
- 2.7 The Council may provide the Company, on request by the Company, with:
- 2.7.1 access to financial support and advice;
  - 2.7.2 access to legal assistance and advice;
  - 2.7.3 access to procurement assistance and advice;
  - 2.7.4 access to the Council's communications and public relations services;
  - 2.7.5 access to IT and telecoms facilities;
  - 2.7.6 access to meeting rooms and office facilities;
  - 2.7.7 access to and use of personnel.
- 2.8 If despite the exercise of all rights and powers of control available to them the parties to this Agreement cannot fully implement the provisions of this Agreement in relation to any particular EFE Group Company, the parties shall implement the provisions of this Agreement in relation to that company to the extent possible, and shall not be in breach of this Agreement in respect of the obligations which cannot be so implemented.

### **3 Directors**

- 3.1 The Company shall procure that:
- 3.1.1 it uses all reasonable endeavours to ensure that each Director completes, signs and delivers to the Company and the Council as soon as reasonably practicable following the date of their appointment to the Board, an undertaking in the form set out in Part 3 of the Schedule;
  - 3.1.2 subject to the Reserved Matters referred to in clauses 6.1.7 and 6.2 all material decisions relating to the Company will be taken at Board Meetings;
  - 3.1.3 Board Meetings will be held at least quarterly in any Financial Year; and
  - 3.1.4 each such meeting will be held in Scotland.
- 3.2 The Company shall give to the Observer:
- 3.2.1 not less than 5 Business Days advance notice of each Board Meeting and of each meeting of any committee of the Board, such notice to be accompanied by a written

agenda specifying the business to be transacted at such meeting together with all papers to be circulated or presented to the same, provided that where a Board Meeting is required to be held on short notice, the Company shall use reasonable endeavours to give advance notice to the Observer; and

3.2.2 as soon as practicable after each such meeting a copy of the minutes of that meeting redacted to the extent required to comply with the terms of the Data Protection Act 1998,

provided that where the subject matter of any paper could reasonably be considered to be Commercially Sensitive the provisions of clause 7.6 shall apply.

3.3 Each Director shall be responsible for dealing with conflicts of interest in accordance with his/her statutory duties and the Articles.

#### **4 Observer rights**

4.1 The Council, by its signature of this Agreement, appoints a Senior Manager as an Observer in terms of Article 19 and the Company, by its signature of this Agreement, accepts said appointment as being made in terms of Article 19.

4.2 The Parties agree that the person appointed as an Observer pursuant to clause 4.1, or any other person appointed as an Observer pursuant to Article 19, shall:

4.2.1 subject to clause 7.6, be at liberty from time to time to discuss the proceedings of Board meetings or of meetings of any committees of the Board with other officers and elected members of the Council; and

4.2.2 subject to clause 7.6, in addition to the information to be provided under clause 3.2, be entitled to receive all information, other than sensitive personal information (as defined in the Data Protection Act 1998), provided by the Company or made generally available by the Company to Directors and the Company shall send such information or make such information available to such Observer.

4.3 References to Boards and Board Meetings in clause 4.2 includes Boards and Board Meetings of any EFE Group Companies.

#### **5 Business Plan, accounts, financial and other information**

5.1 The Company shall, at all times, maintain accurate and complete accounting and other financial records in accordance with the requirements of all applicable laws and generally accepted accounting principles applicable to the Company.

5.2 The Company shall prepare:

- 5.2.1 quarterly management accounts of the Company and any EFE Group Companies including a profit and loss account, balance sheet and cash flow statement and such other trading and financial information as the Council may reasonably require as well as a comparison against the previous year's information for the relevant quarter and against the Annual Budget, together with an explanation for any material variances to forecasts and shall send a copy to the Council no later than 10 Business Days after the end of each relevant quarter and the Board shall consider such accounts at its following meeting; and
- 5.2.2 audited accounts of the Company and any EFE Group Companies and shall send a copy to the Council within 6 months of the end of the accounting period to which they relate.
- 5.3 The Company shall prepare an Annual Budget for the Company and any EFE Group Companies in respect of each Financial Year and a Business Plan of the Company and any EFE Group Companies annually in each case on an individual and consolidated basis.
- 5.4 Each Annual Budget shall be consistent with the Business Plan and shall include:
  - 5.4.1 a forecast profit and loss;
  - 5.4.2 a forecast revenue projection;
  - 5.4.3 a balance sheet and cash-flow statement on a phased monthly basis;
  - 5.4.4 an operating budget including estimated capital expenditure and working capital on a phased monthly basis;
  - 5.4.5 an analysis of the results of the Company and any EFE Group Companies for the previous Financial Year compared with the Annual Budget for that Financial Year, identifying material variations in revenues and costs;
  - 5.4.6 a summary of the Company's and any EFE Group Companies' business objectives for the forthcoming Financial Year together with financial and non-financial KPIs and appropriate measures of achievement against which the performance of the Company and any EFE Group Companies will be assessed.
- 5.5 Each Business Plan shall include:
  - 5.5.1 a forecast profit and loss;
  - 5.5.2 a forecast revenue projection;
  - 5.5.3 a dividend policy (for the avoidance of doubt, that policy may be that no dividend is expected or anticipated to be payable);

- 5.5.4 a balance sheet and cash-flow statement on an annual basis;
  - 5.5.5 a review of projected business activities and capital investment; and
  - 5.5.6 a summary of the Company's and any EFE Group Companies' business objectives for at least 3 Financial Years following the reference year of the Business Plan.
- 5.6 Each Annual Budget and Business Plan shall be approved by the Board prior to the commencement of the Financial Year to which it relates and the Company shall consult with the Council in a reasonable and proper manner in drawing up the Annual Budget and Business Plan before approval.
- 5.7 Each Annual Budget and Business Plan shall be submitted to the Board in draft and thereafter shall be circulated to the Council not later than 90 days prior to the commencement of the first Financial Year to which it relates; with the intention that each Annual Budget and Business Plan shall then be presented at an appropriate meeting of the Council (or relevant Council committee, or the Project Board, as the Council shall direct) for approval.
- 5.8 If any Annual Budget and/or Business Plan has not been approved pursuant to clause 5.7 by the start of the relevant Financial Year, the Company shall continue to trade in the ordinary course without material interruption but in a manner which is most likely to continue the status quo without materially deviating from the previous Annual Budget and/or Business Plan until such time as a new Annual Budget and/or Business Plan is so approved.
- 5.9 If the Company wishes to amend a Business Plan during the course of any Financial Year it shall present its proposals to the Council (or relevant Council committee, or the Project Board, as the Council shall direct) which, acting reasonably, shall approve or reject such changes.
- 5.10 The Company and the Board shall:
- 5.10.1 upon receipt by the Company of a request in writing by or on behalf of the Council, grant the Council such access to the accounts, books, records, senior employees (if any) and Directors and such other information relating to the business affairs and financial position of the Company and any EFE Group Companies as such request may reasonably require (which shall include all information that the Council requires in order to comply with law and/or regulations);
  - 5.10.2 keep the Council informed of any Material Developments in the Business; and
  - 5.10.3 supply the Council with a copy of a report prepared by the Company in respect of each Financial Year, demonstrating the implementation by the Company and any EFE Group Companies of Adequate Procedures, such report to be provided within 30 Business Days of the end of the Financial Year to which it relates;

- 5.11 The Company acknowledges that the Council is subject to certain external audit requirements and, subject to the provisions of clause 7, shall give any auditors appointed in relation to the Council access to the necessary information and records reasonably requested by them for such purpose from time to time.

## **6 Undertakings of the Company**

- 6.1 The Company undertakes to the Council (to the extent it is legally able to do so and subject to clause 2.8) that it shall:
- 6.1.1 comply with the terms of this Agreement and the Articles;
  - 6.1.2 conduct the Business and procure that it and each EFE Group Company conducts its business in accordance with all applicable legal and administrative requirements, the Annual Budget, the Business Plan, good business practice and in the ordinary course so as to seek to maintain its business as a going concern;
  - 6.1.3 ensure that it files all statutory returns of the Company and any EFE Group Companies on a timely basis;
  - 6.1.4 take out and maintain insurances appropriate to the Business and, on request, to supply the Council with a schedule of such insurances;
  - 6.1.5 if so requested by the Council acting reasonably, enforce, or procure to be enforced, to their full extent all rights and remedies available to the Company under this Agreement and the Articles;
  - 6.1.6 if so requested by the Council acting reasonably, enforce, or procure to be enforced, to their full extent, the obligations of Directors and senior executives (if any) of the Company and any EFE Group Companies under their service or employment agreements (if any);
  - 6.1.7 subject to clause 6.2, ensure that, save with the prior written consent of the Council, it shall not carry out any of the Reserved Matters;
  - 6.1.8 as soon as reasonably possible after becoming aware of the same, notify the Council in writing of any litigation by or against the Company or any EFE Group Company which materially affects or is reasonably likely to materially affect the Business or any dispute or other circumstances which may give rise to any such litigation;
  - 6.1.9 adopt, implement and review annually policies (which policies will have regard to the equivalent policies of the Council in force from time to time) regarding:
    - 6.1.9.1 risk management and maintenance of a risk register;
    - 6.1.9.2 whistle blowing;

- 6.1.9.3 bribery, anti-corruption, fraud and irregularity;
  - 6.1.9.4 formal recruitment and selection;
  - 6.1.9.5 health and safety;
  - 6.1.9.6 equalities;
  - 6.1.9.7 living wage; and
  - 6.1.9.8 such other matters as may be reasonably required by the Council from time to time;
  - 6.1.10 follow and comply with the Council's procedures and rules in respect of the procurement of goods, services and works as in force from time to time;
  - 6.1.11 maintain a Schedule of Notifiable Interests for the Directors in the form set out in Part 2 of the Schedule; and
  - 6.1.12 comply with all applicable laws.
- 6.2 The Company shall procure that no EFE Group Company shall carry out any of the Reserved Matters, with each reference in Part 1 of the Schedule (express or implied) to the Company being construed as a reference to each EFE Group Company, and each such reference to the Business being construed as a reference to the business of the relevant EFE Group Company.
- 6.3 Where consent to a Reserved Matter is required under clause 6.1.7 or 6.2 and the Company reasonably considers that waiting for the next meeting of Council or relevant Council committee or the Project Board before any decision concerning consent can be given would result in a material adverse effect on the trading of the Company (or any EFE Group Company), it shall, by giving notice in writing to the Council, invoke an accelerated procedure for the consent process, whereby:
- 6.3.1 approval or rejection of any Reserved Matter may be given by the Council following consultation on the Reserved Matter with the Council's appointed Senior Manager, the Chief Executive or Executive Director of Resources of the Council, on behalf of the Council; and
  - 6.3.2 if such approval or rejection is not given or withheld within five Business Days of receipt of the Acceleration Notice or any accompanying documentation that the Council may reasonably require, the request for consent will be automatically be deemed to be withheld.
- 6.4 If, for the purposes of promoting and developing the Business, the Company considers that it requires to procure goods, services and/or works above a threshold of £[500,000] in respect of goods and services, and works, it shall seek the approval of the Council (or relevant Council committee, or the Project Board, as the Council shall direct). The Company shall supply to the



Council such information as the Council shall reasonably require in order to consider whether to grant approval, which shall include a detailed business case relating to the proposed procurement.

- 6.5 If the Council approves a procurement in terms of clause 6.4, the Company shall proceed with that procurement in accordance with the Council's procurement procedures and rules as in force from time to time.

## **7 Confidentiality**

- 7.1 Each Party undertakes:

7.1.1 to treat and keep the Confidential Information as secret and confidential and not, without the prior written consent of the other Party, which may be given on such terms as they consider appropriate, directly or indirectly communicate or disclose, or allow to be communicated or disclosed (whether in writing or orally or in any other manner), such Confidential Information to any other person other than to its officers, employees, professional advisers and agents who need to know it strictly for the purposes of considering, evaluating or performing this Agreement; and

7.1.2 not to use the Confidential Information for any purpose other than solely in connection with the performance of this Agreement (including conducting the Business in the ordinary course) and in particular not to use the Confidential Information for any competitive or commercial purpose.

- 7.2 Each Party shall ensure that each of its officers, employees, professional advisers, auditors and agents to whom the Confidential Information is to be made available are made fully aware of the confidentiality obligations set out in this Agreement and each such Party shall procure that such persons will observe the terms of this clause.

- 7.3 Each Party shall keep the Confidential Information safe and secure and shall take the same care to protect and secure the Confidential Information of the other Party as the receiving Party takes with information of its own of similar significance, but on no account less than reasonable care.

- 7.4 Each Party shall take all reasonable and appropriate steps to enforce any duty of confidence owed to it by any person to whom any Confidential Information is made available insofar as such enforcement appears to be necessary for the protection of the confidentiality of the Confidential Information.

- 7.5 The provisions of clause 7.1 shall not apply to Confidential Information to the extent that such Confidential Information:

7.5.1 was lawfully known to the recipient (without obligation to keep the same confidential) at the date of its disclosure;

- 7.5.2 is required to be disclosed by the laws of any relevant jurisdiction, or any governmental or regulatory organisation including, without limitation, the provisions of the Local Government (Access to Information) Act 1985, the Environmental Information (Scotland) Regulations 2004 and the Freedom of Information (Scotland) Act 2002 and other obligations, guidance and provisions concerning access to information by which the Council and/or the Company are bound, but only to the extent and for the purpose of such a disclosure, in which event the recipient shall to the extent it is reasonably able to do so, take all reasonable steps to consult and take into account the reasonable requirements of the other Party in relation to, and prior to, such disclosure;
- 7.5.3 is required to be disclosed in order to complete tax returns or to obtain any relevant tax clearances, but only to the extent and for the purpose of such a disclosure, in which event the recipient shall to the extent it is reasonably able to do so, take all reasonable steps to consult and take into account the reasonable requirements of the other Party in relation to, and prior to, such disclosure; or
- 7.5.4 is in or has come into the public domain otherwise than by reason of the recipient's fault, neglect or breach of the restrictions set out in this Agreement or any other agreement.
- 7.6 Notwithstanding the terms of clause 7.1 but subject to any other restrictions determined pursuant to this clause 7.6:
- 7.6.1 the Observer shall be at liberty from time to time to disclose Confidential Information relating to the Company and any EFE Group Company to the Leader of the Council, to the Chief Executive of the Council, to the Convenor of any committee of the Council which, having regard to its remit, can reasonably be considered to have an interest in such information on matters, or to the Project Board;
- 7.6.2 in relation to information or documentation to be provided to the Council or any official and/or member of the Council:
- 7.6.2.1 if any information or documentation may be reasonably considered to be Commercially Sensitive the following shall apply:
- 7.6.2.1.1 the Chair and/or the Chief Executive of the Company shall (if any) as soon as reasonably practicable (and in any case within 5 Business Days of becoming aware that the information or documentation may be reasonably considered to be Commercially Sensitive) consult with the Chief Executive of the Council to agree whether such information is Commercially Sensitive (pending such consultation the Company shall be

entitled to withhold or restrict access to such information or documentation);

7.6.2.1.2 if, following the consultation in clause 7.6.2.1.1, the Chair and/or the Chief Executive of the Company (if any) and the Chief Executive of the Council resolve that such information is Commercially Sensitive, they shall consider whether it is appropriate to restrict access to such information or documentation; and

7.6.2.1.3 if, following the consideration in clause 7.6.2.1.2, the Chair and/or the Chief Executive of the Company (if any) and the Chief Executive of the Council resolve that it is appropriate to restrict such access, they shall agree appropriate conditions to the supply of such Commercially Sensitive information to the Council and/or transmission of such Commercially Sensitive information within the Council (which may include closed room access to the Commercially Sensitive information at the Council's premises and/or the giving of confidentiality undertakings) (the "**Access Conditions**"); and

7.6.2.2 the Parties shall implement the Access Conditions in respect of the supply of such Commercially Sensitive information to the Council and/or transmission of such Commercially Sensitive information within the Council; and

7.6.3 without prejudice to the provisions of clause 7.6.2, the Company and the Council shall use reasonable endeavours to agree a set of protocols to set out the processes by which it shall be determined that information or documentation is Commercially Sensitive, how such consultation between the Company and the Council shall be conducted and how resolutions of the consultations will be implemented.

## **8 Disputes**

8.1 If there is any dispute between the Parties in relation to this Agreement or any provision of it, the Parties shall first seek to resolve that dispute by discussion at officer level within the Council and at External Director level within the Company.

8.2 If the dispute cannot be resolved as set out in clause 8.1 within 20 Business Days, then it shall be escalated to the Chief Executive of the Council and the Chair and one External Director of the Company, who shall seek to resolve that dispute by discussion.

## **9 Breach/Termination**

- 9.1 If either Party commits a material breach of any provision of this Agreement, the other Party may notify the Party in breach in writing and either require the breach to be remedied within a period of 15 Business Days from the date of such notice, or require that a credible plan be presented within that 15 Business Day period setting out a timescale for remedying the breach.
- 9.2 If a breach of this Agreement notified in terms of clause 9.1 is not remedied within the time period specified in that clause or if a credible plan for remedying the breach is not presented within that time period or if that plan is not implemented within the timescale specified in it, then the Party not in breach may terminate this Agreement by giving not less than 20 Business Days' notice in writing to the other Party.
- 9.3 Any termination of this Agreement is entirely without prejudice to the Council's rights as a shareholder in the Company.

## **10 Review of Agreement**

- 10.1 The Parties shall meet in good faith to discuss and review the operation of this Agreement every three years, the first such review to take place not later than December 2018. The Parties may agree to carry out an interim review of the operation of this Agreement at any time after December 2016. Any such review shall be without prejudice to the three-yearly timetable for scheduled reviews, unless the Parties agree otherwise.
- 10.2 Following any review in terms of clause 10.1, the Parties shall make such amendments to this Agreement as they consider appropriate in light of the review and shall document these either in a variation to this Agreement or in a replacement agreement.

## **11 Assignment**

Neither Party shall be entitled to assign or otherwise transfer the benefit or burden of this Agreement nor all or any of its rights or obligations under it without the prior written consent of the other Party.

## **12 Waiver**

- 12.1 Any waiver of any breach of, or default under, this Agreement shall only be effective if made in writing and shall not be deemed to be a waiver of any subsequent breach or default of this Agreement.
- 12.2 Any failure or delay on the part of either Party to exercise any right or remedy conferred under this Agreement or otherwise shall not in any circumstance operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude or restrict the further exercise of any such right or remedy.

### **13 Notices**

13.1 Subject to any specific provisions elsewhere in this Agreement, any notice, demand or communication in connection with this Agreement shall be in writing and (i) delivered personally or (ii) sent by pre-paid first class post to the recipient's address as set out at the beginning of this Agreement or (iii) sent by email to [address] in the case of the Council, or to [address] in the case of the Company, or to any other address, or email address, which the recipient has notified in writing to the sender not less than 7 Business Days before the notice is despatched.

13.2 The notice, demand or communication is deemed given:

13.2.1 if delivered personally, at the time of delivery to the address provided for in this Agreement;

13.2.2 if sent by pre-paid first class post, on the second Business Day after posting it, or

13.2.3 if sent by email, upon receipt by the sender of a read receipt,

provided that, if it is delivered personally or sent by email on a day which is not a Business Day or after 4pm on any Business Day, it shall instead be deemed to have been given or made on the next Business Day, and further provided that no notice under clause 9 may be given by email.

### **14 Conflict with the Articles**

Where any provisions of the Articles conflict with any provisions of this Agreement, the provisions of this Agreement shall prevail.

### **15 Unlawful fetter on the Company's statutory powers**

15.1 Notwithstanding any other provision contained in this Agreement the Company shall not be bound by any provision of this Agreement to the extent that it would constitute an unlawful fetter on any statutory power of the Company.

15.2 Nothing in this Agreement shall be construed to be a resolution of all the members of the Company in the absence of a properly passed resolution in accordance with the Articles.

### **16 Exercise of powers**

16.1 Words denoting an obligation on a Party to do any act, matter or thing include, except as otherwise specified, an obligation to use all reasonable endeavours to procure that it be done and words placing a Party under a restriction include an obligation not to permit or allow, so far as the same is possible, infringement of that restriction.

16.2 Nothing in this Agreement will prejudice the statutory rights that the Council has as a shareholder in the Company.

**17 General**

- 17.1 The Parties do not intend that any of the terms of this Agreement shall be enforceable as a third party right by any person not a party to this Agreement.
- 17.2 Unless otherwise agreed in writing, each Party shall pay its own costs and expenses in connection with the negotiation, preparation or execution of this Agreement.
- 17.3 Nothing contained in this Agreement, and no action taken by the Parties pursuant to this Agreement, is intended or shall be deemed to constitute a relationship between the Parties of partnership, principal and agent or employer and employee. No Party has, nor may it represent that it has, any authority to act or make any commitments on behalf of the other Party, or otherwise bind the other Party in any way.
- 17.4 If any clause or part of this Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Agreement and shall be ineffective without, as far as is possible, modifying any other clause or part of this Agreement and this shall not affect any of the other provisions of this Agreement which shall remain in full force and effect.
- 17.5 Save as otherwise set out in this Agreement, no announcement, circular, advertisement or other publicity in connection with this Agreement or its subject matter shall be made or issued by or on behalf of either Party (save as required by law or any other governmental or regulatory organisation) without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).
- 17.6 This Agreement may only be varied by an agreement in writing signed by or on behalf of each Party to this Agreement.
- 17.7 Each Party shall do, or procure the doing of, at its own cost, all such further acts and things and execute, or procure the execution of, all such further documents as any other party reasonably considers necessary to give full effect to the terms of this Agreement.
- 17.8 This Agreement constitutes the entire agreement between the Parties and supersedes and replaces any previous agreement, understanding, undertaking or arrangement of any nature between the Parties relating to the subject matter of this Agreement, save that nothing in this Agreement shall limit or exclude any liability for fraud.
- 17.9 For the avoidance of doubt, nothing herein contained or implied or done in terms of this Agreement shall prejudice or affect the powers, rights, duties and obligations of the Council or its statutory successors as local authority, planning authority, building control authority, roads authority or similar such authority under or by virtue of any public or local Act, order, statutory instrument, regulation or byelaw or relieve the Company or any EFE Group Company of the necessity of obtaining from the Council or its statutory successors in said capacity all consents, permissions,

warrants or approvals as may be requisite under or by virtue of any such public or local Act or others;

- 17.10 In the event that the Council receives a request under the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004 which relates to the Business it shall notify the Company of that request as soon as reasonably practicable and shall consider and take account of any representations made by the Company in respect of the disclosure of information so requested prior to making a decision on whether to disclose the information. The Council shall not be bound by any representations made by the Company and shall have full discretion to disclose information.

**18 Governing Law and Jurisdiction**

- 18.1 The formation, existence, construction, performance, validity and all aspects whatsoever of this Agreement or any term of it (including non-contractual disputes or claims) shall be governed by the law of Scotland.

18.2 The courts of Scotland shall have exclusive jurisdiction to settle any disputes (including non-contractual disputes or claims), which may arise out of or in connection with this Agreement. The parties irrevocably agree to submit to that jurisdiction.

**IN WITNESS WHEREOF** these presents consisting of this agreement and the Schedule consisting of four parts have been subscribed as follows:

For and on behalf of )  
**ENERGY FOR EDINBURGH LIMITED** acting )  
by: )  
at ..... ) .....  
on ..... ) Director

before the following witness: .....  
..... Witness  
(Signature)  
.....  
(Full Name)  
.....  
(Address)  
.....

For and on behalf of )  
**CITY OF EDINBURGH COUNCIL** acting by: )  
at ..... )  
on ..... ) .....  
Proper Officer

before the following witness: .....  
..... Witness  
(Signature)  
.....  
(Full Name)  
.....  
(Address)



**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING SHAREHOLDER AGREEMENT  
BETWEEN THE CITY OF EDINBURGH COUNCIL AND ENERGY FOR EDINBURGH LIMITED**

**SCHEDULE**

**PART 1 - RESERVED MATTERS**

The following are the Reserved Matters referred to in clause 6.1.7 and 6.2:

**The Business**

- 1 do anything which shall or is likely to bring the name of the Company or the Council into disrepute.

**Property**

- 2 purchase, sell, lease or otherwise deal in heritable property;

**Finance**

- 3 make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity other than to any EFE Group Company and only then on the condition that any such loan or credit becomes immediately and automatically repayable on that EFE Group Company ceasing to be an EFE Group Company;
- 4 borrow any money or other funds other than an overdraft facility in the normal course of business and not exceeding £[ ];
- 5 grant any Encumbrance over any property, right, interest or asset of the Company;
- 6 factor or assign any of the book debts of the Company;

**Corporate**

- 7 create, allot, issue, grant or agree to grant any option over, acquire, repay or redeem any class of share or loan capital or vary, or agree to vary, the rights of any class of share or loan capital or issue any security convertible into shares or loan capital of the Company;
- 8 permit the registration of any person as a member of the Company;
- 9 pass any resolution to wind up the Company (whether solvent or otherwise), the taking of any corporate action, legal proceedings or other procedure or step in relation to the dissolution of the Company, the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or similar officer in relation to the Company or any of its assets (in each case, whether out of court or otherwise), save where the Board is advised to do so by a licensed insolvency practitioner;
- 10 amalgamate or merge with any other company or undertaking;
- 11 vary or waive in any respect the Articles;
- 12 change the Company's accounting reference date from [31 December] in each year;
- 13 make or permit to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its audited accounts save as may be required to ensure compliance with relevant accounting standards under the Act or any other generally accepted accounting principles in the United Kingdom;

- 14 form or establish any company, undertaking, corporate entity (whether a Subsidiary, a Subsidiary Undertaking or otherwise), partnership or joint venture entity, or participate (whether by way of membership or equity) in any of the foregoing;

**Contracts**

- 15 enter into any transaction or arrangement of any nature whatsoever (including service agreements) with any of the Directors or any person who is connected (within the meaning of Section 839 of the Income and Corporation Taxes Act 1988) to any of the Directors whether or not any other person shall be party to such transaction or arrangement;
- 16 enter into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms, with the exception of entering into any arrangement, contract or transaction with any EFE Group Company on the condition that any such arrangement, contract or transaction is immediately and automatically terminated in the event that the counterparty EFE Group Company ceases to be an EFE Group Company;

**Pensions**

- 17 establish any pension scheme as an alternative to becoming an admitted body within the Local Government Pension Scheme; and
- 18 grant any pension rights to any employee, former employee, or any member of any such person's family.

## PART 2 - SCHEDULE OF NOTIFIABLE INTERESTS

## Clause 6.1.11

<b>Notifiable Interest</b>	<b>Description of Interest</b>
<b>Remunerated Positions</b>	A description of remunerated positions (but not the remuneration itself) by virtue of being:
	<ol style="list-style-type: none"> <li>1) employed or self employed</li> <li>2) the holder of an office</li> <li>3) a director of an undertaking</li> <li>4) a partner in a firm; and</li> <li>5) involved in undertaking a trade, profession, vocation or any other work</li> </ol>
<b>Non-remunerated Positions</b>	A description of such interests as may be significant to, of relevance to or bear upon, the work or operation of the Company, including, membership of or office in:
	<ol style="list-style-type: none"> <li>a. public bodies;</li> <li>b. clubs, societies and organisations;</li> <li>c. trade unions; and</li> <li>d. Voluntary organisations</li> </ol>
<b>Contracts</b>	Disclosure of interests (direct, indirect or proposed) in contracts with the Company at a meeting of the directors in accordance with section 182 of the Companies Act 2006
<b>Houses, land and buildings</b>	A description of any rights of ownership or other interests that may be significant to, of relevance to, or bear upon, the work or operation of the Company
<b>Shares and securities</b>	Disclosure of interest in shares or debentures of the Company
	Disclosure of interest in shares or securities of any company, undertaking or organisation that may be significant to, or relevance to, or bear upon, the work or operation of the Company
<b>Third party gifts/hospitality</b>	Disclosure of third party gifts/hospitality in excess of £100 in value.

[Note: In the table above "Company" includes the Company and any EFE Group Company and other terms shall be construed accordingly.]

**PART 3 - DIRECTOR'S UNDERTAKING****Clause 3.1.1**

To: THE CITY OF EDINBURGH COUNCIL  
Waverley Court  
4 East Market Street  
Edinburgh EH8 8BG;  
and ENERGY FOR EDINBURGH LIMITED  
Waverley Court  
4 East Market Street  
Edinburgh EH8 8BG

[DATE]

Dear Sirs

**Agreement dated [ ] 2015 between The City of Edinburgh Council (the "Council") and Energy for Edinburgh Limited (the "Company") (the "Agreement")**

I confirm that I have been supplied with a copy of the Agreement and the articles of association of the Company (the "**Articles**") and undertake to the Company and the Council that I will, so far as may be permitted by law and for so long as I remain a director of the Company [and its subsidiaries]:

1. be bound by and comply with the terms and conditions of the Agreement and the Articles [(and the relevant articles of the subsidiaries)];
2. comply with the directors' duties which apply as a matter of law;
3. do all within my power as a director to ensure that the Company complies with its obligations under the Agreement and the Articles [(and each subsidiary complies with its articles)];
4. make every reasonable effort to attend (whether in person or by telephone or conference facilities) not less than 75% of all Board Meetings every calendar year; and
5. submit all relevant details to the Company for inclusion in the Company's Schedule of Notifiable Interests.

[In addition, I undertake to the Company that I will attend an induction process and complete any training required by the Company in relation to my role as a Director of the Company [and its subsidiaries] and my fiduciary duties in respect thereof.]

Yours faithfully

Signature .....

Print Full name .....

*[Note: If, at the time of signing this undertaking, the Company has no subsidiaries, the square bracketed references to subsidiaries should be deleted or scored out.]*

# ENERGY FOR EDINBURGH

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## Outline Business Plan

# DRAFT

DRAFT 8 February 2016, version 7

## Table of Contents

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Table of Contents .....	2
Executive Summary.....	3
Introduction .....	4
Governance .....	21
Communications.....	18
Operational Management .....	7
Project Planning .....	11
EFE Role in Delivering Projects.....	13
Project Timescales .....	16
Resourcing Energy for Edinburgh .....	16
Financial Planning.....	20
Risk .....	21
Appendices [To be added] .....	25

## Executive Summary

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[To be finalised once final draft agreed by the Board]



## Introduction

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Energy for Edinburgh (EfE) is to be an arm's length and wholly owned Energy Services Company (ESCO) of the City of Edinburgh Council (CEC). This Business Plan describes why EfE has been set up, highlights what its goals are, and how it plans to achieve these over the next 3 years. It also outlines the structure of the business, how it will be governed and operated, and includes projected financial forecasts, as well as key risks to EfE's success and how these may be mitigated. The Business Plan forms part of a suite of documents (including the Shareholder Agreement, Articles of Association, and Shareholder Group Operating Principles) that provide a framework by which EfE can develop and grow.

### Rationale

The Council has made a number of political pledges to the reduction of greenhouse gases and in particular to reducing carbon emissions across the city. A Sustainable Energy Action Plan (SEAP) has been approved by the Council as a key programme for this agenda with a target of a 42% reduction in carbon emissions by 2020. A number of reports have been submitted to Committee presenting the case for the establishment of an energy services company which could deliver the major SEAP projects. These reports have outlined examples of other local authorities setting up ESCOs and the financial and non financial benefits these have delivered. The Council agreed in September 2014 to investigate the setting up of an ESCO.

### Objectives

EfE will function as a key vehicle to support delivery of the Council's SEAP and has four key objectives drawn from those of the SEAP:

- reduce carbon emissions;
- deliver affordable energy (with a particular focus on alleviating fuel poverty);
- generate income; and
- encourage wider community benefits.

In addition, a further objective is being suggested:

- access and leverage the use of private sector finance where appropriate.

### Added Value and Benefits

While the Council is delivering a number of energy projects, these are usually both service specific and budget constrained. Currently there is no central strategic energy function within the Council that brings projects together to pool expertise, explore synergies or maximise social, environmental and economic benefits. This also misses any opportunities to increase effectiveness of any available resources, avoid duplication and importantly provide a strategic co-ordinating role in terms of reporting on performance. Prospects also of obtaining larger scale funding are reduced when there are numerous smaller and disparate projects. The existence of an ESCO as a single point for all strategic energy initiatives across the Council (and potentially wider across the city) offers a major advantage to the Council in addressing the above issues.

In terms of the current Transformation programme within the Council, the ESCO offers a "different way of doing things with the creation of a company that can focus exclusively on sustainable energy. Potentially EfE can offer a future commercial approach to low carbon initiatives for the Council and wider city.

In addition, other advantages and benefits include:

Area	Benefits
Focus	<ul style="list-style-type: none"> <li>providing greater focus on meeting strategic carbon targets and policy objectives;</li> </ul>
	<ul style="list-style-type: none"> <li>can focus exclusively on energy initiatives with no distractions</li> </ul>
	<ul style="list-style-type: none"> <li>EfE can focus on addressing any gaps in the Council’s ability to deliver the SEAP</li> </ul>
Flexibility	<ul style="list-style-type: none"> <li>can works across service areas with no constraints</li> </ul>
	<ul style="list-style-type: none"> <li>optimising use of Council assets that may have unrealised value or where the Council does not have the resources to maximise the value of these assets</li> </ul>
	<ul style="list-style-type: none"> <li>EfE could undertake projects with a higher risk level than would typically be considered acceptable by CEC, via the use of non-recourse vehicles owned by EfE</li> </ul>
Finance	<ul style="list-style-type: none"> <li>providing a vehicle that could attract private sector finance and commercial expertise that is not available within CEC</li> </ul>
	<ul style="list-style-type: none"> <li>potentially can provide a revenue source</li> </ul>
Partnership	<ul style="list-style-type: none"> <li>can enable different relationships with private sector developers</li> </ul>
	<ul style="list-style-type: none"> <li>can engage a wide range of stakeholders across the city</li> </ul>
	<ul style="list-style-type: none"> <li>can act as a “one stop shop” for community activity in the city and provide support</li> </ul>
Scale	<ul style="list-style-type: none"> <li>able to accelerate the pace of investment in low carbon projects</li> </ul>
	<ul style="list-style-type: none"> <li>able to aggregate smaller projects and create projects at scale</li> </ul>

## Vision and Strategy

EfE’s vision is:

**“Delivering the Council’s energy aspirations, supporting Edinburgh’s citizens and businesses in becoming more sustainable by reducing energy demand and encouraging local energy generation”.**

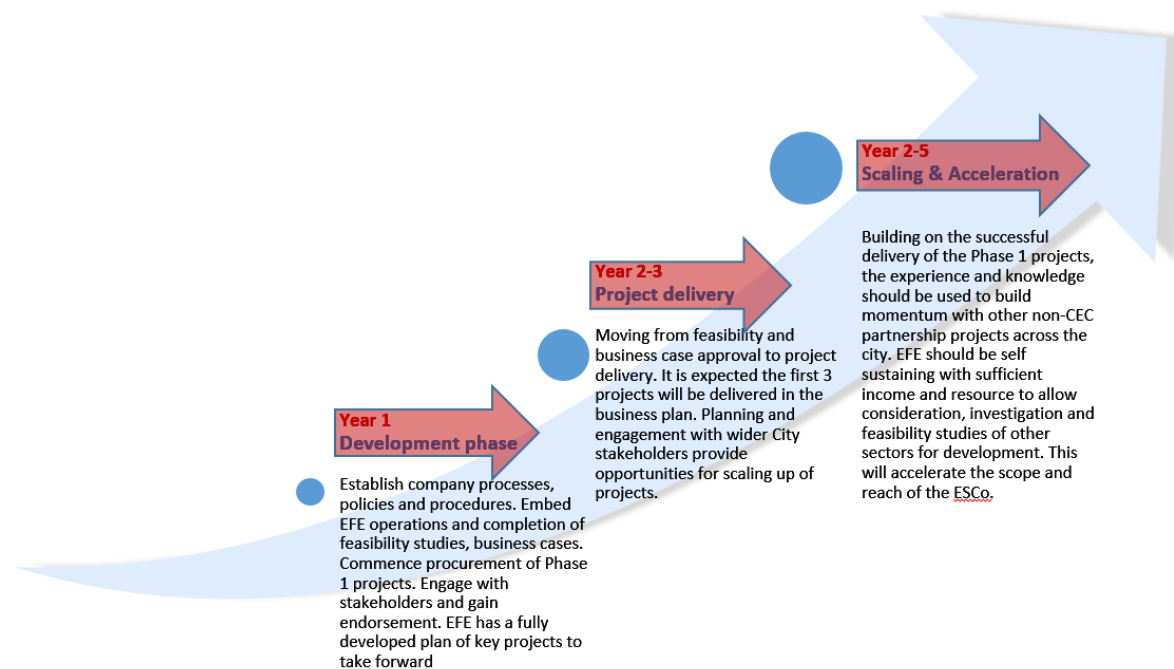
EfE’s strategy will be to identify and take a strategic approach in implementing low carbon energy projects across the city in the following five areas as defined in the SEAP:

- energy efficiency;
- district heating
- renewables;
- resource efficiency; and
- sustainable transport.

An early focus for EfE will be to explore and foster initiatives with public and private sector organisations, community interest companies and other social enterprise bodies in the city which will bring wider benefits, including: economic growth, inward investment and robust renewable energy provision in Edinburgh. A number of initial start up projects will be identified. Income from these projects (potentially in the form of fees, re-charges or investment returns) will be managed and used to promote future expansion and development of further projects. Delivery of individual projects will be managed at an operational level by project managers or teams. These projects may be delivered through a variety of vehicles such as Special Purpose Vehicles (SPVs), partnership Joint Ventures (JVs), Council departments, or simple concession arrangements with private sector suppliers.

Figure 1 illustrates the strategic aims of EfE and what it hopes to achieve and develop over the period of the business plan and beyond. A key element to the success of EfE is developing a ‘foundation of skills, experience and expertise’ in delivering specific low carbon projects in the first 1-2 years of the Business Plan. These can then form a platform from which wider partnership projects with partners, communities and businesses across the city can be progressed in

subsequent years. This will enable CEC to work towards delivering the reduced city wide carbon emissions, above and beyond what could be achieved by CEC working on its own internal projects.



**Figure 1: Strategic Approach of Energy for Edinburgh**

To assist delivery of the strategy, EFe will have a Board focusing on the direction of the business, with responsibility for overall governance, reporting, monitoring and performance of the ESCo. An internal Council Shareholder Group (comprising senior management) will oversee CEC’s shareholder interests in the company. This is discussed in more detail below.

## Operational Management

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Having flexibility to operate at two levels – namely strategic and project, will allow EfE to pursue a number of opportunities in parallel whilst maintaining governance over the development of multiple projects and coordinating any pipeline of projects.

### Strategic Operations

The Board members of EfE will represent a high level and strategic entity, focusing on the strategic direction of the ESCo. Its key activities will include the following;

- engage with partners;
- review project opportunities and approve feasibility studies;
- establish robust criteria for assessing projects;
- review business cases for each investment and recommend the most appropriate delivery model (eg sole finance, JV, concession arrangement etc);
- recommend the most appropriate means of finance and borrowing for projects;
- approve management arrangements for approved projects including appraisals;
- optimise revenue returns by controlling the mix and timing of project investments and balance the risks and rates of return of underlying projects; and

**Crucially for CEC projects, the Board will need to identify how EfE will add value to the project's development over and above what could be achieved internally by CEC.**

Notwithstanding Council projects, the Articles of Association allow EfE to engage in any activity that develops energy services provided these are meeting the Company's objectives. Consequently there may be options for EfE to pursue projects outwith the Council's remit for example engaging with other partners in terms of other strategic projects. This may offer the potential for wider commercial activities.

### Implementing Projects

The ESCo will not undertake the day to day delivery of projects as these will be delivered by individual project teams and partners. It is anticipated that as part of any Business Case development, project management resource will be approved. These Project Managers would be responsible for the day to day operations of the projects which could be through a variety of potential delivery vehicles such as SPVs, partnership JVs, Council departments, or individual project teams. Utilising appropriate management tools will assist in ensuring appropriate governance and controls are applied. To achieve successful delivery of individual projects, project teams will be responsible (inter alia) for;

- development of full procurement packages (contracts, services, technical specifications);
- supervision of contractors' works during any construction and installation phase;
- reporting on project progress against the original business case to the EfE Board;
- ongoing monitoring of the projects against the original business case;
- ensuring projects are within budgets (including monitoring variances against budget).

### Strategic Partners

In terms of delivering projects a further option for EfE is to engage with appropriate strategic delivery partners who would exclusively implement projects on behalf of the ESCo. Currently "Our Power" is a new Scotland wide ESCo fully licensed to supply energy and will also evaluate other projects such as renewables and district heating. Set up as a mutual co-operative this new company could provide a partnership arrangement with EfE by focusing on Edinburgh specific projects where the objectives of both Our Power and EfE are similar in reducing fuel poverty and providing more affordable energy to consumers. A partnering arrangement could be explored further. Similarly however other utilities such as SSE or Scottish Power could offer other opportunities for partnering and there may be other companies which could offer similar services. It is likely however that EfE would have to tender for any such strategic partnering arrangements.

### Measuring success

Longer term success of EfE will be measured both qualitatively and quantitatively, through KPIs identified and agreed between EfE and CEC's Shareholder Group. It may be that only two or three KPIs are agreed initially, with further indicators introduced as EfE develops. This will need to be undertaken shortly after EfE is incorporated and initial projects

begin to progress and a better understanding of critical factors impacting them is obtained. There are certain reporting requirements detailed in the Shareholder Agreement under Clause 5 – ‘Business Plan, accounts, financial and other information’ that may need to be modified or waived for the first year of the Business Plan, while EFE becomes established and reporting processes are established. Proposed clauses to be amended or waived during the first year of operation are provided in the Appendices. [The Shareholder Group would need to confirm which clauses may be relaxed initially over the short term].

Operational information and financial results will feed into improving ongoing ESCo activities and improving development of future projects. Feedback from service users, the community and other stakeholders could be useful in supporting the development of these KPIs.

For the purposes of this first Business Plan a number of KPIs will be developed (with agreement between the Shareholder Group and EfE Board) for monitoring performance. A key focus for the Shareholder Group will be on what is going well, what is not being achieved, the reasons for both, and accordingly identifying and implementing changes to ensure the business plan is met.

## Initial Operational Plan

The following chart details some of the key operational activities and milestones for EfE during the first 12 months of operation with associated interdependencies. The activities are not exhaustive, and a fully detailed operational plan will need to be created once the Board and key staff members have been recruited. **[The timescales suggested in this plan may be subject to change and will need to be finalised upon final agreement of the Business Plan]**

Energy for Edinburgh key operational activities														
ID	Activity	Start	Finish	Q2 16			Q3 16			Q4 16			Q1 17	
				A	M	J	J	A	S	O	N	D	J	F
1	<b>Establishment of the Operational ESCO</b>													
2	Energy for Edinburgh incorporated	01/05/2016	01/05/2016											
3	External recruitment for EfE staff	01/04/2016	30/06/2016											
4	Internal and external networking with CEC service areas and external stakeholders	01/07/2016	31/12/2016											
5	Continue with feasibility studies for potential projects	01/04/2016	01/07/2016											
6	Continue development of business cases for key initial projects	01/04/2015	30/09/2016											
7	Appointment of external board directors	01/04/2016	30/06/2016											
8	Document, adopt, and implement key policies	01/04/2016	31/08/2016											
9	Establish monitoring and reporting processes, including key KPIs	01/06/2016	31/07/2016											
10	Secure internal staff resource	01/04/2016	30/06/2016											
11	Transfer project management of current projects being developed by CEC staff	01/06/2016	31/07/2016											
12	Energy for Edinburgh fully operational	01/07/2016	01/07/2016											
13	First internal Project Board Meeting	01/07/2016	01/07/2016											
14	Launch and publicise Energy for Edinburgh	01/06/2016	30/09/2016											
15	Establish bank accounts, HMRC registrations, branding literature, website	01/04/2016	30/06/2016											
16	Initiate and undertake project feasibility studies for key opportunities	01/07/2016	31/10/2016											

17	Begin development of Business cases and establish evaluation methodology	01/07/2016	31/12/2016			
18	Monthly financial and operational reporting	01/07/2016	02/04/2019			
19	Project and EfE Board meeting	15/07/2016	15/07/2016			
20	Commence engagement and communication plan	01/06/2016	28/02/2017			
21	Update business plan	10/01/2017	10/01/2017			

## Project Planning

The following plan summarises potential projects which EfE may deliver in the future, split between those which are currently being explored; those which are in early stage development with feasibility studies either being undertaken or to be progressed shortly; and those that are more speculative and require further exploration.

Status	Project	EfE role and value addition	Delivery timescale	Implementation speed	CO2 Impact	Achievability	Meeting Objectives	Overall	Capital value	Estimated net EfE income (£)
Active	District Heating at Fountainbridge	Provide expertise, external partnering	Slow	Slow	Medium	Reasonable	High	Medium	5.0	150,000
	Solar farms and Canopies at Edinburgh Park & Ride	Accelerate investment, external partnering and finance	Fast	Fast	Medium	Easy	Medium	High	1.0	35,000
	District Heating at Edinburgh Bioquarter	Provide expertise, co-ordinate partners, external financing	Slow	Slow	High	Difficult	High	Medium	15.0	TBC
Development	NDEE Retrofit, Phase 1 (primary schools, Council buildings, NHS)	Accelerate investment, provide expertise, external financing	Fast	Fast	Medium	Reasonable	High	High	1.4	49,000
	Our Power' affordable energy partnership	Provide partnering and accelerate investment	Fast	Fast	Low	Easy	High	High	0.1	TBC
	NDEE Retrofit, Phase 2 (further Council buildings, NHS)	Accelerate investment, source external partners, scaling	Medium	Fast	Medium	Easy	High	High	2.0	-
Exploratory Phase	District Heating at West of Edinburgh	Provide expertise, external partnering and financing	Slow	Slow	High	Difficult	Medium	Low	15.0	TBC
	NDEE Retrofit, Phase 3 (include private sector partnerships)	Accelerate investment, source external partners, scale	Medium	Fast	Medium	Easy	High	High	3.0	TBC
	Development Community Solar Power Co-operative	Provide expertise, partnering, external financing	Fast	Fast	Low	Reasonable	High	Medium	1.0	TBC
	Streetlight LED replacement programme	Provide expertise, support and co-ordination	Fast	Fast	High	Easy	High	High	TBC	TBC
	Stairlight replacement programme	Provide expertise, support and co-ordination	Fast	Fast	High	Easy	High	High	TBC	TBC
	Use of solar farms on unused CEC land	Accelerate investment, source external partners, scale	Fast	Medium	Medium	Reasonable	High	Medium	TBC	TBC
	Electric vehicle charging	Provide expertise, co-ordinate with other projects, external financing	Medium	Medium	Low	Difficult	Medium	Medium	TBC	TBC
	Domestic building energy retrofit programme	Partnering and community engagement	Slow	Slow	Medium	Difficult	High	Medium	TBC	TBC

Key – Fast, Medium, or Slow – reflects the relative speed of being able to implement (ie start a project) and the timescale required for construction and deliver an operational project.



## Project Development

To provide focus for EfE over the next 3 years, it is proposed that efforts are concentrated on three principal workstream areas namely; District Heating, Energy Efficiency, and Renewable Photovoltaics ('PV's). All three areas currently have projects either being actively evaluated or at the point of undertaking feasibility studies. In terms of development, they provide a balanced mix of;

- generating income (eg via management fees) in the short term for EfE to partially offset its operating costs;
- making contributions to all of EfE's objectives.
- providing opportunities to expand their scope across Edinburgh, particularly for developing partnerships with the private & voluntary sectors;
- supporting the ESCo's aim of delivering large scale projects under the SEAP; and
- allowing EfE to have a large degree of control over the development of the projects and achieve 'quick' wins.

The following table illustrates a delivery plan for each of the three areas, where projects are delivered over phased periods. This requires that EfE has 3 projects to develop in this first business plan, but provides flexibility to expand and / or accelerate delivery of future projects depending on the successful operation of the ESCo.

	Phase 1	Phase 2	Phase 3
	1-3 years	2-3 years	3-5 years
<b>Non Domestic Energy &amp; Efficiency</b>	Extend current retrofit programme for nondomestic buildings further across the city, focussing on primary schools and other CEC ancillary buildings. Potential to work with other public sector during this phase such as NHS Lothian.	Further develop the retrofit programme by building partnerships with the wider Edinburgh community, particularly focussing on the private and third sectors where partners during phase 1 have not been involved.	Undertake continued extension of the retrofit programme by growing other partnerships in Edinburgh, building on other private and third sectors where partners during phase 1 and 2 have not been involved.
<b>District Heating</b>	Look to evaluate current heat networks and projects. For example there is a proposed district heating scheme at Fountainbridge. This is a mixed use development in the city centre. A feasibility study has been completed and found that a 10MW scheme could provide carbon savings of 4,700 tonnes carbon per annum. Discussions with EDI as to the proposed options for a Council ESCo.	Take forward the potential district heating scheme at the Bioquarter working with partners with the aim of a scheme up and running by 2020. The feasibility study identifies the opportunity for a DH network, using a gas fired DH system and suggests the carbon savings over the lifetime of the preferred scheme are 144,515 tonnes CO2 – an annual average of 5,780 tonnes per annum.	Development of a heat network south of the tram line running East to West across the International Business Gateway ('IBG'). The IBG site covers 6m sq ft of property where heat can be generated and used, but the ambition, costs and benefits need to be laid out before a business case can be fully developed. This has the potential to connect 4,000 homes, commercial units, as well as other large infrastructure adjacent to the IBG including Gogarburn.
<b>Solar PV</b>	Explore the potential for large scale application of solar photovoltaic (PV) technologies. This will look at the potential for canopies over parking spaces, principally at CEC 'park and ride' sites. There is an opportunity to close the loop for electric vehicle charging, powered locally via pv. If successful, the scheme could be extended to all the 'park and ride' sites across the city. The possibility of developing PV arrays at unused redundant land across the city will also be looked at in parallel.	The Council will lead a review into the potential for solar farms on unused Council land or former landfill sites. Again, this could provide a number of investable assets for the council if packaged and promoted to investors.	Development of new Community Co-operatives for example Edinburgh Solar Co-operative. This co-operative is member owned through share issues and there is potential for the ESCo to replicate this type of special purpose vehicle for other projects.

The projects have also been chosen because they are capable of attracting external private sector financing and therefore are not reliant on funding support from CEC. Also, the project areas allow potential partnerships with other organisations to be developed.

## EFE Role in Delivering Projects

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For each of the main project areas detailed above, a summary of the initial phase 1 project is provided below, together with potential options for the ESCO's involvement, and why project development is preferable through use of Efe as opposed to internally through CEC service areas.

### Solar PV

The initial project will focus on large scale application of solar photovoltaic (PV) canopies over parking spaces at park and ride sites across the city, as well as developing solar farms on unused Council land or former landfill sites. The aim is to maximise value from CEC owned assets and generate income and green electricity for CEC.

#### Options for ESCO involvement

Option 1 – The ESCO could consider providing leases to potential PV developers for utilising CEC owned land to install PV arrays and for the developer to retain any income from electricity sales or feed-in-tariffs. The ESCO could ascertain what an appropriate lease value for a site could be, negotiate and manage any lease agreements with the developer, and identify future development sites. The ESCO could receive up front project management fees and ongoing administration fees during the tenure of the lease.

Option 2 – The ESCO procures a developer to supply and install PV arrays who receives any associated incentives (eg FIT income) to recoup installation costs. The ESCO receives income for the renewable electricity from an electricity supplier such as 'Our Power', potentially through a long term power purchase agreement.

Option 3 – The ESCO is able to source its own finance via CEC (or potentially in partnership arrangements with other bodies such as Edinburgh University amongst others) who provide capital to finance the PV arrays. Returns from electricity income and Feed in tariffs are used to repay capital provided by these partners. A potential variant could be for the Council just to provide the assets for the PV array.

A feasibility study is being undertaken which will allow the above options to be fully appraised within a business case and hence ascertain which approach would be best for Efe to adopt.

#### Benefits to the Council and City

A key benefit to the Council is being able to maximise value from CEC sites that currently have little scope for future development. Using these sites allows new income streams, green energy creation and reduced carbon emissions to be achieved. Electricity generated from these arrays could be sold to 'Our Power' a recently established community benefit society that is a licensed energy supplier (and can purchase renewable sources of electricity). This power can then be subsequently sold (at a discount to 'Big 6' prices) directly to low income families across Edinburgh, providing direct support in alleviating fuel poverty. This would provide a mechanism of being able to distribute green electricity generated at remote sites across the city to specific groups (eg low income families, council buildings) and would be an exemplar of generating green energy in Edinburgh but using locally.

#### Reasons for Efe delivering this project compared to CEC.

CEC have identified assets of unused land and park and ride sites that could adopt PV technologies. However, over the last 1-2 years there has been a lack of resource and appropriate skill set to take this type of project forward. Strategically, future partnerships with entities such as Our Power, Universities, NHS, and the private sector are possible and are envisaged to deliver PV schemes on unused land outside of CEC's estate. Efe can use its expertise to assist developing and managing these projects, potentially sharing in the output of green electricity, or providing a commercial income stream - this could not be achieved internally by CEC. Efe will allow these types of PV projects to be scaled significantly across the city and across different sectors with different organisations.

### District Heating

There are a number of potential District Heating opportunities including the extension of existing schemes on the city. One example is Fountainbridge. This is a mixed use development in the city centre. A feasibility study has been completed and

found that a 10MW scheme utilising gas CHP (combined heat and power) generation and ground source heat pumps that could provide carbon savings of 4,700 tonnes carbon per annum.

### **Options for ESCO involvement**

There are three main activities associated with developing a district heating scheme

- design, finance and build the generation and transmission assets of the scheme;
- operate and maintain both the energy centre and pipe network; and
- provide metering and billing services to customers.

Discussion on which option does depends on the specific project. For example, EDI have selected a developer for the site who will be able to finance and build the district heating network and energy centre. However, there could be further discussions on operation and metering of the scheme. A natural partner would be for EfE to take responsibility for the operations (including metering and billing) of the scheme as a minimum.

Whether the ESCo could participate in all or some of these activities will depend on risk. From a risk perspective, it is likely that EfE may only want to take over the operational control of the heating scheme once it has been developed, but may well have to compete for this contract. EfE could earn income through various means for instance, margins on heat / electricity sales, margins on operating and maintenance costs amongst others. Again, the options available to the EfE need to be fully appraised within a business case and hence ascertain what approach provides an appropriate balance of risk and reward to EfE.

### **Benefits to the Council and City**

CEC resource will not be required to undertake such a project, but the Council will receive the benefit of providing low cost heat to scheme participants (both residents and commercial) and reduced carbon emission reductions compared to the use of heat generated via natural gas boilers. Further, partnering with organisations (such as Our Power) may allow electricity generated at the site to be supplied (at a discount) to the development or potentially elsewhere in the city to low income families in fuel poverty. A key benefit to the Council is being able to develop an area of DH expertise that can be accessed by the Council, particularly as this does not currently exist within any CEC service area. Strategically the knowledge and experience obtained by working with developers on this project can be expanded and used on other DH schemes to be developed across the city such as the Edinburgh Bioquarter and the West of Edinburgh. This will not only support the schemes being delivered in a cost effective manner, but accelerate the pace at which they are undertaken.

### **Reasons for EfE delivering this project compared to CEC.**

District Heating schemes are a relatively new area of infrastructure being developed in Scotland, and are recognised as being relatively complex projects to undertake, with potentially high levels of risk associated with heat offtake arrangements. Undertaking projects within a limited company allows potential risks to be limited in their impact on CEC, should difficulties be encountered. However, an ESCO also provides an avenue for CEC to develop a commercial opportunities to sell heat to the private sector (as has been done by Aberdeen Heat and Power), generating new sources of income to EfE and CEC. The Council currently does not have the ability to do this easily.

A district heating project such as Fountainbridge would be the first key project undertaken forming part of a city wide DH strategy that CEC is looking to progress, and within the SEAP, an ESCo is stated as the key vehicle for delivering this strategy for several reasons: Development of DH schemes requires a significant level of collaboration and engagement across various internal service areas (eg education and social housing), as well as with other external organisations such as the NHS or universities, all being potential suppliers and offtakers of heat. Notably, other organisations, particularly the University of Edinburgh, are developing several DH schemes (largely in isolation within their campuses), that could provide additional city wide benefits if the Council can move sufficiently quickly to co-ordinate and involve the University work as part of CEC's wider city strategy for delivering district heat. There is no area within CEC that could undertake this activity effectively.

## **Non Domestic Energy**

EfE could potentially extend the current retrofit programme for non-domestic buildings further across the city. EfE will look for potential opportunities to work with other public sector organisations during this phase and if possible private sector partners who are the largest employers in the City.

### **Options for ESCO involvement**

An initial Phase 1 NDEE project utilising the RE:FIT framework is underway, with preferred bidder stage soon to be appointed to undertake a Phase 1 works during the next couple of months. The ESCo could support this project by providing monitoring and verification assistance at later stages, ensuring that the cost and CO<sub>2</sub> emission savings are being realised in line with the approved business case. For further phases of the NDEE programme, EfE will consider other buildings within the CEC estate, as well as working with other organisations such as the NHS and private sector, providing advice, support and a potential procurement route for these organisations to implement their own energy efficiency measures. It is anticipated project and ongoing management fees could be charged for these services.

The options available to the EfE need to be fully appraised within a business case and hence ascertain which approach would be best for it to adopt.

### **Benefits to the Council and City**

Importantly, EfE could become an area of expertise for sourcing and developing these energy efficiency projects, and could use its experience to encourage joint projects with non CEC organisations in the public and private sector. The SEAP looks to all citizens of the City to reduce carbon emissions, and EfE is a key part of CEC's strategy for assisting organisations outside of CEC in meeting carbon reduction targets. EfE could become a 'one stop' shop for such organisations where there are opportunities for capital investment to reduce revenue/ongoing spend on energy,

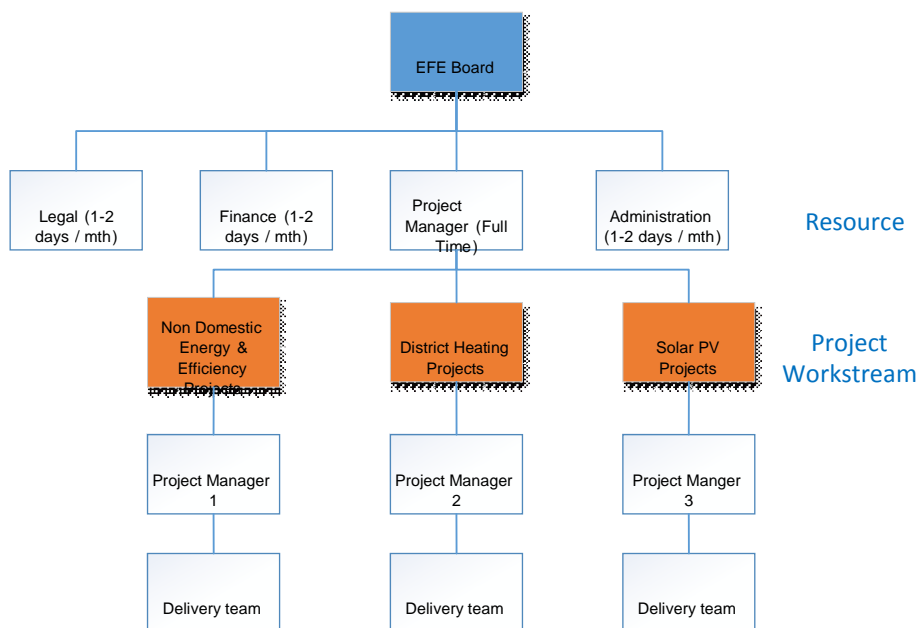
### **Reasons for EfE delivering this project compared to CEC.**

CEC could manage much of the energy efficiency work for its own buildings internally, and there is an initial project where this is the case. Strategically however, expanding these energy efficiency projects across the City's various organisations would prove very difficult for CEC to undertake as a more bureaucratic entity with strict approvals processes. Energy efficiency also forms a key part of district heating initiatives in that buildings are typically made energy efficient before low carbon district heat is supplied to them. EfE can co-ordinate energy efficiency works where required, alongside DH scheme initiatives, and CEC would not be able to do this.

## Project Timescales

### Resourcing Energy for Edinburgh

#### EFE Board support



To support the EFE Board in undertaking its key strategic activities, EfE will require a full time resource to take on a project management role. Ideally this would be a resource with skills in finance, commercial experience, ‘low carbon’ technical knowledge, as well as business case development and project management. All of these would be essential to fulfil the role. However recognising that if not all the required skills can be found in one role then some of the supporting roles detailed below may need to be expanded to ensure an appropriate skill set for EfE is obtained. Alternatively, some of the Directors may need to demonstrate expertise in some of these areas to support any full time employee.

Key supporting operational roles and requirements are detailed below, together with indicative costs;

**Finance** – prepare monthly management and annual statutory accounts; assist in forecasting, strategic planning and budgeting; project option appraisals, HMRC returns, KPI development and monitoring, as well as ongoing business plan development.

**Legal** – provide company secretarial support, contract drafting and negotiation (as required), establish company policies and practices, co-ordinate external legal advice, support procurement processes.

**Commercial** – source and identify potential projects, co-ordinate feasibility studies, utilise network of partnership contacts (both internally to CEC and externally) (2-3 days a month).

**Administrative** – provide general support to EFE in terms of marketing & events organisation, meetings, report and minute drafting etc.

The above services could be provided individually or alternatively amalgamated into one service thus minimising the financial, legal and administrative support costs detailed above.

An estimate for the operational support and resource costs is less than £100K per annum. In the short term over two years the £150k start up funding approved by the Council can be used to recruit staff. CEC staff secondments to the ESCo may be possible for varying periods of time for instance, 2 days a month over a year or a 1 month full time secondment at a critical stage in a project.

Availability of some internal resource from CEC following incorporation of EfE would be preferential to support the company in its early stages of development. Internal legal support may be required for ensuring key CEC policies are adopted, documented and implemented. Overheads such as desk space and IT are expected to be minimal but obviously would be reviewed if the company expanded.

### **Project resource**

Each project will need to be considered individually to assess feasibility and resourcing, and whether project resource can be supported internally, potentially with an associated cost, from CEC (eg for an internally focussed low carbon project), or whether it is more appropriate to obtain external expertise to deliver an individual project (eg where a project is developed in partnership with another organisation). As noted above, the EfE Board will decide on the most appropriate method of managing individual projects and securing the appropriate resource. This will be a key component of any project business case.

### **Legal**

There are a number of key legal documents governing the incorporation and operation of EfE and include the Articles of Association, Shareholder Agreement, and Shareholder Group Operating Principles. These documents are included as Appendices.

### **Procurement**

As an ALEO, CEC will be able to utilise the European case of “Teckal” for contracts with EFE. This case provides for an exemption to the European procurement rules where the Council controls the ALEO and the ALEO carries out the essential part of its activities for the Council. On this basis the Council is free to award work directly to the ALEO without tender, subject to a test for best value. However, in procuring its own external services, EFE as a wholly owned subsidiary will adopt the policies and practices detailed in the Council’s Procurement Handbook.

### **Code of Conduct and Confidentiality**

Comprehensive expectations and requirements of Directors of both EFE and CECs Shareholder Group are documented within the Articles of Association, Shareholders Agreement, Shareholder Group Operating Principles, and CEC’s internal policies.

## Communications

A detailed Communications Plan will need to be developed for approval by any new Board as it will be important they have ownership of the activities in promoting the company and developing relationships with partners. Equally important is the need for partners to know who the new Directors will be. It will be critical for EfE, as a newly established company, that communication and engagement with its stakeholders is both robust and effective, particularly as it seeks to inform and educate key stakeholders about the company, its scope of activity, and what it aims to achieve. Key objectives are as follows;

- raising awareness of EFE as widely as possible;
- promoting a clear message about the purpose of EfE with internal and external stakeholders;
- promote engagement with other organisations to form the basis of future partnerships; and
- encourage organisations to use the services of EfE where appropriate.

Resources will need to focus on maximising reach across the City, but with a concentrated effort on key stakeholders through targeted engagements to encourage future collaboration on initiatives. An indicative communications plan is suggested below, focussed on short term actions in the ESCo's first year as it becomes established. A more detailed and longer term campaign will need to be developed once the ESCo is fully operational.

Key stakeholders will include other public sector organisations, internal Council departments, the city's academic institutions, the city's business community, others in the private sector, voluntary and charitable organisations, as well as social enterprise companies. In addition EfE may choose to engage with potential Investors seeking funding for projects. All these stakeholders have a part to play in supporting EfE meeting its objectives and supporting CEC deliver its obligations under the SEAP.

Activity	Example of Audience	Method	Timing	Proactive engagement	Awareness raising
Elected Members, Convenors	Elected Members	Briefings and updates to be scheduled .	TBC		
Corporate Leadership Group	CEO and Directors	Provide update on agenda of CLG	TBC		
Website to be created and branding established	All	Website being developed by CEC. Needs reviewed monthly and linked to SEAP.	TBC		
Social media (EFE Facebook /Twitter)	Interested residents most likely.	Coordinate these when there are key messages to be communicated.	TBC		
Press release on EFE launch.	Internal and interested stakeholders	Coordinate this when due to Committee.	TBC		
SEAP internal working group	Internal – service areas working on energy/low carbon projects.	Regular meetings and updates	TBC		
ESCo Shareholder Group	Internal key contact	Quarterly meetings, with ad hoc correspondence as required.	TBC		
6 monthly progress updates.	All stakeholders	Report on progress (Committees, Shareholder Group etc) and email/orb/web update with the same information.	TBC		
Edinburgh Sustainable Development Partnership (ESDP) and Board	EPB and ESDP members	Meetings and regular updates	TBC		

Activity	Example of Audience	Method	Timing	Proactive engagement	Awareness raising
Key strategic partners	EBF, EDI, SE, SG, Our Power, Heat Network Partnership, Changeworks, ECCI, Academic Institutions, Utilities – SSE, SP	Proactive engagement on potential initiatives	TBC		
External City wide Energy/Low Carbon Industry forums	Interested stakeholders	Identify and attend appropriate forums that will be of benefit to E4E in meeting its objectives	TBC		
Community organisations	Community Energy Scotland, COMAS, Transition Edinburgh groups,	Press release, EfE event/presentation and where appropriate meetings	TBC		
Business associations and organisations	Business Improvement Districts, FSB, Chamber of Commerce, etc.	Press release, EfE event/presentation	TBC		
Key developers and Housing Associations	Murray Estates, New Ingliston, EDI, Castle Rock Edinvar, Dunedin Canmore, Bield etc	Meeting, EfE event/presentation	TBC		
Key industry Investors/funders	Green Investment Bank, large ESCOs, financial institutions, Pension funds etc	Press release, EfE event/presentation, meeting	TBC		

## Branding

EfE branding is being looked at internally by CEC and options will be developed for further consideration by the Board. The brand will use a similar style to that developed for the SEAP, so that EfE can be strongly identified and associated with the aims and objectives of this programme. The brand graphics will align with any CEC requirements and be simple, clean, and with a clear link between the different workstream areas.



## Financial Planning

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Suggested sources of funding include:

1. **Supporting finance** – both externally available through eg Low Carbon Infrastructure Transition Plan (LCITP), RES, Challenge Funds etc as well as internally via direct grant applications to CEC.
2. **Direct investments into the Company**. Contributions to the ESCo through JV initiatives eg community share issues or social investment eg University of Edinburgh.
3. **Commercial loans** from local banks, funds, or other organisations, for instance; the Green Investment Bank, Salix or District heating Loan fund;
4. **Spend to save**. For certain CEC service related projects, it may be possible for CEC to provide financial support via it's 'spend to save' policy.
5. **ESCo Income**. Revenue in the form of management fees, savings or project net income to the ESCo is retained and used to explore and invest into new future projects.

### Financial Strategy

The financing strategy for the ESCo is to become a self-sustaining entity over time by utilising the above sources of finance. While its aim will be to remain solvent and maximise the social benefit from funding, EfE will look to where it can maximise and generate revenue. It is anticipated in the early years that income from underlying projects will be retained within EfE and recycled to fund ongoing project feasibility studies and if possible, provide seed funding for pilot schemes and future projects. As such it may be possible that no dividends will be paid to CEC, but this will need to be agreed with the Shareholder Group and reflected in 5.5.3 of the Shareholder Agreement.

Although CEC resource may be utilised in the first 2-3 years of the ESCo, it is expected that as revenue is generated through EfE's commercial arrangements (for example via management fees) the need for 'in kind' support will fall away and the ESCo will move towards either recruiting its own full time staff or outsourcing required core services, allowing it to become fully self-sufficient and independent of CEC resource.

### Financial Assumptions

There are a number of assumptions in the development of the financing strategy including the following;

- If there is a lack of investment by CEC into EfE projects this means that the only income available to the ESCo is from management fees or charges for specific services eg operating & maintenance, administration, consultancy etc.
- Start up costs are assumed to be paid from the initial £150K funding approved by the Council. Contributory funding has been assumed from Scottish Government to support feasibility studies, and minimise the use of the start-up costs as far as possible.
- The level of any income received by EfE is based on a conservative 3.5% management fee, charged on the capital cost in underlying projects.
- No distributions are made to CEC from the ESCo in the first 3 years. All income is to be retained and used to progress future projects.
- The timing of income cash flows is based on current best estimates of when initial Phase 1 projects will complete.
- The only expenditure items for the first two years of the company will be operational costs which will be kept as low as possible;
- Although EfE and any subsidiary companies will be subject to corporation tax, any income to EfE will be offset by corresponding expenditure for feasibility work, pilot case studies etc with no profit subject to tax.
- A detailed cashflow projection for the subsequent years of the ESCo will be developed as required by the Shareholders Agreement and Articles of Association.

## Governance

The Council is the only shareholder of EfE. A proposed governance structure is shown in Figure 2 below showing the interaction between EfE and CEC with examples of project activities. A more detailed structure chart is provided in Appendix 1. There will be clear governance and approvals processes for both the ESCO and CEC ensuring that key decisions are made collaboratively with principles of openness, integrity and accountability applying to both organisations. This ensures that the strategic direction of EfE remains aligned with the CEC's key SEAP objectives.

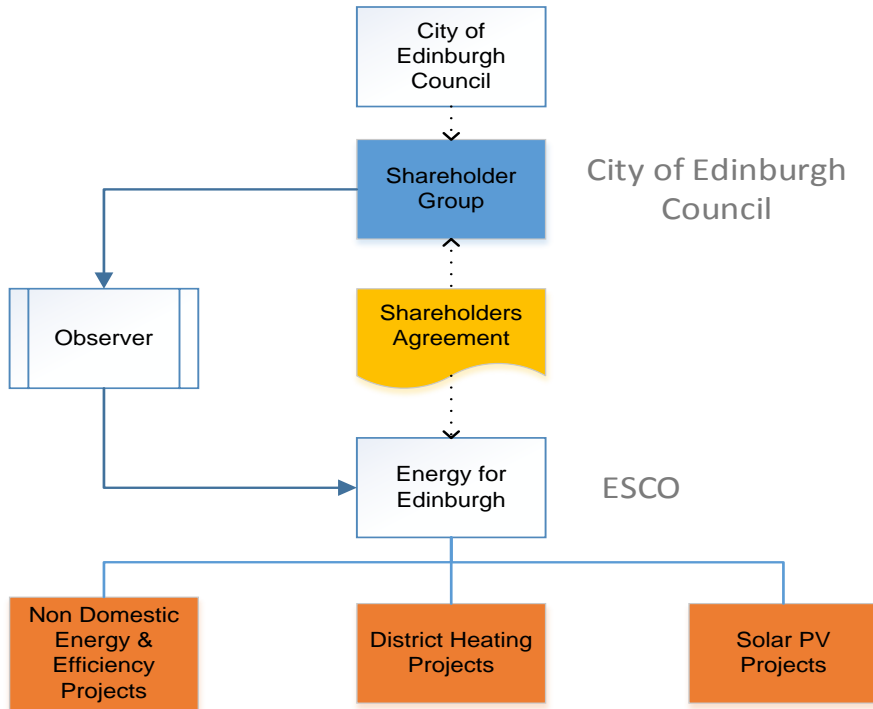


Figure 2 Proposed Governance Structure for Energy for Edinburgh

### EfE Board Composition

On Incorporation, the EfE Board will initially appoint three Councillors as Directors. A further 4 external Directors can subsequently be appointed to achieve full Board composition. A key focus will be on ensuring the appropriate blend of skills and experience are brought to the Board. In particular, it will need a broad range of expertise covering financial, legal, commercial, and technical specialists. Further support will be obtained from low carbon industry experts as and when required. The remit and function of the Board is detailed in the Articles of Association which also covers Board meetings and decision making.

### Roles and Responsibilities

Identifying appropriate roles and responsibilities in the governance of the ESCO is critical to its success. Each party needs to understand what these are and their significance in achieving EfE's objectives and key activities. While detailed roles will be developed for Board members a brief summary of key roles is seen in the table below;

Who	Role and Responsibility
EfE Board Directors	Responsible for agreeing the strategic direction of the ESCO, approving Business Cases and guiding development of projects.
Chair of the Board	Responsible for providing leadership of the Company, ensuring compliance with the Shareholders Agreement and that Board decisions are implemented.
EfE Manager	Responsible for the day to day operations of the EfE, developing projects and reporting on overall performance and progress. Key contact with the Council.
Observer to the Board	Senior Manager from CEC and main liaison between the EfE and Shareholders Group.
Shareholders Group	Responsible for ensuring that EfE complies with the Shareholders Agreement. Provides strategic support and advice if required.

### CEC Shareholder Group

CEC will establish an internal Shareholder Group that will form the main relationship with EfE and provides oversight of its activities. This structure will comprise four senior managers and will have several key functions and responsibilities. Specific details of all the requirements between both parties are detailed in a separate Shareholders Agreement that will be a formal document between CEC and EfE. However some key responsibilities include:

- provide oversight on behalf of CEC in relation to CEC's interest in EfE;
- facilitate reasonable and appropriate access for EfE to Council owned assets, resources and information and any relevant policy changes;
- review and approve the Business Plan and Annual Budget;
- provide consent for any Reserved Matters that EfE may wish to undertake. (Clause 6.3 Shareholder Agreement).
- review and approve policies and procedures implemented by EfE.
- meet quarterly with EfE to scrutinise performance, risks and ensure EfE is held accountable for meeting its Business Plan;
- approve individual EfE project Business Cases that are within prescribed delegated limits and facilitate approval of projects which require Council committee approval.

The Shareholder Agreement also details the service standards required from EfE to CEC, particularly with regard to financial reporting and dealing with conflicts of interest.

The Shareholder Group will be a key relationship for the Council working with EfE, and will be useful for considering how new low carbon initiatives coming out of local, regional and national strategies will be dealt with and how potential changes impact on the work the ESCo does.

Other key governance arrangements are dealt with in the Articles of Association.

## Risk

The following table identifies key risks for EfE in terms of cost, time or quality, their probability of occurring and impact, together with actions that may be taken to assist mitigating them.

Risk & associated consequence / impact	Probability	Impact	Suggested mitigating actions / factors	Residual probability	Residual impact
EfE is unable to develop robust business cases with sufficient income streams to support the viability of the business. The ESCO struggles to become self sufficient.	8	8	The three project areas identified in the Business plan indicated the potential for sufficient income streams.	4	4
			Operating costs will be kept as low as possible. A robust project pipeline will be needed such that questionable projects can be replaced.		
Business cases not yet published which might identify that EfE provides little value beyond that which CEC could achieve by undertaking that projects internally. Lead to reputational damage.	7	7	The three identified project areas currently have insufficient resource or expertise within CEC so the ability of EfE to deliver these will add significant value.	4	4
EfE may not be able to attract personnel of sufficient capability and skill set to undertake the roles of General Manager and underlying project managers	7	7	£100K of funding has been put aside to attract a general manager of sufficient quality with an appropriate skill set	4	4
			Project business cases will need to assess the resource level and skill requirement on a project by project basis and source appropriate funding to attract the correct personnel		
Poor communication and relationships within existing and potential project partners (internally within CEC and externally) results in weak project pipeline opportunities and reluctance to engage with EfE which is perceived as adding no value	6	6	A defined communication strategy used to address PR interactions	3	4
			Pro-active strategy for engaging with CEC service areas and promoting EfE as a value adding entity		
			Providing clear marketing and promotional information (via website / leaflets) that identifies the services and areas in which EfE will operate		
			EfE has MD / CEO / SRO equivalent who acts as ambassador for communicating and promoting EfE's activities		
There is poor or ineffective working relationships between the CEC Project Board and the EfE Board Directors, causing delayed delivery of the operational plan as well as insufficient resource being made available to support delivery of projects	5	5	The Shareholder Agreement provides dispute resolution procedures that can assist resolving particularly contentious issues	2	2
			There is realisation that success of the ESCO is heavily dependent on CEC and EfE working collaboratively		
CEC restricts EfE access to potential project assets across Council departments and other Council owned ALEOs such as Edinburgh Leisure and EDI, limiting EfE in the projects it is able to develop	5	8	The CEC Project Board will facilitate access to CEC department assets, information and resource	3	2
			A memorandum of understanding will be agreed with other CEC ALEOs to promote access to assets		
EfE fails to establish an effective Board of Directors with appropriate knowledge and experience of energy related projects and so fails to govern and manage the strategic direction of the ESCO effectively	4	8	A robust recruitment process will be undertaken by CEC HR to appoint appropriate Board Directors to EfE	3	5
			External support from other public organisations such as GIB, SFT, and SE can support the EfE Board		
There is potential loss of control by CEC over EfE's activities which may result in reputational damage for the Council and failure to support delivery of its SEAP	5	5	The use of a CEC Project Board to approve specific EfE recommendations and review of performance will allow retention of reasonable control	3	3

objectives			Council Members sit on the EfE Board and so contribute to EfE decisions		
			CEC is the controlling shareholder of EfE		
Staff and other resources do not have sufficient skill / capacity to meet EfE and underlying project requirements, resulting in failure to deliver projects and poor operational control of EfE	8	8	Projects will only be approved with appropriate resource requirements secured	4	4
			Quarterly meetings between CEC Project and EfE Boards will provide a forum to raise and address resource issues		
			The Shareholder Agreement includes a financial commitment from CEC to support EfE		
EfE fails to control costs impacting on EfE financial performance and potential project development	4	8	EfE will undertake budget monitoring monthly and quarterly (with Project Board)	2	2
			Most operating costs will be provided 'in kind' by CEC staff		
			External costs (e.g. feasibility studies) will be secured on a fixed cost basis		
The services delivered by EfE are of poor quality, which may adversely impact CEC's reputation	4	4	Project business cases will indicate the service standard levels and require approval by CEC	2	2
			For EfE directly delivered services, CEC and Project Board controls can assist remedy poor performance		
			Contractual remedies where externally provided services exist will be sought		

## Shareholder Group Operating Principles for CEC oversight of Energy for Edinburgh ('EFE')

The following operating principles for the Shareholder Group are based on the governance toolkit guidance in Appendix 2 of 'Arm's-length external organisations (ALEOs): are you getting it right?'

### Establishing EFE as an ESCo.

- The Shareholder Group provides overall direction and management for development of EFE.
- It ensures appropriate resources, both human and financial, are dedicated to successful establishment of EFE.
- Approves all relevant documentation for establishment of EFE, eg the Shareholder Agreement, Business Plan etc.
- Supports lead staff and the ESCO Internal Working Group with the necessary decisions for EFE to proceed.
- The Shareholder Group will support and provide assistance to resolving any barriers to establishing EFE.
- The Shareholder Group will consider the branding, messaging and profile of EFE both internally and externally.
- It will act as a key liaison with elected members and other senior managers.

### Controlling delivery of services provided by EFE.

- The Shareholder Group establishes from the start, clear limits to its involvement, a timetable for achieving objectives and the circumstances in which the shareholder agreement could be terminated.
- The Shareholder Group has a well-developed and soundly based strategy for the delivery of services that EFE may provide and which are clearly linked to the council's wider strategic objectives and priorities.
- Regular quarterly reviews are carried out by the Shareholder Group to ensure that EFE activities remain aligned with the council's current objectives.
- The Shareholder Group identifies specific circumstances that will trigger a review of its involvement with EFE, eg changes in key personnel in EFE.
- The Shareholder Group champions the ESCo and raises its awareness across service areas.
- In undertaking its role, the Shareholder Group adopts CEC policies relating to code of conduct, confidentiality and conflicts of interest.

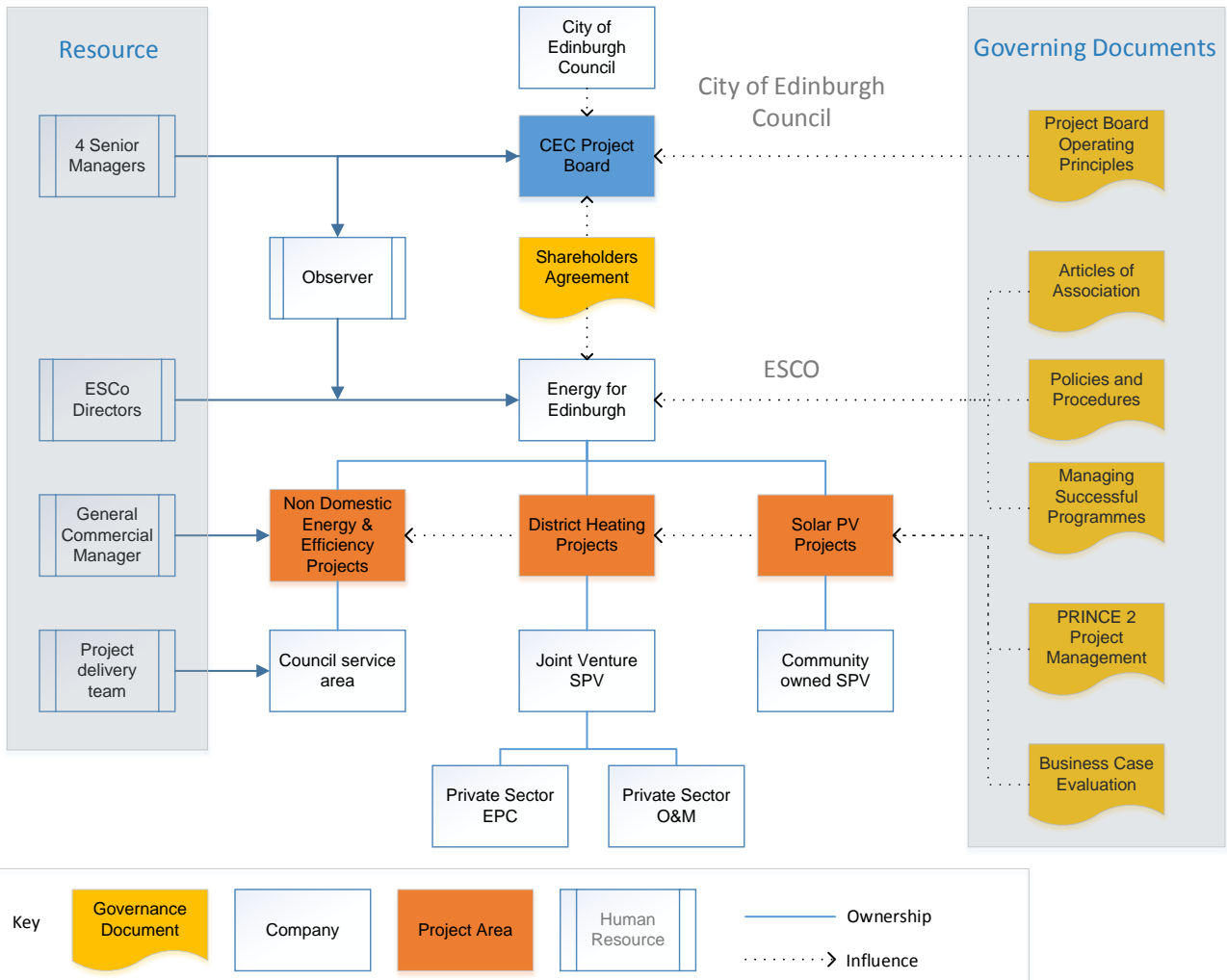
### Understanding the financial commitment and risk to which CEC is exposed with EFE.

- The Shareholder Group and shareholder agreement define the nature of the financial relationship and its commitment to EFE.
- There is a written agreement about the use of CEC assets, their title and use.
- Minimum accounting and auditing arrangements are stated in the shareholder agreement.
- The Shareholder Group has evaluated and assessed the risks and documented the results associated with EFE. Risk assessment extends beyond financial risks to other areas, eg reputational risk.
- The Shareholder Group has specific governance, finance and performance indicators that give early warning of potential problems with EFE and acts when required.
- Contingency plans are in place to ensure that service delivery is maintained if the relationship with EFE ends or becomes difficult.

### Arrangements for monitoring financial and service performance of EFE.

- Targets (SMART) and methods of measurement are agreed and documented early after incorporation. Monitoring extends beyond financial and service performance to employment practices, equality requirements, purchasing policies and sustainability, amongst others.
- Monitoring reports provide timely and good-quality information about EFE's performance in delivering services and their impact. The Shareholder Group receives and scrutinises forward plans, takes a risk-based approach to monitoring, and targets resources accordingly. The Shareholder Group follows up where performance does not meet agreed standards.
- The Shareholder Group staff responsible for monitoring EFE are clear about their role and are supported in it; those involved in monitoring financial performance are suitably qualified.
- The reasons for providing services through EFE and the impact are clear in reports to stakeholders (internal and external – if appropriate), and these reasons should be reflected in the business cases submitted and approved for underlying projects.

# Ownership and Governance Structure



## Waiver request / amendments

The terms of proposed waivers are included in brackets [ ] against the relevant clauses from the Shareholder Agreement, reproduced below.

### 5 Business Plan, accounts, financial and other information

- 5.1 The Company shall, at all times, maintain accurate and complete accounting and other financial records in accordance with the requirements of all applicable laws and generally accepted accounting principles applicable to the Company.
- 5.2 The Company shall prepare:
- 5.2.1 quarterly management accounts of the Company [and the EFE Group Companies] including a profit and loss account, balance sheet and cash flow statement and such other trading and financial information as the Council may reasonably require as well as a comparison against the previous year's information [***Waived for the first year of operation***] for the relevant quarter and against the Annual Budget [***for the first year of operation the Annual Budget will be the same as the information detailed in the Financial section of the initial Business Plan. The projections have been made on a cash receipts basis and so the cashflow and P&L accounts will mirror each other***] , together with an explanation for any material variances to forecasts and shall send a copy to the Council no later than 10 Business Days after the end of each relevant quarter and the Board shall consider such accounts at its following meeting; and
- 5.2.2 audited accounts of the Company [and the EFE Group Companies] and shall send a copy to the Council within [6] months of the end of the accounting period to which they relate.
- 5.3 The Company shall prepare an Annual Budget for the Company [and any EFE Group Companies] in respect of each Financial Year and a Business Plan of the Company [and any EFE Group Companies] annually [in each case on an individual and consolidated basis]. [***for the first year of operation the Annual Budget will be the same as the information detailed in the Financial section of the initial Business Plan***]
- 5.4 Each Annual Budget shall be consistent with the Business Plan and shall include:
- 5.4.1 a forecast profit and loss; [***nb - The projections have been made on a cash receipts basis and so the cashflow and P&L accounts will mirror each other***]
- 5.4.2 a forecast revenue projection; [***nb - The projections have been made on a cash receipts basis and so the cashflow and P&L accounts will mirror each other***]
- 5.4.3 a balance sheet and cash-flow statement on a phased monthly basis; [***This only needs to be on a quarterly basis for the first year of operation.***]
- 5.4.4 an operating budget including estimated capital expenditure and working capital on a phased monthly basis; [***This only needs to be on a quarterly basis for the first year of operation***]



- 5.4.5 an analysis of the results of the Company [and any EFE Group Companies] for the previous Financial Year compared with the Annual Budget for that Financial Year, identifying material variations in revenues and costs; **[waived for the first year as no historic results will be available]**
- 5.4.6 a summary of the Company's [and any EFE Group Companies'] business objectives for the forthcoming Financial Year together with financial and non-financial KPIs and appropriate measures of achievement against which the performance of the Company [and any EFE Group Companies] will be assessed. **[These are to be agreed and confirmed between the Project and EFE Boards at the first joint meeting, shortly after incorporation]**
- 5.5 Each Business Plan shall include:
- 5.5.1 a forecast profit and loss; **[nb - The projections have been made on a cash receipts basis and so the cashflow and P&L accounts will mirror each other]**
- 5.5.2 a forecast revenue projection; **[nb - The projections have been made on a cash receipts basis and so the cashflow and P&L accounts will mirror each other]**
- 5.5.3 a dividend policy (for the avoidance of doubt, that policy may be that no dividend is expected or anticipated to be payable); **[The current Business Plan states that there will be no dividends distributed to CEC. All retained earning shall be re-invested into feasibility studies and future projects]**
- 5.5.4 a balance sheet and cash-flow statement on an annual basis;
- 5.5.5 a review of projected business activities and capital investment; and
- 5.5.6 a summary of the Company's [and any EFE Group Companies'] business objectives for at least 3 Financial Years following the rEfErEnce year of the Business Plan.
- 5.6 Each Annual Budget and Business Plan shall be approved by the Board prior to the commencement of the Financial Year to which it relates and the Company shall consult with the Council in a reasonable and proper manner in drawing up the Annual Budget and Business Plan before approval.
- 5.7 Each Annual Budget and Business Plan shall be submitted to the Board in draft and thereafter shall be circulated to the Council not later than 90 days prior to the commencement of the first Financial Year to which it relates; with the intention that each Annual Budget and Business Plan shall then be presented at an appropriate meeting of the Council (or relevant Council committee, or the Shareholder Group, as the Council shall direct) for approval.
- 5.8 If any Annual Budget and/or Business Plan has not been approved pursuant to clause 5.7 by the start of the relevant Financial Year, the Company shall continue to trade in the ordinary course without material interruption but in a manner which is most likely to continue the status quo without materially deviating from

the previous Annual Budget and/or Business Plan until such time as a new Annual Budget and/or Business Plan is so approved.

- 5.9 If the Company wishes to amend a Business Plan during the course of any Financial Year it shall present its proposals to the Council (or relevant Council committee, or the Shareholder Group, as the Council shall direct) which, acting reasonably, shall approve or reject such changes.
- 5.10 The Company and the Board shall:
- 5.10.1 upon receipt by the Company of a request in writing by or on behalf of the Council, grant the Council such access to the accounts, books, records, senior employees (if any) and Directors and such other information relating to the business affairs and financial position of the Company [and any EFE Group Companies] as such request may reasonably require (which shall include all information that the Council requires in order to comply with law and/or regulations);
  - 5.10.2 keep the Council informed of any Material Developments in the Business; and
  - 5.10.3 supply the Council with a copy of a report prepared by the Company in respect of each Financial Year, demonstrating the implementation by the Company [and any EFE Group Companies] of Adequate Procedures, such report to be provided within 30 Business Days of the end of the Financial Year to which it relates;
- 5.11 The Company acknowledges that the Council is subject to certain external audit requirements and, subject to the provisions of clause 7, shall give any auditors appointed in relation to the Council access to the necessary information and records reasonably requested by them for such purpose from time to time.

10.00am, Thursday, 10 March 2016

## Best Value Audit Report 2016

<b>Item number</b>	8.4
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	All

### Executive summary

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The first Best Value Audit report was published in February 2007, followed by a second in May 2013. Two further progress reports have been requested by the Accounts Commission at 18 month intervals.

This report details the findings of the most recent Best Value Audit progress report that was presented to the Accounts Commission in February 2016. It also provides an update on changes to the scrutiny of all local authorities' work programmes by Audit Scotland.

### Links

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<b>Coalition pledges</b>	All
<b>Council outcomes</b>	All
<b>Single Outcome Agreement</b>	All

## Best Value Audit Report 2016

### Recommendations

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- 1.1 That Council
  - 1.1.1 notes the findings from the report;
  - 1.1.2 notes changes to Audit Scotland's work programme;
  - 1.1.3 refers this report to the Governance, Risk and Best Value Committee for further scrutiny and information.

### Background

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- 2.1 The first Best Value Audit report on the City of Edinburgh Council was published in February 2007 and the second in May 2013.
- 2.2 Audit Scotland carried out a follow up audit in the summer of 2014 to track progress on key issues and areas for improvement. Key areas included:
  - 2.2.1 the Council's challenging financial position and the capacity to achieve the planned overall level of savings;
  - 2.2.2 issues that challenged public confidence such as the trams project and statutory repairs;
  - 2.2.3 ensuring that effective risk management and internal audit arrangements were in place;
  - 2.2.4 developing a workforce strategy and improving ICT further to help improve services and deliver savings; and
  - 2.2.5 improving a range of services including adult social work, waste management and meeting housing need.
- 2.3 This report was considered by the Accounts Commission in December 2014 and additional recommendations were made, with the Commission requesting a further update in 18 months.
- 2.4 Audit Scotland carried out the audit at the end of 2015 and presented the Best Value Audit Report 2016 to the Accounts Commission in February 2016.

## Main Report

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- 3.1 The Best Value Audit Report 2016 notes Edinburgh's progress since the 2014 Best Value Report and highlights a number of achievements:
  - 3.1.1 Considerable progress has been made in addressing the increasingly challenging financial position. The Council has a clear strategy for changing the way it delivers services, reducing its workforce, and achieving substantial financial savings.
  - 3.1.2 Elected members and senior managers now have a shared understanding of the challenges facing the Council and the action that needs to be taken.
  - 3.1.3 The Council's various improvement projects have been consolidated into a single transformation programme. The programme is now being used to redesign services and change the way the council operates.
  - 3.1.4 A workforce strategy has been developed, supported by more detailed plans, setting out the size and shape of its future workforce needs.
- 3.2 The Council's needs to:
  - 3.2.1 Maintain stability of good Council Leadership over the next few years.
  - 3.2.2 Monitor the changes within workforce and service delivery and be able to demonstrate that decisions, such as retaining in-house estates services, represent Best Value.
  - 3.2.3 Ensure the transformation programme is fully implemented and delivers the planned savings.
- 3.3 Going forward Audit Scotland will take a new approach to progressing Best Value with all local authorities. This work will be developed on a longer term basis through more strategic scrutiny. It will be delivered within a five year programme and will include annual progress reports to the Commission. The programme will include performance audits, audits of Best Value, *How Council Work* series, overview reporting and statutory reporting.
- 3.4 The Council will work closely with Audit Scotland to embed this new programme of work and align with existing reporting such as Local Scrutiny Planning.

## Measures of success

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- 4.1 The Accounts Commission acknowledged a range of improvements since the last Best Value audit and the report states that the Commission welcomes the Council's approval of a new four-year budget framework and business plan, and how a balanced budget will be achieved for each of the next three financial years.
- 4.2 Progress will be measured annually through the five year audit programme of work.

## Financial impact

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- 5.1 There is no financial impact resulting from the Best Value follow up report. All improvements implemented should lead to greater efficiencies and value for money.

## Risk, policy, compliance and governance impact

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- 6.1 There are no risk, policy, compliance or governance issues arising from the Best Value report.

## Equalities impact

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- 7.1 There are no equalities issues arising from the Best Value report.

## Sustainability impact

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- 8.1 There are no sustainability issues arising from the Best Value report.

## Consultation and engagement

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- 9.1 Key stakeholders have been consulted and interviewed during the Best Value audit process including:
- Elected Members;
  - Council Leadership Team; and
  - Managers and Staff.

## Background reading / external references

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[The City of Edinburgh Council Best Value Report May 2014](#)

### Andrew Kerr

Chief Executive

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E-mail: [kirstylouise.campbell@edinburgh.gov.uk](mailto:kirstylouise.campbell@edinburgh.gov.uk) | Tel: 0131 529 3654

## Links

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<b>Coalition pledges</b>	All
<b>Council outcomes</b>	All
<b>Single Outcome Agreement</b>	All
<b>Appendices</b>	The City of Edinburgh Council Best Value Audit Report 2016

The Audit of Best Value  
and Community Planning

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# The City of Edinburgh Council

Best Value audit 2016

ACCOUNTS COMMISSION 

Report from the Controller of Audit  
February 2016


# The Accounts Commission

The Accounts Commission is the public spending watchdog for local government. We hold councils in Scotland to account and help them improve. We operate impartially and independently of councils and of the Scottish Government, and we meet and report in public.

We expect councils to achieve the highest standards of governance and financial stewardship, and value for money in how they use their resources and provide their services.

Our work includes:

- securing and acting upon the external audit of Scotland's councils and various joint boards and committees
- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
- requiring councils to publish information to help the public assess their performance.

You can find out more about the work of the Accounts Commission on our website: [www.audit-scotland.gov.uk/about/ac](http://www.audit-scotland.gov.uk/about/ac) 

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. We help the Auditor General for Scotland and the Accounts Commission check that organisations spending public money use it properly, efficiently and effectively.



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# Contents



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Commission findings	4
Summary	5
Audit assessment	7
Conclusions	14
Appendix	15

# Commission findings



- 1** The Commission accepts the Controller of Audit's report, which was required as part of the Commission's findings on the Council in December 2014.
- 2** The Commission is encouraged with the progress being made in those areas on which we expressed particular concern in our previous findings, namely that:
  - substantial progress has been made in meeting savings targets and identifying and planning further savings within a four-year budget framework
  - a high-level workforce strategy is now in place
  - various improvement activities have been consolidated in the council's ambitious Transformation Programme, some aspects of which have seen good progress made.
- 3** We underline, however, that uncertainties around future funding and service demands – faced by all councils – mean there will be continuing risks around progress and delivery of plans and improvement.
- 4** Clear leadership by members and officers, and a shared understanding between them of the challenges faced by the council, have been the basis of accelerated change. This is against a backdrop of continuing substantial change in the corporate leadership team.
- 5** We note the risks inherent in the Transformation Programme: many components remain in progress and it is largely too soon to see its effects on the delivery of services and on outcomes for communities. For example, effective management of ongoing organisational reviews, and their implications for staffing levels, is vital. It is essential that the council manages the risks by ensuring it has the necessary skills and management capacity to secure Best Value through successfully implementing the programme.
- 6** We will therefore maintain our interest in the council's progress, with the Controller of Audit monitoring progress through the annual audit process.

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# Summary



**1.** Over the past two years, the Accounts Commission has raised significant concerns about the City of Edinburgh Council, particularly over its increasingly challenging financial position and the action needed to address this. The council has made considerable progress in addressing these concerns. While it still faces significant challenges, the council now has a clear strategy for changing the way it delivers services, reducing its workforce, and achieving substantial financial savings. There is growing evidence that these savings are being achieved.

**2.** Elected members and senior managers now have a shared understanding of the challenges facing the council and the action that needs to be taken. Members have tried to set priorities that will help protect front-line services but, where necessary, they have shown a willingness to make difficult decisions and reduce services. There have been widespread changes at senior manager level. The council appointed a new CEO in July 2015 and none of the directors of the council's 2013 Corporate Leadership Team (CLT) is still in post. Despite these changes, there has been continuity in the council's approach to reshaping its services and making the necessary savings. If anything, the pace of change has quickened in recent months.

**3.** The council's various improvement projects have been consolidated into a single transformation programme. The individual projects are at different stages of completion, but there is evidence that they are now being used to redesign services and change the way the council operates:

- A new ICT contract has been signed, with projected savings of £45 million over the next seven years.
- As a result of the Channel Shift project, increasing numbers of customer transactions are being made available online.
- In line with the council's transformation programme, the council has created four localities and is using these to restructure and integrate much of its operational decision-making.

**4.** The council now has a workforce strategy, supported by more detailed plans, setting out the size and shape of its future workforce needs. Implementation of these plans is under way, with a reduction of around 4.6 per cent of the total workforce, worth around £25.8 million per year, due to be completed by March 2016. Plans are now well developed for the next phase of workforce reductions.

**5.** As a result of these initiatives, the council has made considerable progress in planning and delivering financial savings. It has now agreed a four-year budget framework and business plan. This sets out a balanced budget for 2016/17 and each of the two following financial years, with £15.3 million of savings still to be identified for 2019/20. This is in sharp contrast to the unidentified savings gap of £67 million that was reported in 2014. There is now evidence that these planned savings are being achieved. The council met its savings target of £39 million in 2014/15, mostly from planned savings projects, and is on target to meet most of its planned savings of £49 million for the current financial year.

**6.** In line with other local authorities, the council continues to face uncertainties about future funding levels and service demands. It is now in a stronger position to meet these challenges.

# Audit assessment



## Background

The Accounts Commission has highlighted growing concerns in recent years about the council's financial position and its capacity to implement the changes required to achieve substantial reductions in its spending

**7.** Since 2013, the Accounts Commission has expressed significant continuing concerns about the arrangements in place at the City of Edinburgh Council to secure Best Value. These concerns have particularly focused on the council's financial position and the increasingly pressing need for it to deliver significant savings.

**8.** In May 2013, in response to my report, the Accounts Commission expressed concern about the need for the council to achieve recurring annual savings of £107 million by 2017/18, with plans for £17 million of these still to be identified. Significant concerns were also raised about the need for the council to develop a workforce strategy, and improve its use of information and communications technology (ICT), risk management, and scrutiny. The Commission asked me to report again by the end of 2014.

**9.** In December 2014, the Accounts Commission considered my follow-up report. This provided some assurance that the council had made good progress in a number of areas, such as risk management and scrutiny. However, the Commission expressed growing concern over the council's financial position, with an increase in the recurring annual savings that were needed from £107 million to £138 million, and in unidentified savings from £17 million to £67 million. It recognised that the council was developing a transformation programme in order to help generate the savings required. But this initiative was still in an initial phase and it was too early to assess its likely success.

**10.** The Commission requested a further report on progress over the next year. In responding to that request, this audit looked at:

- the capacity of the council to continue to meet the challenges it faces in future years
- the continued development of the council's transformation programme and savings plans
- the development of a workforce strategy
- the extent to which savings will now be achieved.

**11.** My conclusions are based on detailed audit work carried out between August 2015 and January 2016, which included the following:

- reviewing key reports prepared for council and committee meetings
- observing council and committee meetings
- interviewing a range of elected members and senior officers.

**12.** The audit work also took into account the ongoing work of the council's local external auditors, summarised in the annual audit report submitted to me in September 2015.

## Leadership

### Elected members and officers have continued to develop a shared vision for the council and the city it serves, despite continuing changes at senior manager level

**13.** There is evidence that members and officers have a shared vision for the City of Edinburgh and for the council. Over the past year or so, they have developed a better understanding of the pressures facing the council, with an expectation that resources will continue to fall while demands on services continue to increase. Through a series of strategic documents, such as Organise to Deliver and Better Outcomes through Leaner Delivery (BOLD), they have set out how the council will need to reshape its services to meet these challenges.

**14.** Over the past year, at a time of significant financial pressures, elected members have shown clear leadership. They have increasingly been involved in setting the broad direction of savings plans and have shown a willingness to make difficult decisions, including reductions in staffing levels and services. Members are provided with regular progress reports and updates on the various strands of the council's transformation programme and savings plans, and show a readiness to ask questions and challenge officers. The introduction of regular performance 'dashboard' reports, for example, is a step forward in summarising complex issues, such as workforce reductions and savings plans, and highlighting areas of concern.

**15.** Senior managers have also continued to provide strong leadership, despite a high turnover in personnel. In addition to a new CEO being appointed in July 2015, there has been a series of changes at director level. As a result, none of the directors of the council's Corporate Leadership Team (CLT) in post during 2013, remains. This disruption in continuity brings some risks for the council's management capacity, but there is good awareness of these. So far, the new CEO and CLT have brought a renewed energy to the council's transformation programme, with the pace of change noticeably quickening in recent months, particularly over savings plans and workforce reductions.

**16.** There is also evidence to suggest that service directors are working in a consistent, coordinated manner. All savings proposals are discussed and agreed at CLT meetings before being presented to members for their approval. In addition, directors are working to support one another. During 2015/16, with a forecast overspend of around £16 million in health and social care, other services generated additional savings of £9.8 million which, alongside actions taken within the service, helped offset this pressure on these important community services.

**17.** There is some ongoing risk relating to management capacity. A new structure for executive directors was approved in December 2015. This rearranges some responsibilities, with areas such as ICT, Strategy & Insight, and Communications now reporting directly to the CEO, and the deputy CEO post now replaced by an Executive Director of Resources. With the council's recruitment contract currently being re-tendered, it is expected that it will take between six and nine months before all CLT posts are permanently filled. In addition, the council is currently reducing the number of senior and middle-management posts. This wider restructuring is being carried out as part of the council's transformation programme, with planned changes in the way the council provides many services. But, again, it will be some time before the effect of the changes on management capacity can be properly assessed.

## Financial position

### While it continues to face growing financial pressures and uncertainty, the council has made substantial progress in planning and delivering financial savings

**18.** In recent years, the council's financial position has been of particular concern to the Accounts Commission. With growing demands on its services and reducing resources, the council has needed to make substantial savings. In 2013, it estimated that it needed to make savings of £107 million by 2017/18, around 11 per cent of its annual net expenditure, with savings proposals of £17 million still to be identified. By 2014, the required savings had increased to £138 million, with unidentified savings of £67 million.

**19.** There is now clear evidence that the council has made considerable progress in its financial performance. In 2014/15, the last complete financial year, it achieved its savings target of £39 million, largely through planned savings projects, and maintained its level of unallocated reserves. There is also evidence that it should achieve most of its planned savings of £49 million for 2015/16. The latest monitoring reports, submitted to the Finance & Resources Committee in January, show that it is still on track to deliver a balanced budget. This is despite needing to deal with a forecast overspend of £16 million in health and social care earlier in the year (this was addressed through a range of measures, including reducing staff numbers, changes to eligibility criteria, and closure of one care home and two day centres).

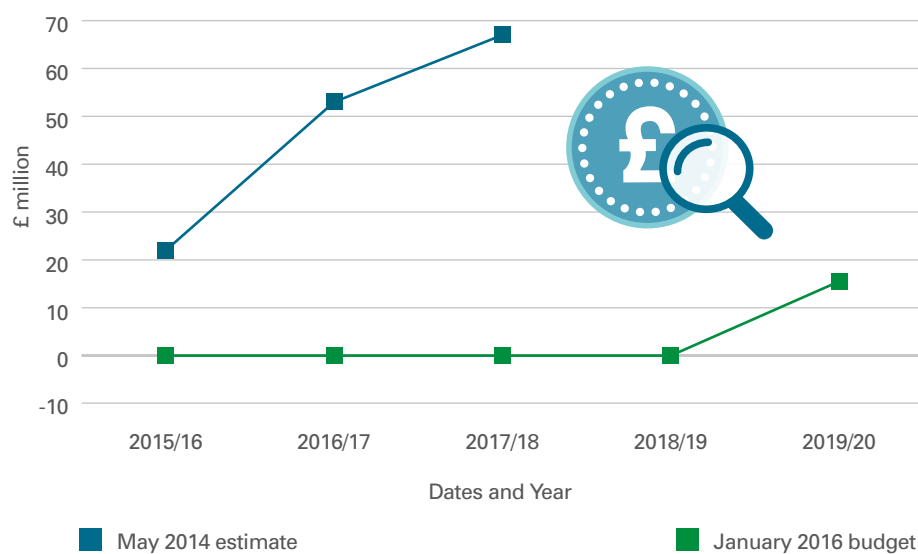
**20.** The council has made substantial progress in developing its longer-term savings plans. This is partly due to the continuing development of its transformation programme. But it is also due to an increase in the pace of change, with workforce reductions being accelerated in order to generate earlier savings. During 2015, a series of detailed proposals have been developed by senior managers, reflecting these internal changes to the way the council delivers its services. In addition, however, the savings plans have also set out reductions in the level of some services being delivered. A consultation and engagement exercise was carried out between October and early December, seeking the views of the public on these proposed changes.

**21.** In developing its savings plans, the council has also had to respond to growing external financial pressures and uncertainties. As a result of the Local Government Financial Settlement, announced by the Scottish Government in December, the council has estimated its resources will fall by a further £16.7 million for 2016/17. It has planned to cover this shortfall with a range of measures,

including a further acceleration of its transformation programme and a reduction in the options members have for not taking forward some savings proposals.

**22.** As a result, the council approved a four-year budget framework and business plan on 21 January. This sets out how it proposes to deliver a balanced budget for each of the financial years 2016/17, 2017/18 and 2018/19. While savings of £15.3 million remain unidentified for 2019/20, this shows a marked improvement in the council's financial planning since 2014 ([Exhibit 1](#)).

## Exhibit 1 Unidentified savings requirements



Source: *Council transformation programme and improvement plan*, F&R Committee, May 2015; and *Revenue and capital budget framework*, F&R Committee, January 2016

**23.** This four-year budget framework, and its supporting savings proposals, are subject to a series of significant risks and uncertainties. The council has some flexibility, through plans to maintain uncommitted reserves at £13 million over the coming financial year. It also has a contingency of £2.5 million in 2016/17, subsequently rising to £5 million per year, to provide for savings options that are not taken forward. But, as mentioned above, the level of these contingencies is substantially less than initially planned.

**24.** However, the council has identified the key risks, external and internal, to its financial plans. These were reported to the Finance & Resources Committee in January 2016 and includes assumptions about a wide-ranging set of issues, including:

- the level of future Local Government Financial Settlements
- the ending of the council tax freeze, with the budget framework assuming an increase of three per cent from 2017/18



- inflation
- health and social care integration
- the impact of the national minimum wage.

**25.** In line with other local authorities, the council faces significant uncertainties about future funding levels and demands on its resources. At this stage, however, the assumptions and risks underpinning its four-year budget framework look to be reasonable and realistic.

**26.** In previous years, audit reports have raised concerns about the council's statutory repairs service, with delays in billing for work completed and uncertainties about the money that it will be able to recover. The council has made steady progress in addressing these issues, with elected members receiving monthly updates at the council's Finance & Resources Committee. Bills have now been issued for all work completed. By the end of December 2015, the last report available, £10.6 million had been received, with a further £1.3 million secured in payment plans and inhibitions. So far, £11.2 million of debts have been approved for write-off, with the council's accounts containing a provision for an expected total of £17.9 million to be written off.

## Transformation programme

**The council's various improvement projects have been consolidated into a single transformation programme. This has still to be fully implemented, but it is now starting to reshape the council's services and deliver savings**

**27.** At the time of the last audit of Best Value in 2014, the council was developing a range of improvement projects which were designed to reshape the council and change the way it delivers services in the future. These included Better Outcomes through Leaner Delivery (BOLD), Organise to Deliver and Channel Shift. There were links and overlaps between these various projects and they have now been consolidated into a single transformation programme to help avoid the double-counting of planned savings and to present clearer choices for elected members.

**28.** During 2015, significant progress has been made on all of the key elements of this overall transformation programme:

- ICT contract – A new ICT contract was signed with CGI in August 2015. The council projects that this will deliver savings of at least £45 million over the next seven years. These projections look to be achievable, given the terms and flexibility of the new contract.
- Channel Shift – The council is currently redesigning many of its customer care services, simplifying them and, where possible, moving to online transactions. This is planned to deliver annual savings of £5.9 million, through reducing the number of support staff. There are early signs that this initiative is making an impact, with 40 transactions already available online and savings of £355,000 over the past year. The council now aims to roll out a further 153 new digital transactions types in 2016/17.

- **Corporate Property** – In September 2015, the council agreed to rationalise its estate and its property investment portfolio, with the aim of reducing its costs by around £4 million per year. Members rejected proposals to outsource support staff, which officers estimated would save around £6 million per year. Instead they supported an alternative proposal to re-model an in-house service, which is estimated will save around £2.7 million per year. Officers are currently developing the details for this re-shaped in-house model. However, given the decision to proceed with an in-house model was based on the coalition’s presumption against outsourcing council services, it will be important for the council to demonstrate that future arrangements do represent Best Value.
- **Organise to Deliver** – The council has created four localities which for the first time mean that all local public services in the Edinburgh area will share common administrative boundaries. This is planned to help delegate operational decision-making and integrate the delivery of local services. This initiative forms part of the drive to reduce staffing levels and costs. These detailed plans are still being developed and it will be some time before they can be seen to deliver the predicted savings of £20 million per year. However, the Locality Transformation Plan was approved by the Communities and Neighbourhoods Committee in November 2015. The council is currently engaging with its city partners to finalise membership of the four Locality Leadership Groups. The new locality model is then expected to be piloted in March, with a full roll-out in April 2016.

## Workforce management

**The council now has a workforce strategy, supported by more detailed plans, setting out the size and shape of its future workforce needs. It is now starting to achieve the reductions set out in these plans**

**29.** The council approved a workforce strategy in March 2015. The absence of such a strategy was highlighted by the Accounts Commission in 2013 and 2014 and was seen as a key gap in its efforts to address its growing financial challenges.

**30.** *An engaged and empowered workforce: workforce strategy 2015-2020* sets out a broad vision for the council’s future workforce, linking it to its broader transformation programme and highlighting the need for reductions in staffing levels. Over the following months, as the council’s financial plans and transformation programme continued to be developed, this has been supplemented by more detailed workforce plans. In broad terms, the council is seeking to reduce its workforce by around 2,000 full-time equivalents (FTEs) by 2017. Initially, it is seeking to achieve quick reductions through a new Voluntary Early Release Arrangement (VERA). Following a series of service reviews and a reshaped staffing structure, this will be followed by a programme of voluntary redundancies. As a last resort, if these measures do not achieve the required staffing reductions, members have also indicated a willingness to reconsider using compulsory redundancies.

**31.** There is evidence to show that the council is now making progress in implementing these plans. By mid-January, 1,475 FTE had applied for a VERA; 110 staff, with annual pay costs of £4.3 million, accepted final offers and left the council in December. A further 569 notes of interest, with annual pay costs of £21.1 million are under consideration and progress is being reported monthly

to the council's Finance & Resources Committee. The numbers accepted, or currently being considered, for a VERA represent around 4.6 per cent of the council's workforce. In addition, 43 staff, with annual pay costs of £1.7 million, have been redeployed to other jobs.

**32.** The council is also making progress with a series of organisational reviews, linking its planned restructuring through Organise to Deliver to its future workforce needs. It is due to complete a programme of 28 reviews by May 2016, with those for Tier 3 managers, ICT, Communications and Human Resources now completed. These will then be used to determine the staffing levels and structures needed to deliver council services in future years.

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# Conclusions

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**33.** The council has made considerable progress in addressing the concerns highlighted by the Accounts Commission in its findings on the Statutory Report in December 2014. In particular, it has:

- agreed a new four-year budget framework and business plan, which is supported by a range of savings proposals which identify how a balanced budget will be achieved for each of the next three financial years
- achieved savings of £39 million in 2014/15, and is on track to deliver further savings of up to £49 million in the current financial year
- approved a workforce strategy, with more detailed supporting plans, and is now beginning to implement these proposals with, for example, a forecast reduction of 4.6 per cent in the size of its workforce during 2015/16 from VERA
- made good progress in developing and implementing its key improvement plans, now the council's transformation programme, to change the way it delivers services
- signed a new ICT contract, with projected savings of £45 million over the next seven years.

**34.** The council has managed to achieve all this, despite a high turnover in its senior managers. It will need to ensure that it now has a period of stability in its CLT over the next few years. It has also shown that it is prepared to make difficult decisions, with reductions in its workforce and the services it provides. But, it will need to monitor the success of these changes and be able to demonstrate that decisions, such as retaining in-house estates services, represent Best Value.

**35.** It is important that elected members and senior managers continue to provide good leadership of the council, and that its transformation programme is fully implemented and delivers the planned savings. The council will continue to face significant challenges and uncertainties in the coming years. But it is now in a stronger position to meet these future challenges.

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# Appendix



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## Accounts Commission's 2014 findings

The Commission accepts this report by the Controller of Audit which it required as part of its findings on the council in 2013.

In its findings in 2013, in light of the risks and uncertainties in relation to the council's planned savings between 2014 and 2018 the Commission "urged the council to give absolute priority to ensuring the savings identified are both achievable and delivered". We note that in some instances savings have not been achieved or, in the case of procurement, have been scaled back. We have growing concern about the increased level of savings required by the council: our previous findings stated that the council needs to make recurring annual savings of £107 million by 2017/18; now it is £138 million.

In 2013, the council reported that the gap between the savings required by 2017/18 and those already identified in council financial plans was £17 million; now it is £67 million. The means of closing the savings gap have yet to be fully identified. While the council has developed a transformation programme, this is still in its initial phase and it is too early to say that it will deliver its objective. Nor is it clear what alternative strategy, if any, the council would follow if the programme failed to deliver the necessary level of savings. The financial implications associated with the statutory repairs service also remain a substantial risk to the council.

In our last findings we highlighted the need for the council to develop a workforce strategy. This is not yet in place and represents a significant strategic failure by the council. A workforce strategy is essential in enabling the council to manage and plan its required savings. Also in our previous findings we advised that the council needed to improve its information and communications technology: this is fundamental to effective transformation and we note that this is an area that still requires improvement.

We acknowledge, however, that some important elements are now in place to help such a drive for improvement. We are particularly encouraged by the progress made by the council in embedding its governance arrangements, notably around elected member scrutiny of performance. Improved risk management and internal audit is also valuable, and we note the potential influential role of the Corporate Programme Office in making progress. Continuing improvements to communications with staff will also help facilitate staff awareness and buy-in of planned changes.

We identified in our previous findings some service areas where improvement is needed: in adult social work, waste management and meeting housing need. We are encouraged that all have seen improvements, but we recognise that all are subject to substantial pressure.

In the challenging circumstances facing the council the leadership of elected members will be crucial; equally will be a consistent corporate focus by the CMT both in providing elected members with comprehensive and accessible information about the council's financial position and the transparent reporting of all alternative options for service redesign.

The scale of the challenge facing the council has substantially increased since our last findings. We therefore require the Controller of Audit to report to the Commission in a year. We expect the council to have made substantial improvement by that date.

# The City of Edinburgh Council

## Best Value audit 2016

This report is available in PDF and RTF formats,  
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10am, Thursday, 10 March 2016

## Funding package proposal for a new Meadowbank

Item number	8.5
Report number	
Executive	
Wards	All, and particularly Craightinny/Duddingston

### Executive Summary

In September 2015 the Corporate Policy and Strategy Committee noted that the estimated overall project cost for a new Meadowbank Sports Centre had reduced from £43m to £42m and the funding shortfall had reduced from £19.78m to £6.8m. This report fulfils a commitment to provide recommendations for addressing the remaining funding gap. Since then, the estimated total project cost has reduced further, to £41.1m. This would reduce the funding shortfall to £5.98m. A disposal option transferring part of the surplus land at Meadowbank to the Housing Revenue Account has been identified.

A funding gap is inevitable and cannot be met without a contribution from the Council's capital programme. It is recommended that a detailed design to RIBA Stage 4 be developed, funded to a maximum of £0.7m from planned receipts due to be paid into the Strategic Investment Fund. This would allow the project to be tendered, and thus provide greater cost certainty, and accuracy around expenditure and income cash flow. It is further recommended that the Council agree in principle to a realignment of the Capital Investment Programme, using an element of the unallocated funding available in the later years; the total sum required to fill any remaining gap will be confirmed following analysis of a completed tender exercise and confirmation of funding from sportscotland.

### Links

Coalition pledges	<a href="#">P42, P43, P45</a>
Council outcomes	<a href="#">CO20</a>
Single Outcome Agreement	<a href="#">SO2</a>



## Funding package proposal for a new Meadowbank

### Recommendations

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- 1.1 It is recommended that the Council:
  - 1.1.1 Notes the estimated total project cost has reduced to £41.1m;
  - 1.1.2 Notes that a capital receipt from surplus land sites A and B at Meadowbank are essential for the funding package for a new Sports Centre there;
  - 1.1.3 Approves the transfer of sites A and B to the Housing Revenue Account, retaining ownership of the land, delivering 10% more affordable housing than is likely in an open market disposal and potentially generating ongoing revenue for the HRA and the General Fund;
  - 1.1.4 Notes that it is the intention to place site C at Meadowbank on the market for student accommodation;
  - 1.1.5 Agrees to ringfence the capital receipt from sites A, B and C for the new Meadowbank's funding package;
  - 1.1.6 Approves a contribution of £0.7m from planned receipts due to be paid into the Strategic Investment Fund to develop the design to the end of RIBA stage 4;
  - 1.1.7 Agrees that once the detailed design at the end of RIBA stage 4 is ready, the Council will invite, receive and analyse tenders for the construction of the new Meadowbank, to provide certainty on the project cost and any remaining funding gap (currently estimated to be £5.98m);
  - 1.1.8 Approves the principle of repaying £0.70m to the Strategic Investment Fund and covering the Meadowbank project's remaining gap through a realignment of the Capital Investment Programme using an element of the unallocated funding available in years 2019/20 and 2020/21, taking account of the project's anticipated expenditure and income cash flows;
  - 1.1.9 Notes that the outcome of the tender exercise, analysis of the expenditure and income cash flow, and revised estimates of total project cost will be reported to the Council, at which point the final funding package will be confirmed and a contribution from the Capital Investment Programme will be requested; and

- 1.1.10 Agrees, on the basis of the commitments given above, that the Council may now seek funding support from **sportscotland** towards the project costs.

## Background

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- 2.1 In considering the last update on the proposal for a new Meadowbank Sports Centre, the Corporate Policy and Strategy (CP&S) Committee of [29 September 2015](#) noted that a report would be presented to that Committee as soon as possible to recommend how to address any remaining funding gap.
- 2.2 The CP&S Committee had previously noted that Council would require to ringfence the capital receipt from disposal of surplus land on site for the development of the new Meadowbank. On 29 September, the Committee decided that the option of transferring some of this surplus land to the Housing Revenue Account (HRA), in order to build new Council housing while generating a capital receipt for the Meadowbank project, would be fully explored as a priority and the conclusions incorporated in this report. The current funding gap, and the implications of the HRA option, are discussed below.
- 2.3 On 17 November 2015, the Economy Committee approved the disposal of the surplus land held on the Culture and Sport Account at Westbank Street, Portobello. On [26 November 2015](#), Finance and Resources Committee ratified this decision, and also approved the ringfencing of the Westbank Street capital receipt for Meadowbank.
- 2.4 The Council is currently consulting on proposals to expand its house building programme from 3,000 to 8,000 affordable homes and has also agreed to establish a Limited Liability Partnership (LLP) to accelerate house building through the development and acquisition of homes for competitive market rent.

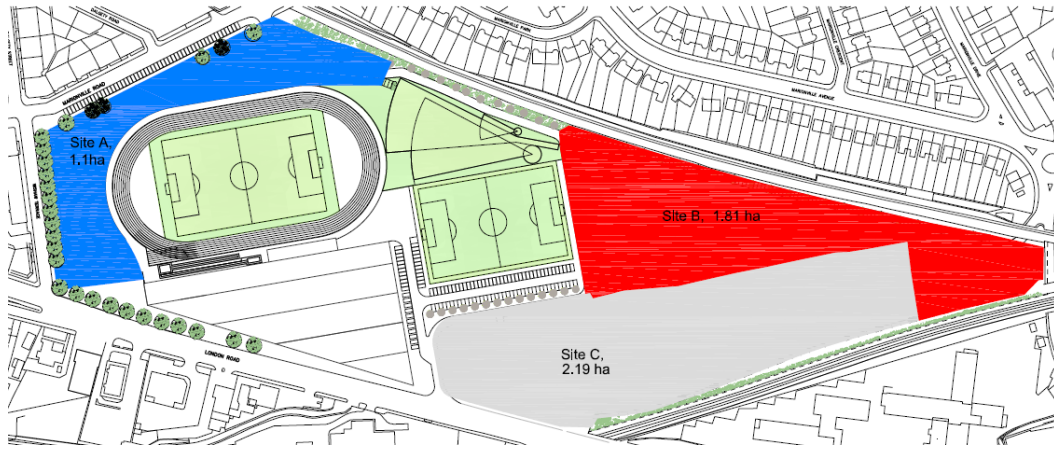
## Main report

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- 3.1 Previous estimates of the Meadowbank project cost have included an 11% fee allowance for the full design team. The outcome of a procurement process to renew the Council's framework agreement for Construction Professional Services was approved by the Finance and Resources Committee on [24 September 2015](#). The fee levels within this framework are significantly lower than those used in the Meadowbank project budget. A lower fee allowance of 7.5% has been used to calculate a reduced total project cost of £41.1m.

### **Surplus land at Meadowbank**

- 3.2 The surplus land has been divided into three sites – A, B and C – as shown below.



- 3.3 Work has been done with Planning which suggests a potential capacity of c200 residential units on the site to the west of the sports centre (site A) with a further c160 units on the site to the east (site B). The remaining surplus land to the east (site C) has been identified as being suitable for up to 1,200 student beds with communal facilities. This work will form planning guidance for these sites.
- 3.4 Valuation advice based on the above potential uses has been obtained from one of the Council's Framework property consultants.

**Proposed transfer of sites A and B to the Housing Revenue Account (HRA)**

- 3.5 As reported to the Corporate Policy and Strategy Committee of 29 September, discussions have taken place to assess the viability of housing development through the Council's 21<sup>st</sup> Century Homes Programme. The Health, Social Care and Housing Committee was advised on [11 November 2014](#) that in order to expand this Programme, it would be necessary to identify private and publicly owned sites for potential acquisition through the HRA. An update on progress was provided to the Health, Social Care and Housing Committee on [10 November 2015](#), noting that the current 21<sup>st</sup> Century Homes Programme will deliver 1,800 homes for rent and sale.
- 3.6 Together with EDI, the Housing Service has assessed the potential for residential development at Meadowbank and concluded that there is demand for housing at market and affordable rent at this location. If the Council approved this transfer option, the Housing Service would propose to work in partnership with EDI to develop a commercial model that would secure a minimum of 35% affordable housing on the combined sites A and B. Through this option the Council would have greater control over the quality of housing and placemaking.
- 3.7 The Housing Service has offered a figure for the transfer of the land to the HRA that exceeds the independent valuation mentioned above. The transfer of the site and the value of the land would be fixed and could be available within a shorter timescale in comparison to marketing the sites.
- 3.8 The all-round best value option to help achieve several major Council objectives is to transfer the surplus residential land to the HRA account. The Meadowbank site would remain in Council ownership and deliver longer term benefits to the Council through housing and rental income.

## Site C – Land for Student Accommodation

- 3.9 The intention is to market the site to potential developers along with planning consent in principle for student housing.
- 3.10 The development will be based on a design using planning guidance developed by the Meadowbank design team with Planning.

### Recommended funding package

- 3.11 The table below takes account of reduced fee levels, a transfer to the HRA of sites A and B based on independent valuation, disposal of site C and disposal of the Powerleague site in Portobello.

Estimated cost and financial package for a new Meadowbank	February 2015	September 2015	March 2016
<b>Total project cost estimate</b>	<b>£43.00m</b>	<b>£42.00m</b>	<b>£41.10m</b>
Principal Funding Sources			
Anticipated capital receipts	£11.50m	£21.50m	£21.50m
Prudential borrowing	£5.97m	£5.97m	£5.97m
<b>sportscotland</b>	£5.00m	£7.00m	£7.00m
Revenue savings from closure of Meadowbank	£0.75m	£0.75m	£0.65m
<i>Total funding</i>	<i>£23.22m</i>	<i>£35.22m</i>	<i>£35.12m</i>
<b>Funding Gap</b>	<b>£19.78m</b>	<b>£6.78m</b>	<b>£5.98m</b>

- 3.12 Additional sources of income are being pursued: as previously reported, discussions are ongoing with other interested parties such as NHS Lothian and Edinburgh City Football Club.
- 3.13 A funding gap is inevitable and will have to be met by a contribution from the Council's budget. In order to obtain greater certainty about the size of the likely gap, it is recommended that detailed designs be developed to the end of RIBA stage 4, using £0.70m from planned receipts due to be paid into the Strategic Investment Fund, which would allow the Council to tender for the new Meadowbank and confirm the total project cost and funding gap. It is further recommended that this gap be funded by realigning an element of unallocated funds within the Capital Investment Programme (from years 2019/20 and 2020/2021), and that this would include a repayment of £0.70m to the Strategic Investment Fund.

## Measures of success

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- 4.1 A successful strategy to minimise the funding gap for the delivery of a new sports centre, whose design allows land to be released to support much needed housing development.
- 4.2 A successfully concluded tender exercise resulting in cost certainty to allow the final funding package to be presented to the Council
- 4.3 Ultimately, the construction of a new Meadowbank.

## Financial impact

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- 5.1 A total of £0.360m in revenue has been spent to date on developing the new Meadowbank proposal.
- 5.2 The total cost of the project is now estimated to be £41.1m. The estimated total funding which could be achieved is £35.12m. (This is predicated on transferring surplus sites A and B to the HRA.) The total project cost could potentially reduce further, depending on the outcome of the eventual tender process to appoint a contractor. Equally, rising construction inflation could increase the total project cost.
- 5.3 The remaining projected shortfall is just under £6m. Taking the project to the end of RIBA stage 4 will provide greater cost certainty, thus confirming the likely funding gap, whilst allowing time to apply for external grant funding. Following this a final funding package will be presented to the Council with a recommendation that an element of unallocated funds from the Capital Investment Programme in 2019/2020 and 2020/2021 be used to fill the gap.
- 5.4 To progress the prudential borrowing element of funding, approval will need to be sought from the Finance and Resources Committee and Council, based on a business case that demonstrates the associated revenue income / saving streams that would be generated to pay for annual loan charges. The proposed level of prudential borrowing has been in part calculated by assuming that the improved operating position of the new facility would remove the requirement for a service payment.
- 5.5 The prudential borrowing element of the funding requires the new Sports Centre to operate without a service payment from the Council and for the service payment for the existing facility (around £0.330m per annum) to be made available by the Council to part-fund the assumed prudential borrowing element of funding. Further sustainable revenue income and saving streams of £0.159m will require to be generated to pay the annual loan charges of £0.489m to meet the prudential funding.
- 5.6 Pending realisation of the full funding package, the Council could incur additional borrowing costs to fund the timing of payments. These costs will be known once the procurement solution is identified and the cost and income profile is known.

- 5.7 The report outlines proposed total capital expenditure plans of a maximum of £41.1m with identified funding of £35.12m and a remaining funding gap of £5.98m. If this funding gap were to be funded fully by borrowing, the overall loan charges associated with this expenditure over a 20 year period would be a principal amount of £5.98m and interest of £3.8m, resulting in a total cost of £9.78m based on a loans fund interest rate of 5%. The annual loan charges would be £0.489m.
- 5.8 It should be noted that the Council's Capital Investment Programme is funded through a combination of General Capital Grant from the Scottish Government, developers and third party contributions, capital receipts and borrowing. The borrowing required is carried out in line with the Council's approved Treasury Management Strategy and is provided for on an overall programme basis rather than for individual capital projects.
- 5.9 If the decision is taken not to proceed with the proposed new Meadowbank, a further report on the financial and other implications of this will be required within six months. As noted in previous reports, the facility cannot be refurbished to a satisfactory standard and there is a limit to the length of time it can remain operational.

## **Risk, policy, compliance and governance impact**

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- 6.1 The total project cost and funding projections are estimates and are subject to fluctuating market conditions and inflation which may affect the scope and delivery of the project. Construction inflation has increased since February 2015 and (at the time of writing) is still rising. The capital receipt estimates are based on current day prices and informed by independent valuations.
- 6.2 The prudential funding element of the funding package requires the new Sports Centre to operate without service payment and for additional annual efficiencies and income of £0.159m to be achieved. The risk of any shortfall against these targets is borne by Edinburgh Leisure.
- 6.3 The revenue costs and income projections in the business case for the new Sports Centre's operation are subject to regular review and updating which could change the prudential borrowing level.
- 6.4 The Planning risk has been mitigated by preparing Planning guidelines for the site with Planning.
- 6.5 If the project does not proceed beyond RIBA stage 4, or is reduced in scope, design fees related to the abortive elements of the project will require to be written off to the revenue budget.
- 6.6 Since Meadowbank is Edinburgh's biggest driver of indoor and outdoor sport participation, the closure of this facility would have a negative impact on levels of physical activity and participation in sport by Edinburgh residents of all ages. As reported to the Corporate Policy and Strategy Committee on 29 September 2015,



an independent consultancy advises that there would be a serious under-supply of facilities and services if Meadowbank is closed and not replaced.

- 6.7 This would have a negative impact on the delivery of key policies including the Physical Activity and Sport Strategy agreed by the Council and city partners; two of the Council's Pledges; and the Scottish Government's Active Scotland Outcomes Framework. The health effects of an inactive life are serious. Inactivity accounts for over a third of deaths from heart disease and threatens the progress made in this area over many years. Added to this is the disease, disability and poor mental health that come from growing levels of obesity and a lack of physical strength. Physical inactivity has been called the 'silent killer of our time'. As reported in a [2012 article in The Lancet](#), "Elimination of physical inactivity would remove between 6% and 10% of the major non-communicable diseases of Coronary Heart Disease, type 2 diabetes, and breast and colon cancers, and increase life expectancy."
- 6.8 If this project does not proceed, and services are withdrawn from Meadowbank, the capital city would no longer have a flagship multi-sport facility. Regional training needs and Edinburgh's general health and wellbeing would be adversely affected. The city's other facilities could absorb some but not all of the demand for a short period (of say 18 months) only. The city would have fewer regional-level sporting facilities than its peer city group and lose the ability to train Edinburgh's future sportsmen and sportswomen.

## Equalities impact

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- 7.1 The new Meadowbank proposal would help to meet the city's housing needs, including affordable housing, and would provide a modern, fully accessible, high quality facility open to all Edinburgh residents and visitors. The new facility would make a positive impact on the health, well-being and quality of life of those who use it. The facility is currently projected to attract over 600,000 visits per year by the second year of its operation. The current Meadowbank has just over 500,000 visits per year. If the project does not proceed, the impact on current users losing this facility would require to be assessed.

## Sustainability impact

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- 8.1 The impacts of this report have been considered in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties, and the outcomes are positive. These have been described in full in previous reports. In addition, the Council will review the entire Meadowbank site for potential installation of district heating.

## Consultation and engagement

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- 9.1 Detailed community consultation will be undertaken if the recommendations of this report are approved.
- 9.2 For reasons of efficiency, safety and cost, demolition will be completed before construction begins. Alternative provision will need to be made for Meadowbank's customers, using Edinburgh Leisure facilities, the school's sporting estate and facilities in neighbouring council areas. This is the approach that was taken by the successful £37.1m refurbishment of the Royal Commonwealth Pool.

## Background reading/external references

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Report to Finance and Resources Committee on [26 November 2015](#)

Report to Economy Committee on [17 November 2015](#)

Report to Corporate Policy and Strategy Committee on [29 September 2015](#)

Minute of Council on [12 February 2015](#)

Report to Corporate Policy and Strategy Committee on [20 January 2015](#)

Report to Culture and Sport Committee on [17 December 2013](#)

Nine previous reports on National and Regional Sports Facilities (incorporating Meadowbank) to Council, Culture and Leisure Committee, and the Culture and Sport Committee, from 2004 to present, culminating in a [March 2008](#) report to Council

Scottish Government [Active Scotland Outcomes Framework](#)

### **Alistair Gaw**

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## Links

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<b>Coalition pledges</b>	<p>P42 – Continue to support and invest in our sporting infrastructure.</p> <p>P43 – Invest in healthy living and fitness advice for the most in need.</p> <p>P45 – Spend 5% of the transport budget on provision for cyclists</p>
<b>Council outcomes</b>	<p>C020 – Culture, sport and major events – Edinburgh continues to be a leading cultural city where culture and sport play a central part in the lives and futures of citizens.</p>
<b>Single Outcome Agreement Appendices</b>	<p>S02 – Edinburgh’s citizens experience improved health and wellbeing, with reduced inequalities in health.</p>

# The City of Edinburgh Council

10am, Thursday, 10 March 2016

## Governance Protocol for Community Council Elections

Item number	8.6
Report number	
Executive/routine	
Wards	All

### Executive Summary

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The current [Scheme for Community Councils](#) was approved by the City of Edinburgh Council on 22 August 2013. At that time the Council decided that future community council elections would be governed by a protocol.

This report sets out the protocol developed jointly by the Local Community Planning and Elections Teams. The protocol provides a framework for community council elections and is complementary to the Scheme for Community Councils.

### Links

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Coalition Pledges	<a href="#">P33</a>
Council Priorities	<a href="#">CO23</a> , <a href="#">CO24</a>
Single Outcome Agreement	<a href="#">SO4</a>

## Governance Protocol for Community Council Elections

### 1. Recommendations

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- 1.1 Agrees the governance protocol for community council elections;
- 1.2 Agrees to refer this report to the Communities and Neighbourhoods Committee for information.

### 2. Background

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- 2.1 Community councils were first established in Scotland following the Local Government (Scotland) Act 1973. Under the Act each Local Authority is required to produce a Scheme for Community Councils (CCs) which provides a framework for their creation and operation.
- 2.2 The current [Scheme for Community Councils](#) was approved by the City of Edinburgh Council on 22 August 2013. At that time the Council agreed the development of a governance protocol to aid the administration of future community council elections.
- 2.3 To comply with the Scheme for Community Councils, the next triennial elections will take place in September/October 2016. The development of the protocol provides the opportunity to formalise the process based on custom and practice for these and future elections.

### 3. Main report

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- 3.1 The governance protocol, attached as Appendix 1, has been developed jointly by the Local Community Planning and Election Teams. It provides detail in relation to the election process including:
  - 3.1.1 the election timetable;
  - 3.1.2 detail on nominations;
  - 3.1.3 detail on actions required in the event of a contested election;
  - 3.1.4 polling arrangements; and
  - 3.1.5 document storage after the elections.
- 3.2 As part of the development process, a draft of the governance protocol was issued to all community councils and two sessions were held enabling community

councillors to review and comment on the proposed approach. A total of 26 community councillors participated in sessions and the feedback informed the final protocol. During the sessions a number of issues were raised in relation to the Scheme for Community Councils. As any changes to the Scheme are subject to a statutory consultation process, these have been noted at this stage and will be addressed when the Scheme is next reviewed.

- 3.3 The governance protocol is complementary to the Scheme for Community Councils and does not alter it.

#### **4. Measures of success**

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- 4.1 The next opportunity for community council elections is September/October 2016. Success will be measured by ensuring that the elections are administered effectively and that, as a result, the experience of participants is a positive one.

#### **5. Financial impact**

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

#### **6. Risk, policy, compliance and governance impact**

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- 6.1 There are no perceived risks or policy impacts associated with this report.

#### **7. Equalities impact**

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- 7.1 The governance protocol for community council elections will enhance the Council's ability to meet its General and Public Duties under equalities legislation.

#### **8. Sustainability impact**

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- 8.1 There are no adverse environmental impacts associated with this report.

#### **9. Consultation and engagement**

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- 9.1 The governance protocol has been developed taking account of feedback from community council members with two dedicated sessions having been held in January and February 2016.

#### **10. Background reading/external references**

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- 10.1 [Scheme for Community Councils](#)

## **Alistair Gaw**

Acting Executive Director of Communities and Families

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## **11. Links**

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<b>Coalition Pledges</b>	P33 - Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used
<b>Council Priorities</b>	CO23 - Well engaged and well informed – Communities and individuals are empowered and supported to improve local outcomes and foster a sense of community  CO24 - The Council communicates effectively internally and externally and has an excellent reputation for customer care
<b>Single Outcome Agreement</b>	SO4 - Edinburgh's communities are safer and have improved physical and social fabric
<b>Appendices</b>	Appendix 1 – Governance Protocol for Community Council Elections

**GOVERNANCE PROTOCOL FOR  
FOR THE CITY OF EDINBURGH  
COMMUNITY COUNCIL ELECTIONS**

## **Contents**

- 1. Introduction**
- 2. Returning Officer**
- 3. Electoral Register**
- 4. Election Frequency and Timetable**
- 5. Publicity and Guidance**
- 6. Candidate Eligibility**
- 7. Nominations**
- 8. Unsuccessful Elections**
- 9. Uncontested Elections**
- 10. Contested Elections**
- 11. Candidates' Personal Statements**
- 12. The Poll & Ballot Papers**
- 13. Counting of Votes**
- 14. Rejected Ballot Papers**
- 15. Equality of Votes**
- 16. Requirements of Secrecy**
- 17. Declaration of Results**
- 18. Post Election**
- 19. Eligibility, Appointment and Role of Nominated Representatives**
- 20. Relevant Notices**

## 1. Introduction

- 1.1 The purpose of this document is to support the City of Edinburgh Council Scheme for Community Councils and describe the arrangements for operating the triennial community council elections.
- 1.2 The arrangements refer only to the election of members to community councils. The process of nominating members from local interest groups is contained in Schedule 2 of The City of Edinburgh Council Scheme for Community Councils.

## 2. Returning Officer

- 2.1 The City of Edinburgh Council will administer all community council elections as set out in the City of Edinburgh Council Scheme for Community Councils.
- 2.2 The City of Edinburgh Council will approve an independent Returning Officer for community council elections as set out in the City of Edinburgh Council Scheme for Community Councils.

## 3. Electoral Register

- 3.1 An Electoral Register will be prepared for each community council area based on the current Electoral Register for local government elections.
- 3.2 Only those persons whose names appear on the Community Council Electoral Register current for the month prior to the election will be eligible to vote in that election with the exception of some young people under the age of 16 $\frac{3}{4}$  who may not appear on the electoral register. In these circumstances registering can be confirmed by other means such as school registration.

## 4. Election Frequency and Timetable

- 4.1 Normal elections will be held periodically as set out in the City of Edinburgh Council Scheme for Community Councils.

### Timetable

Event	Day
Notice of Election (start of nomination period)	-52
Close of Nominations (forms to Returning Officer)	-31 4pm
Withdrawal of Nominations	-31 4pm
Candidates' personal statements	-21
Notice of Poll (if required)	-21
Polling Day	0



- 4.2 The Returning Officer reserves the right to vary the election timetable to take account of local circumstances, events or other polls in order to facilitate the election effectively.

## 5. Publicity and Guidance

- 5.1 In addition to publication of the notices; information and posters regarding the community council election will be made available on the City of Edinburgh Council website and by other means as deemed appropriate.
- 5.2 Guidance and information about the election and the nomination process will be provided to current community councils to disseminate throughout their area.
- 5.3 The Returning Officer will not be responsible for promoting any candidate for election, or any costs or charges incurred by the candidate or anyone acting on their behalf.

## 6. Candidate Eligibility

- 6.1 A person shall be eligible to stand for election to a community council:
- if they are 16 years old or over;
  - and reside within the community council area;
  - and are named on the Electoral Register for the area for which they are nominated.

Some young people under the age of 16¾ may not appear on the electoral register so registering can be confirmed by other means such as school registration.

## 7. Nominations

- 7.1 Each candidate must submit a separate nomination paper which must be lodged as a hard copy with the Returning Officer, no later than the time and final date for submission of nominations, as specified in Section 4 above. Nominations can be lodged by the candidate, proposer or seconder.
- 7.2 The nomination form must be signed by the proposer, seconder and candidate and include:
- the full name and address of the candidate
  - the full name and address of the proposer
  - the full name and address of the seconder
- 7.3 Each elector may propose **ONLY** one nominee and second **ONLY** one nominee.
- 7.4 Nominations require to be submitted with the candidate's consent.
- 7.5 A candidate cannot propose or second him\herself.

- 7.6 Only one valid nomination paper can be submitted per candidate and the candidate may only stand in respect of one vacancy in one community council area. Where more than one nomination paper is submitted, the first valid nomination paper received will be accepted and all others will be disregarded.
- 7.7 It is the candidate's responsibility to ensure that a valid nomination form is received within the time limit. No responsibility will be taken for items lost or delayed by any courier or postal service or packets or envelopes submitted to any Council office that do not have clear indication of the contents and their urgency.
- 7.8 Nomination forms submitted after the deadline time and date stated in the electoral timetable will not be accepted.
- 7.9 The Returning Officer shall, as soon as practicable after the delivery of the nomination paper, advise each candidate of the decision whether a nomination paper is valid or invalid.
- 7.10 The Returning Officer will be entitled to hold a nomination paper invalid if it does not comply with the requirements of Sections 7.1 to 7.6.
- 7.11 The Returning Officer's decision that a nomination paper is valid or invalid shall be final.
- 7.12 At close of nominations, the Returning Officer will arrange to advise all candidates as soon as practicable of all valid nominations lodged within their area, and give clear notice of whether or not the election will proceed to a poll.
- 7.13 A candidate may only withdraw their candidature by a signed letter of withdrawal delivered to the Returning Officer at the place for the submission of nomination papers, not later than the time and final date for the withdrawal of nominations, as specified in the published election timetable.

## **8. Unsuccessful Elections**

- 8.1 Where the total number of valid nominations for election to any community council received by the Returning Officer by close of nominations is less than HALF of the total maximum permitted elected membership as specified for the area, no community council will be established at that time.
- 8.2 In the event that the circumstances in 8.1 occur, then the Returning Officer will publish a Notice of Failure to Establish a Community Council on the City of Edinburgh Council website.

8.3 If the election is unsuccessful this does not prevent a further request from 20 electors to the City of Edinburgh Council to make arrangements for the establishment of a community council under the terms of Section 52 (7) of the Local Government (Scotland) Act 1973 and set out in the City of Edinburgh Scheme For Community Councils.

## **9. Uncontested Elections**

9.1 In community council areas if, after the expiry time for the withdrawal of nominations;

- the number of candidates remaining validly nominated is equal or exceeds half, but is less than or equal to the total maximum permitted membership as specified for the community council in the City of Edinburgh Scheme for Community Councils, the candidates will be declared as elected.

9.2 The Returning Officer will intimate the outcome of the nomination process to candidates as soon as practicable and publish the appropriate notice on the City of Edinburgh Council website and by other means as deemed appropriate.

## **10. Contested Elections**

10.1 In community council areas if, after the expiry time for the withdrawal of nominations;

- the number of candidates remaining validly nominated exceeds the total maximum permitted membership as specified for the area, arrangements for a poll shall be implemented.

## **11. Candidates' Personal Statements**

11.1 In the event of a contested election all candidates will be invited to submit a written personal statement of not more than 100 words in support of their candidacy. This must be lodged with the Returning Officer, no later than 4:00pm on the final date for submission of candidates' personal statements, as specified in the published election timetable.

11.2 No pictures, photographs diagrams or logos may be incorporated into the personal statement.

11.3 Any candidate personal statement submitted which is greater than the word limit stipulated will be truncated to the maximum limit by the Returning Officer.

11.4 A candidate's personal statement will be published along with their name and address.

11.5 Copies of all candidate's personal statements will be made available to electors and published on the City of Edinburgh Council website and by other means as deemed

appropriate as soon as is practicable when ballot papers are due to be issued for the election.

- 11.6 All material contained in personal statements will be the sole responsibility of the relevant candidate and neither the Returning Officer nor the City of Edinburgh Council will be responsible for the content.
- 11.7 It will be the responsibility of the candidate to ensure that their personal statement does not contain any material which is political, obscene, defamatory or otherwise likely to cause offence.
- 11.8 The Returning Officer, after consultation with the candidate, may amend candidate statements to ensure the statement does not breach these rules.
- 11.9 The Returning Officer reserves the right to refrain from publishing any personal statement which is in breach of these rules.

## **12. The Poll and Ballot Papers**

- 12.1 The poll will be conducted by secret ballot of local electors, organised by the Returning Officer approved by the City of Edinburgh Council in accordance with the Scottish Local Election Rules but subject to modification and simplification as deemed necessary by the City of Edinburgh Council.
- 12.2 The poll will be conducted by a method determined by the City of Edinburgh Council and may take the form of online, postal or polling place voting, or a combination of these.
- 12.3 Where applicable, full details of the electoral arrangements will be contained in the Notice of Poll.
- 12.4 Postal ballot papers will be in the format as used for other major elections with the appropriate security marking and ballot paper number and will contain:
  - the names and addresses of the candidates as shown on their nomination papers arranged alphabetically in order of their surnames;
  - where there are two or more candidates with the same surname, the names and addresses of the candidates will be arranged alphabetically in order of their other names.
- 12.5 Each voter will be entitled to cast a number of votes up to the number of prescribed vacancies for election, but will not give more than one vote to any one candidate and will not give an order of preference among candidates (although the recording of preferences would not in itself spoil an otherwise valid ballot paper).
- 12.6 Where a postal voter claims either to have lost, spoiled or not received their postal ballot paper the voter may apply to the Returning Officer by 5pm on polling day for a

replacement ballot paper. Such an application shall include evidence of the voter's identity. Where a postal voter exercises this entitlement any ballot paper previously issued shall immediately be cancelled by the Returning Officer.

- 12.7 In the event that a candidate dies, the poll will proceed at the discretion of the Returning Officer. This will not apply if, on the death of a candidate, the total number of candidates no longer exceeds the maximum permitted members within the community council area as the poll will become an uncontested election.

### **13. Counting of Votes**

- 13.1 The Returning Officer will make arrangements for the counting of votes and will notify the candidates of the place and time at which the Count will commence.

- 13.2 No person other than:

- the Returning Officer and their staff;
- the candidates; or
- any person representing a candidate who is not present, may attend the counting of votes, unless expressly permitted by the Returning Officer.

- 13.3 All persons that attend the count are bound by the Requirements of Secrecy noted in Section 16.

- 13.4 Candidates shall be elected on a simple majority basis. The result will be determined by counting the votes given to each candidate and the candidates with the highest number of votes, equal to the maximum permitted membership, will be declared to have been elected.

- 13.5 A candidate or their representative may, if present when the counting of the votes is completed, request the Returning Officer to have the votes re-counted, but the Returning Officer may refuse to do so if in his\her opinion the request is unreasonable.

### **14. Rejected Ballot Papers**

- 14.1 A ballot paper on which the vote(s) is/are marked:

- elsewhere than in the proper place;
- otherwise than by means of a cross;
- or where the voter has indicated an order of preference, will not, for such reason alone, be deemed to be null and void.

- 14.2 Any ballot paper:

- on which votes are given for more candidates than the prescribed number of vacancies;

- on which anything is written or marked by which the voter can be identified;
- which is want of an official mark; or
- which is unmarked or null and void for uncertainty, will not be counted.

14.3 The decision of the Returning Officer on any question arising in respect of a ballot paper will be final.

## **15. Equality of Votes**

15.1 Where, after the counting of votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the Returning Officer will decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

## **16. Requirements of Secrecy**

16.1 All persons involved in the election, including candidates, are required to maintain and aid in maintaining the secrecy of voting.

16.2 No person shall interfere with or attempt to interfere with a voter when the voter is recording their vote.

16.3 No person shall communicate at any time to any person any information obtained as to the candidate or candidates for whom a voter is about to vote for or has voted for.

16.4 No person shall communicate to any person at any time any information obtained as to the number or other unique identifying mark on the back of any ballot paper sent or issued to any person.

## **17. Declaration of Results**

17.1 In a contested election, the Returning Officer will declare the candidates receiving the highest number of votes, equal to the number of available vacancies, to be elected.

17.2 In an uncontested election, following the expiry of time for the withdrawal of nominations, the Returning Officer will declare the candidates remaining validly nominated to be elected.

17.3 As soon as practicable after declaration, the Returning Officer will publish the results by displaying a Notice to that effect in appropriate public office(s) and on the City of Edinburgh Council website and the candidates, being either successful or unsuccessful, will be informed as soon as practicable, about the outcome of the poll.

## **18. Post Election**

- 18.1 On completion of the election, whether unsuccessful, uncontested or contested, all nomination papers and ballot papers will be sealed within packets endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the community council area for which the election was held.
- 18.2 The Returning Officer shall arrange to forward to the Proper Officer of the Council the packets of ballot papers and nomination papers in the Returning Officer's possession.
- 18.3 No person shall be allowed to inspect any rejected or counted ballot papers, or open any sealed packet in the possession of the Proper Officer of the Council.
- 18.4 The Proper Officer of the Council shall retain, for one year, all documents mentioned within this Section.
- 18.5 The election records will only be available to the Returning Officer or appointed representative if, following the election, there is any accusation of misconduct or fraud which requires investigation.

## **19. Eligibility, Appointment and Role of Nominated Representatives**

- 19.1 Nominated representatives may be appointed by local interest groups registered with the City of Edinburgh Council.
- 19.2 The procedure for the appointment of community council nominated members is set out in Schedule 2 of the City of Edinburgh Council Scheme for Community Councils.

## **20. Relevant Notices**

### **20.1 Notice of Election**

The Returning Officer shall publish a notice advising that an election for the community council will take place and inviting nominations.

The Notice of Election shall state:

- (1) the number of members to be elected to the community council;
- (2) the place and time for the lodging of nominations;
- (3) the qualification to stand as a candidate or to propose or second a nomination;
- (4) that if the number of candidates exceeds the number of places to be filled, a poll will be held on a particular date; and
- (5) the method(s) of voting.

### **20.2 Notice of Failure to Establish a Community Council**

In the event that the number of candidates validly nominated is less than minimum number of places to be filled, the Returning Officer shall publish a Notice of Failure to Establish a Community Council.

The Notice of Failure to Establish a Community Council shall state:

- (1) that, the number of candidates validly nominated, being less than one half of the total number of members of the community council, no community council shall be established.

### 20.3 Notice of Uncontested Election

In the event that the number of candidates validly nominated exceeds the minimum number of places to be filled, but is less than or equal to maximum number of places to be filled, the Returning Officer shall publish a Notice of Uncontested Election.

The Notice of Uncontested Election shall:

- (1) list the candidates in alphabetical order of surname and state their addresses;
- (2) state that the number of candidates validly nominated being less than the number of places to be filled, but greater than the number required to establish the community council, those candidates are deemed to be elected on the date of the notice.

### 20.4 Notice of Poll

In the event that the number of candidates validly nominated exceeds the number of places to be filled, the Returning Officer shall publish a Notice of Poll.

The Notice of Poll shall:

- (1) list the candidates in alphabetical order of surname and state their addresses;
- (2) specify the date and hours of the Poll;
- (3) specify the location of the polling station; and
- (4) state the method(s) of voting.

20.5 Publication means publication on the City of Edinburgh Council website or such additional methods as the Returning Officer may think fit, including publication in a newspaper or posting on notice boards at Council premises and in the area of the community council.



# The City of Edinburgh Council

10.00am, Thursday, 10 March 2016

## Annual Treasury Strategy 2016/17 - referral report from the Finance and Resources Committee

Item number	8.7
Report number	
Wards	All

### Executive summary

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The Finance and Resources Committee on 2 February 2016 considered a report that detailed a Treasury Management Strategy for 2016/17. The report has been referred to the City of Edinburgh Council on 10 March 2016 for approval of the Treasury Management Strategy for 2016/17 and to subsequently refer the report to the Governance, Risk and Best Value Committee for their scrutiny.

### Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Terms of Referral

## Annual Treasury Strategy 2016/17

### Terms of referral

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- 1.1 The Council's Treasury Management activities were carried out in accordance with the Council's Treasury Policy Statement. Under the provisions of the Treasury Policy Statement, a report should be submitted on the proposed Treasury Management Strategy for the ensuing year.
- 1.2 The Treasury Management Strategy aimed to ensure that the Council has sufficient and appropriate facilities available to meet its short and long-term borrowing requirements and funding needs; to secure new funding at the lowest cost; and to ensure that surplus funds were invested in accordance with the list of approved organisations for investment, minimising the risk to the capital sum and to optimise the return on these funds consistent with those risks.
- 1.3 The Finance and Resources Committee agreed:
  - 1.3.1 To note the Treasury Management Strategy for 2016/17.
  - 1.3.2 To refer the report to Council for approval and then subsequently refer the report to the Governance, Risk and Best Value Committee for their scrutiny.

### For Decision/Action

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- 2.1 The Finance and Resources Committee has referred the report to The City of Edinburgh Council on 10 March 2016 for approval of the Treasury Management Strategy for 2016/17 and to subsequently refer the report to the Governance, Risk and Best Value Committee for their scrutiny.

### Background reading / external references

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Minute of the Finance and Resources Committee, 2 February 2016.

### **Kirsty-Louise Campbell**

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## Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Finance and Resources Committee

10.00am, Tuesday 2 February 2016

## Annual Treasury Strategy 2016/17

Item number	7.3
Report number	
Executive/routine	
Wards	

### Executive summary

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The report proposes a Treasury Management strategy for the Council for 2016/17, including an Annual Investment Strategy and a Debt Management strategy.

### Links

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Coalition pledges
Council outcomes
Single Outcome Agreement

## Annual Treasury Strategy 2016/17

### Recommendations

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- 1.1 It is recommended that the Committee:
- 1.1.1 approves the Treasury Management Strategy for 2016/17; and
  - 1.1.2 refers the report to Council for their approval and remit to the Governance, Risk and Best Value Committee for their scrutiny.

### Background

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- 2.1 This report sets out a Treasury Management Strategy for 2016/17 including estimates of funding requirements, an economic forecast and borrowing and investment strategies.
- 2.2 The Council's Treasury Management activities are carried out in accordance with the Council's Treasury Policy Statement. Under the provisions of the Treasury Policy Statement, a report should be submitted on the proposed Treasury Management Strategy for the ensuing year. The Treasury Strategy aims to:
- ensure that the Council has sufficient and appropriate facilities available to meet its short and long-term borrowing requirements and funding needs;
  - secure new funding at the lowest cost; and
  - ensure that surplus funds are invested in accordance with the list of approved organisations for investment, minimising the risk to the capital sum and optimising the return on these funds consistent with those risks.
- 2.3 Treasury Management is undertaken with regard to CIPFA's Code of Practice for Treasury Management in the Public Services and the Prudential Code. It also adheres to the statutory requirements in Scotland which require this report, including Capital Programme and Prudential Indicators to be approved by the full Council. Appendix 2 gives details of the capital investment programme and prudential indicators which were approved by Council as part of the budget process.

### 3.1 Key Points

3.1.1 The key points in the report are that:

- The Council's total capital expenditure is forecast to be £988m between 2015/16 and 2020/21;
- The Council's total underlying need to borrow to finance capital expenditure is forecast to reduce each year to 2020/21;
- From 31 March 2015 to 31 March 2021, the underlying need to borrow is forecast to reduce by £140m from £1.510bn to £1.370bn;
- Over the same period £343m of the Council's external debt is due to mature;
- It is intended to continue to fund the Council's Capital Financing Requirement from temporary investment balances over the next year;
- Investment return is forecast to remain low in absolute terms as no increase in UK Bank Rate is anticipated in 2016/17.

### 3.2 Capital Expenditure

#### Overview

3.2.1 This section summarises the Council's anticipated capital expenditure in the period to March 2021 based on the Capital Investment Programme. It also details how that expenditure will be funded.

#### Total Capital Expenditure (Prudential Indicator 1)

3.2.2 Tables 1 and 2 below show the anticipated expenditure on capital assets for both General Services and the Housing Revenue Account.

#### Capital Expenditure - General Services

	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Children and Families	16,903	46,877	49,310	6,558	10,019	14,601	393
Corporate Governance	7,582	2,729	18,879	1,028	165	165	165
Economic Development	0	58	0	0	0	0	0
Health and Social Care	4,616	6,328	4,229	114	0	0	0
Services for Communities (SFC)	85,260	76,616	98,942	73,598	30,719	24,201	19,834
SFC - Asset Management Programme	18,657	13,224	24,044	11,035	8,436	19,173	14,000
Other Capital Projects	1,049	259	0	0	0	0	0
Unallocated (indicative 5 year plan 2019-23)	0	0	0	0	0	7,000	7,000
<b>General Services Capital Expenditure</b>	<b>134,067</b>	<b>146,091</b>	<b>195,404</b>	<b>92,333</b>	<b>49,339</b>	<b>65,140</b>	<b>41,392</b>
Trams Project as approved in Sept 2011	5,246	0	0	0	0	0	0
<b>Total General Services Capital Expenditure</b>	<b>139,313</b>	<b>146,091</b>	<b>195,404</b>	<b>92,333</b>	<b>49,339</b>	<b>65,140</b>	<b>41,392</b>

Table 1 - Capital Expenditure on General Services

**Capital Expenditure - Housing Revenue Account**

	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Total Housing Revenue Account Cap. Ex.	37,308	38,253	48,508	65,708	76,500	84,794	85,022

**Table 2 - Capital Expenditure on the Housing Revenue Account**
**Funding Capital Expenditure**

3.2.3 Tables 3 and 4 below show how the capital expenditure in Tables 1 and 2 is going to be funded by the Council.

	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
<b>General Services Capital Expenditure</b>	<b>139,313</b>	<b>146,091</b>	<b>195,404</b>	<b>92,333</b>	<b>49,339</b>	<b>65,140</b>	<b>41,392</b>
Government Capital Grants	57,675	57,461	38,795	47,921	47,921	41,422	38,000
Cycling, Walking and Safer Streets	762	729	540	0	0	0	
Development Funding	28,512	31,663	29,248	0	0	0	
Trams Funding (Scot Govt grant and 3rd party)	42	0	0	0	0	0	
<b>Total Central Government Grants</b>	<b>86,991</b>	<b>89,853</b>	<b>68,583</b>	<b>47,921</b>	<b>47,921</b>	<b>41,422</b>	<b>38,000</b>
Use of Capital Receipts	14,177	12,852	26,575	11,760	1,260	15,503	3,000
Transfer Receipts to Capital Fund for trams	-11,298	-1,000	-8,084	-2,334	-1,500	-1,500	-1,500
Other Capital Contributions	18,469	9,728	3,643	209	0	309	0
Draw down of capital fund - per budget update	0	6,600	0	0	0	0	0
<b>Total Grants &amp; Receipts</b>	<b>108,339</b>	<b>118,033</b>	<b>90,717</b>	<b>57,556</b>	<b>47,681</b>	<b>55,734</b>	<b>39,500</b>
<b>GF Cap Ex to be funded</b>	<b>30,974</b>	<b>28,058</b>	<b>104,687</b>	<b>34,777</b>	<b>1,658</b>	<b>9,406</b>	<b>1,892</b>

**Table 3 - Funding for General Services Capital Expenditure**

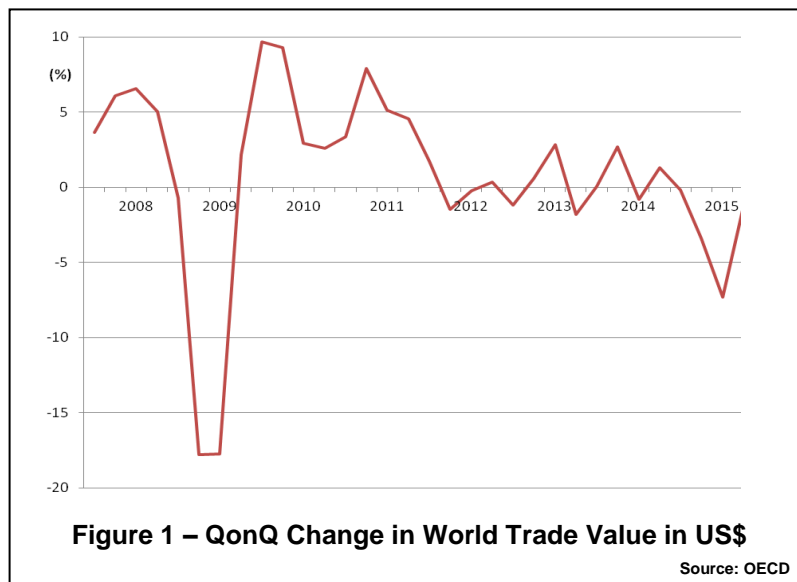
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
<b>HRA Cap Ex</b>	<b>37,308</b>	<b>38,253</b>	<b>48,508</b>	<b>65,708</b>	<b>76,500</b>	<b>84,794</b>	<b>85,022</b>
Central Government Grants :-	4,259	4,589	736	4,738	2,346	3,861	5,376
Capital Receipts / CFGR / Grants / other conts	13,228	10,360	24,742	30,041	31,677	24,442	14,420
<b>Total Grants &amp; Receipts</b>	<b>17,487</b>	<b>14,949</b>	<b>25,478</b>	<b>34,779</b>	<b>34,023</b>	<b>28,303</b>	<b>19,796</b>
<b>HRA Cap Ex to be funded by borrowing</b>	<b>19,821</b>	<b>23,304</b>	<b>23,030</b>	<b>30,929</b>	<b>42,477</b>	<b>56,491</b>	<b>65,226</b>

**Table 4 - Funding for HRA Capital Expenditure**
**3.3 Economic and Market Outlook**
**Overview**

3.3.1 Many of the key themes in the UK and global economies are similar to those outlined last year. The UK recovery continues, albeit at a modest rate, the state of the Eurozone economies remain precarious and the global economic outlook is weak.

## World Economy

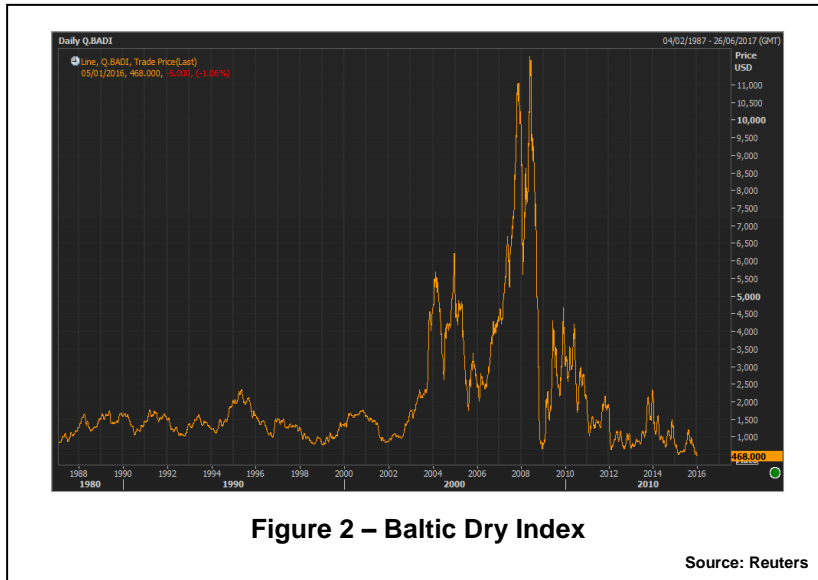
3.3.2 2015 was a challenging year for the world economy. World growth by value (in US Dollar terms), has fallen for five consecutive quarters and by Quarter 3 2015 (the latest available statistic) was 13% lower than a year previously. As shown in Figure 1 below this is the largest fall since the Global Financial Crisis (GFC).



3.3.3 While the fall is partly due to the strength of the US Dollar and to the fall in commodity prices, there is no doubt that world growth is constrained with Emerging Market economies in particular facing major difficulties.

3.3.4 Figure 2 below shows the Baltic Dry Index (BDI), which measures the rates for chartering the giant ships that transport iron ore, coal and grain. Since it is indicative of the cost of shifting the basic raw materials that are the ingredients of steel, energy and food it is taken as a leading indicator of the state of the world economy.

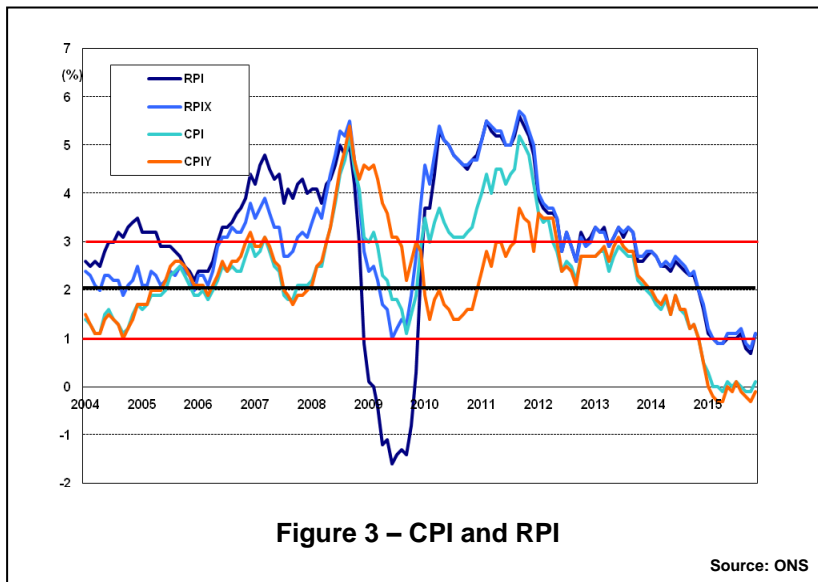




3.3.5 While the index is also affected by the oversupply of shipping capacity which means it is an imperfect indicator of the world economy, the drop in the index is clear and can be taken as another indication of the weakness of the world economy.

### Inflation Outlook

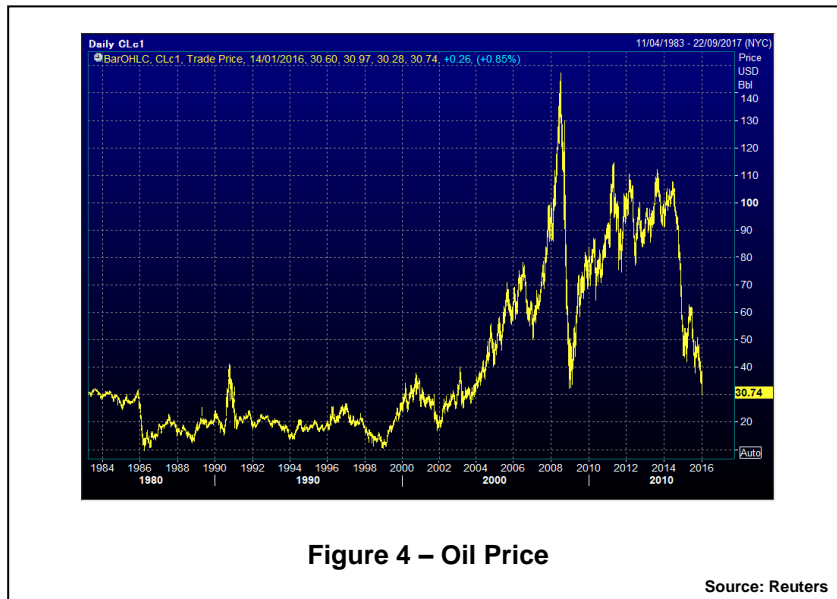
3.3.6 Figure 3 below shows CPI and RPI since March 2004.



3.3.7 The Government’s preferred measure of inflation, CPI, has remained in a narrow band between -0.1% and 0.1% for all of 2015.

3.3.8 Members were advised last year that there was “likely to be further disinflationary pressure as we go through 2015. While it is expected that inflation

(CPI) is likely to turn negative during the first half of 2015, it is anticipated that inflation will revert back to the target range over a two year horizon.” However the price of oil (Figure 4 below) has fallen even further than we and most comentators had expected.

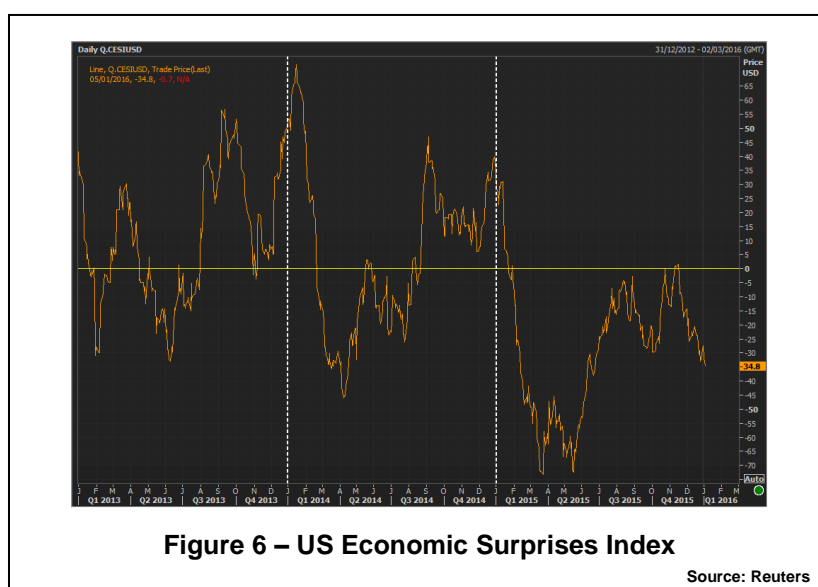


3.3.9 Although little of this had fed through in lower domestic energy prices, transport costs alone are substantially reduced. Further, we continue to believe that there is no underlying pressure to core inflation in the UK. Figure 5 below shows the growth in real wages. While this has been positive during 2015, this is more to do with the exceptionally low inflation rate than soar away wages growth. CPI is still expected to increase back to trend, but on a slightly longer timescale.



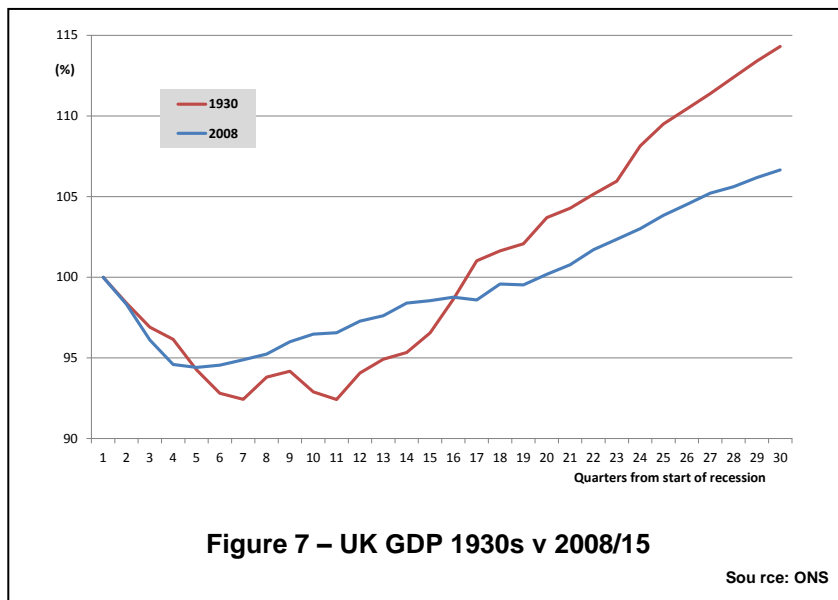
## Interest Rate Outlook

3.3.10 The Reuters poll of up to 38 economists, taken 23rd December 2015, shows most economists polled believe that the UK Bank Rate will be at 0.75% by the end of Quarter 2, June 2016. However, for many years, we have consistently maintained a “much lower for much longer” stance on UK Bank Rate, in spite of market sentiment and forecasts, and see no justification for changing this stance at present. There is some pressure from the 0.25% increase in the US Federal Reserve (Fed) Rate and the fact that the Fed is anticipating four 0.25% increases in 2016. However, the reason that the Fed delayed increasing rates in the US from June to September and then to December was the release of poorer than expected economic data. Figure 6 below shows the ‘US Economic Surprises Index’ which shows whether data released was above or below forecasts.



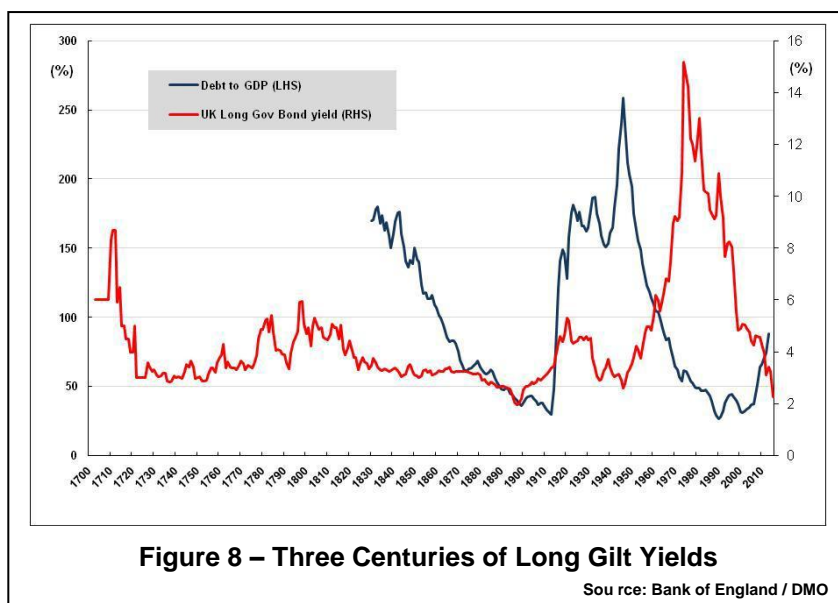
3.3.11 The index was heavily in negative territory all year as US payroll and other data came in under expectations and then later in the year the effect of growth in China slowing was felt.

3.3.12 In 2015 UK growth continued to be better than the Eurozone countries and other leading economies. However, Figure 7 below compares the recovery in GDP from start of the 2008 recession with the recovery from the start of the Great Depression in the 1930s. Although the concerted action by central banks around the world averted a deeper recession in 2008, the overall rate of recovery in the UK has been modest, and 30 quarters on from the start of the recession the recovery is significantly weaker than that in the 30s.



3.3.13 With no substantial pick up in UK inflation, modest UK growth at best, slowing growth in China, on-going issues in the Eurozone, a poor global economic backdrop and rates in the US possibly not increasing as much as is being expected, we see no great justification for increasing UK Bank Rate.

3.3.14 Longer term borrowing rates however are more finely balanced. Longer Gilt Yields are lower than they have been for half a century, having fallen from 15% to around 3%, and some commentators see this as a “Bonds Bubble” which is likely to burst sending interest rates higher. However on a longer term view shown below, the argument could be made that they have simply reverted to a more normal level. With a sluggish global economy, there may well be further ‘flights to safety’ from riskier asset classes such as equities which would keep yields low. It is difficult to determine how these competing pressures will resolve themselves.



3.3.15 There is the additional possibility of an early referendum on the UK’s membership of the EU. If there were to be polls showing the likelihood of a no vote, it might be anticipated that there would be a sell off in UK Gilts with yields increasing.

### 3.4 Treasury Management Strategy – Debt

#### Overview

3.4.1 The overall objectives of the Council’s Strategy for Debt Management are to:

- forecast average future interest rates and borrow accordingly;
- secure new funding at the lowest cost in a manner that is sustainable in the medium term;
- ensure that the Council’s interest rate risk is managed appropriately;
- ensure smooth debt profile with a spread of maturities; and
- reschedule debt to take advantage of interest rates.

#### Loans Fund Borrowing Requirement

3.4.2 Table 5 below shows the anticipated out-turn for the current year and summarises how much the Council needs to borrow for the following five years, based on the capital investment programme summarised in Tables 1 to 4 above.

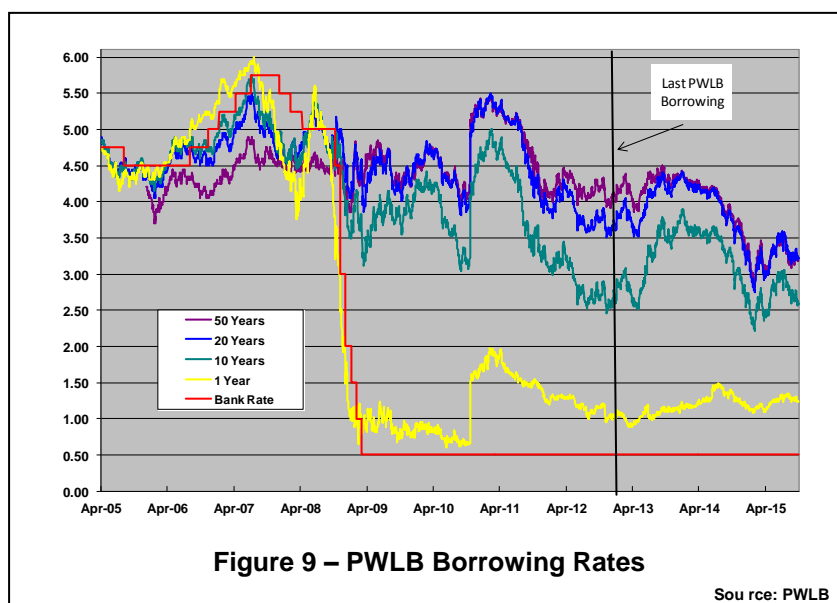
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	£000	£000	£000	£000	£000	£000	£000
<b>Debt b/fd</b>	1,434,289	1,412,998	1,367,988	1,316,005	1,261,650	1,256,690	1,233,108
<b>Cumulative Capital Expenditure b/fd</b>	1,544,437	1,510,154	1,483,226	1,475,344	1,453,153	1,409,967	1,387,149
<b>Over/underborrowed b/fd</b>	<b>-110,148</b>	<b>-97,156</b>	<b>-115,238</b>	<b>-159,339</b>	<b>-191,503</b>	<b>-153,278</b>	<b>-154,041</b>
GF Capital financed by borrowing (Table 3)	30,974	28,058	104,687	34,777	1,658	9,406	1,892
HRA Capital financed by borrowing (Table 4)	19,821	23,304	23,030	30,929	42,477	56,491	65,226
less scheduled repayments by GF	-60,585	-57,710	-113,526	-62,341	-60,263	-59,923	-62,680
less scheduled repayments by HRA	-21,129	-17,328	-19,112	-21,055	-23,348	-26,022	-27,784
less scheduled repayments by Former Joint Boards	-3,364	-3,252	-2,962	-2,481	-1,575	-517	-544
<b>Underlying Need to Borrow</b>	<b>-34,283</b>	<b>-26,928</b>	<b>-7,883</b>	<b>-20,171</b>	<b>-41,051</b>	<b>-20,565</b>	<b>-23,890</b>
plus total maturing debt	27,782	45,010	51,984	54,355	54,960	53,581	55,567
<b>Total Borrowing Requirement</b>	<b>-6,501</b>	<b>18,082</b>	<b>44,101</b>	<b>34,184</b>	<b>13,909</b>	<b>33,016</b>	<b>31,677</b>
Planned PWLB or short borrowing for year	0	0	0	0	50,000	30,000	30,000
Actual Other Borrowing	6,491	0	0	0	0	0	0
<b>Debt at end of the year</b>	<b>1,412,998</b>	<b>1,367,988</b>	<b>1,316,005</b>	<b>1,261,650</b>	<b>1,256,690</b>	<b>1,233,108</b>	<b>1,207,542</b>
<b>Cumulative Capital Expenditure</b>	<b>1,510,154</b>	<b>1,483,226</b>	<b>1,475,344</b>	<b>1,455,173</b>	<b>1,414,121</b>	<b>1,393,556</b>	<b>1,369,666</b>
<b>Cumulative Over/under Borrowed</b>	<b>-97,156</b>	<b>-115,238</b>	<b>-159,339</b>	<b>-193,523</b>	<b>-157,432</b>	<b>-160,448</b>	<b>-162,125</b>

**Table 5 - Capital Funding v. External Debt**

3.4.3 In producing the estimates in Table 5, the following assumptions have been made:

- Capital receipts are received as per the most recent forecast and used to repay prudential borrowing;
- The Council's underlying temporary cash balance representing earmarked reserves, allocated funds and other items on the Council's balance sheet is in the region of £150m in the short term.

3.4.4 The Council's last borrowing from the PWLB was undertaken in mid-December 2012. Since then, the Council's strategy has been to reduce its temporary investment balances to fund capital expenditure in the short term. Figure 9 below shows the interest rates for borrowing new maturity loans from the Government via the Public Works Loans Board since April 2005.



- 3.4.5 As markets have realised that lower interest rates might be here to stay, the Gilts yield curve has flattened considerably. In the graph above this means that the difference between the one year borrowing rate in yellow and the 50 year borrowing rate in dark purple reduced significantly between 2011 and 2013 and then even further between 2011 and the current date. The strategy over the last three years to fund capital expenditure from reducing investments has proven successful as not only has the funding achieved significant savings but longer borrowing rates are now lower if the Council chose to lock in longer term borrowing.
- 3.4.6 On the forecasts in Table 5, the Council's need to borrow reduces in each year. Thus if the Council's external borrowing was exactly matching the need to borrow, the Council's external borrowing would fall year on year. However, at the end of 2014/15 £97m of the need to borrow was being funded by reducing the Council's temporary investments. In addition, there is around £50m of debt maturing each year, some of which was borrowed at much higher interest rates in the 1990s.
- 3.4.7 It is proposed to continue to fund the borrowing requirement by reducing investments further. However, this will be reviewed in light of market conditions as the competing effects of the weak world economic conditions and the potential EU referendum feed through into UK sovereign debt yields.
- 3.4.8 The reduction in Loans Charges relating to PWLB debt which is maturing at higher interest rates has already been included within the Council's long term financial plan. In addition to a £1.2m saving in the current financial year, a further £5.2m saving in Loans Charges will be generated in 2016/17 based on the current strategy.
- 3.4.9 It is not intended to borrow in advance of need during the year. Appendix 1 lists the maturity of the Council's debt as of February 2015.

### 3.5 Treasury Management Strategy – Investment of Surplus Funds

3.5.1 In line with CIPFA’s Code of Practice, the overall objectives of the Council’s Strategy for Investment Management are to:

- ensure the security of funds invested;
- ensure that the Council has sufficient liquid funds to cover its expenditure commitments; and
- pursue optimum investment return within the above two objectives.

3.5.2 The Council’s cash balances are pooled and invested via the Treasury Cash Fund subject to the limits set out in the Treasury Management Policy Statement. The Cash Fund’s Investment Strategy continues to be based around the security of the investments. Figure 10 below shows the distribution of Cash Fund deposits since inception.

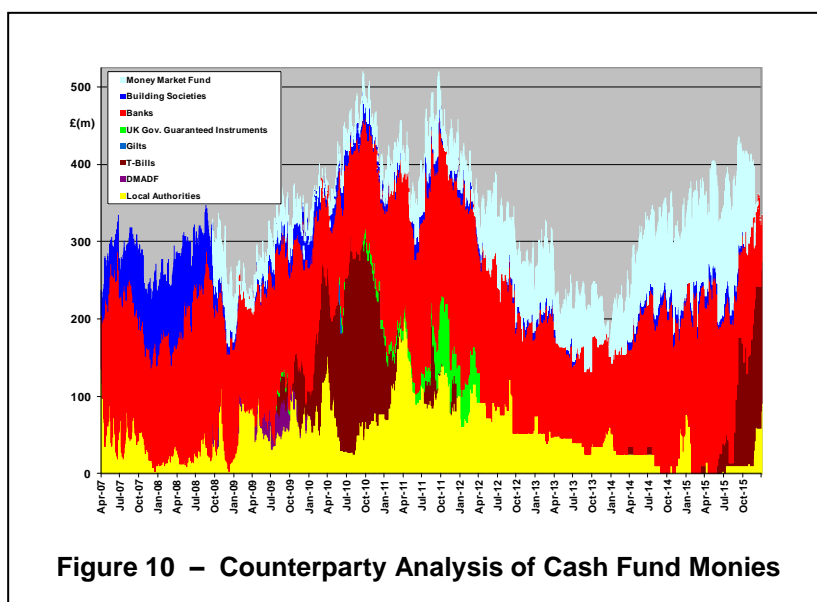
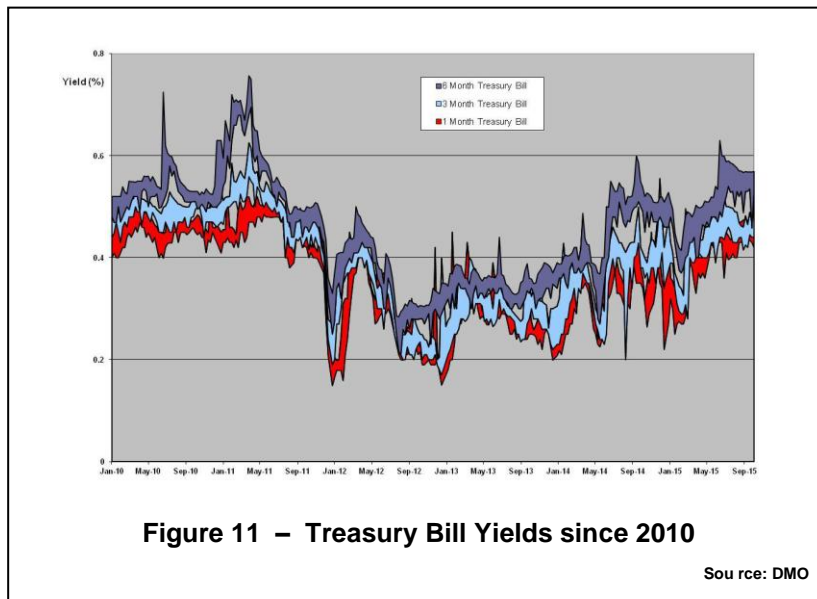


Figure 10 – Counterparty Analysis of Cash Fund Monies

3.5.3 As part of the 2015/16 Investment Strategy, the Cash Fund Treasury Policy Statement was amended to allow use of instruments such as Covered Bonds and FRN’s. However, during the year there were better opportunities to invest in UK Treasury Bills. In early July the successful rates at the UK Treasury Bill auctions increased significantly which gave the opportunity to invest in Treasury Bills at a higher rate than we were achieving on the Fund’s call accounts. This gave both a better rate of return and reduced counterparty risk. At the same time as the rates on offer increased, the Council’s Capital Budget monitoring for Period 3 showed that around £60m had been re-phased from 2015/16 to the following financial year which meant the Council projected a higher cash balance for the rest of the financial year. This allowed the cash to be placed longer, gaining the 6 month Treasury Bill return. Figure 11 below shows the lowest and highest accepted yields in the Treasury Bill auctions since 2010.





- 3.5.4 This shows how much the 6 month yield (in dark blue) has risen during 2015, although the return is still very low in absolute terms.
- 3.5.5 It is intended to continue the current investment strategy centred around the security of the investments, taking advantage of longer rates where liquidity allows. The criteria for approved financial organisations for investment in the CEC Treasury Policy Statement have been simplified in light of technical changes made by the Ratings Agencies. Investment will continue to be made via the Cash Fund arrangement and there are no changes to the investment instruments or counterparty limits in the Cash Fund Treasury Policy Statement.

## Measures of success

- 4.1 The success of the Treasury Section can be measured by the out-performance of the Treasury Cash Fund against its benchmark and managing the Council's debt portfolio to minimise the cost to the Council while mitigating risk.

## Financial impact

- 5.1 The Council continues to manage its debt portfolio so as to minimise the medium term cost of funding its capital projects. Provision for the revenue implications arising from this report have already been included in the Council's long term financial plan.
- 5.2 The Treasury Cash Fund has generated significant additional income for the Council.

## Risk, policy, compliance and governance impact

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- 6.1 The changes to the Treasury Management Policy Statement and strategy are designed to manage and mitigate the risk to which the Council is exposed.

## Equalities impact

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- 7.1 There are no adverse equality impacts arising from this report.

## Sustainability impact

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- 8.1 There are no adverse sustainability impacts arising from this report.

## Consultation and engagement

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- 9.1 Not applicable.

## Background reading / external references

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Capital Investment Programme 2016/17 to 2023/24

[http://www.edinburgh.gov.uk/download/meetings/id/49400/item\\_710 -  
\\_capital\\_investment\\_programme-plan\\_2016-17\\_to\\_2023-24](http://www.edinburgh.gov.uk/download/meetings/id/49400/item_710_-_capital_investment_programme-plan_2016-17_to_2023-24)

## Hugh Dunn

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## Links

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<b>Coalition pledges</b>	P30 - Continue to Maintain a sound financial position including long-term financial planning
<b>Council outcomes</b>	C025 - The Council has efficient and effective services that deliver on objectives
<b>Single Outcome Agreement</b>	SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1 – Maturing Debt Profile as at 31 December 2015

Appendix 2 – Prudential Indicators

Appendix 3 – Treasury Management Policy Statement – The City of Edinburgh Council

Appendix 4 – Treasury Management Policy Statement – Treasury Cash Fund

## Maturing Debt Profile – February 2015

## Market Debt

START DATE	TYPE	MATURITY DATE	PRINCIPAL	INTEREST RATE %	ANNUAL INTEREST
30/03/1992	M	30/03/2017	1,000,000.00	10.25	102,500.00
21/08/1992	M	21/08/2017	500,000.00	9.75	48,750.00
21/08/1992	M	21/08/2017	500,000.00	9.75	48,750.00
12/11/1998	M	13/11/2028	3,000,000.00	4.75	142,500.00
15/12/2003	M	15/12/2053	10,000,000.00	5.25	525,000.00
18/02/2004	M	18/02/2054	10,000,000.00	4.54	454,000.00
28/04/2005	M	28/04/2055	12,900,000.00	4.75	612,750.00
25/02/2011	M	25/02/2060	15,000,000.00	7.126	1,068,900.00
25/02/2011	M	25/02/2060	10,000,000.00	7.126	712,600.00
26/02/2010	M	26/02/2060	5,000,000.00	7.085	354,250.00
26/02/2010	M	26/02/2060	10,000,000.00	6.993	699,300.00
30/06/2005	M	30/06/2065	5,000,000.00	4.4	220,000.00
01/07/2005	M	01/07/2065	10,000,000.00	3.86	386,000.00
07/07/2005	M	07/07/2065	5,000,000.00	4.4	220,000.00
24/08/2005	M	24/08/2065	5,000,000.00	4.4	220,000.00
07/09/2005	M	07/09/2065	10,000,000.00	4.99	499,000.00
13/09/2005	M	14/09/2065	5,000,000.00	3.95	197,500.00
03/10/2005	M	05/10/2065	5,000,000.00	4.375	218,750.00
21/12/2005	M	21/12/2065	5,000,000.00	4.99	249,500.00
23/12/2005	M	23/12/2065	10,000,000.00	4.75	475,000.00
28/12/2005	M	24/12/2065	12,500,000.00	4.99	623,750.00
06/03/2006	M	04/03/2066	5,000,000.00	4.625	231,250.00
14/03/2006	M	15/03/2066	15,000,000.00	5	750,000.00
17/03/2006	M	17/03/2066	10,000,000.00	5.25	525,000.00
03/04/2006	M	01/04/2066	10,000,000.00	4.875	487,500.00
03/04/2006	M	01/04/2066	10,000,000.00	4.875	487,500.00
03/04/2006	M	01/04/2066	10,000,000.00	4.875	487,500.00
07/04/2006	M	07/04/2066	10,000,000.00	4.75	475,000.00
05/06/2006	M	07/06/2066	20,000,000.00	5.25	1,050,000.00
05/06/2006	M	07/06/2066	16,500,000.00	5.25	866,250.00
18/08/2006	M	18/08/2066	10,000,000.00	5.25	525,000.00
01/02/2008	M	01/02/2078	10,000,000.00	3.95	395,000.00
			276,900,000.00		14,358,800.00

PWLB Debt

START DATE	TYPE	MATURITY DATE	PRINCIPAL	INTEREST RATE %	ANNUAL INTEREST
06/11/1990	P	25/03/2016	10,000,000.00	11.375	1,137,500.00
17/05/1991	P	25/03/2016	10,000,000.00	11	1,100,000.00
13/10/2009	P	13/04/2016	5,000,000.00	2.95	147,500.00
23/04/2009	P	23/04/2016	5,000,000.00	2.96	148,000.00
17/01/1991	P	15/05/2016	15,000,000.00	11.25	1,687,500.00
09/06/2009	P	09/06/2016	5,000,000.00	3.37	168,500.00
27/09/1991	P	25/09/2016	2,736,307.00	10.5	287,312.24
15/08/1991	P	15/11/2016	10,000,000.00	10.875	1,087,500.00
10/12/2008	P	10/12/2016	5,000,000.00	3.61	180,500.00
02/12/2011	P	02/06/2017	5,000,000.00	2.28	114,000.00
27/03/1992	P	25/09/2017	10,000,000.00	10.625	1,062,500.00
09/10/2008	P	09/10/2017	5,000,000.00	4.39	219,500.00
03/04/1992	P	25/03/2018	30,000,000.00	10.875	3,262,500.00
23/04/2009	P	23/04/2018	15,000,000.00	3.24	486,000.00
17/09/1992	P	15/05/2018	8,496,500.00	9.75	828,408.75
09/06/2009	P	09/06/2018	5,000,000.00	3.75	187,500.00
17/09/1993	P	15/11/2018	5,000,000.00	7.875	393,750.00
23/03/1994	P	15/11/2018	5,000,000.00	8	400,000.00
14/03/1994	P	11/03/2019	2,997,451.21	7.625	228,555.65
18/10/1993	P	25/03/2019	5,000,000.00	7.875	393,750.00
30/03/2009	P	30/03/2019	5,000,000.00	3.46	173,000.00
21/04/2009	P	21/04/2019	10,000,000.00	3.4	340,000.00
23/04/2009	P	23/04/2019	5,000,000.00	3.38	169,000.00
12/11/2008	P	12/11/2019	2,071,695.24	3.96	82,039.13
23/03/1994	P	15/11/2019	5,000,000.00	8	400,000.00
07/12/1994	P	15/11/2019	10,000,000.00	8.625	862,500.00
01/12/2008	P	01/12/2019	2,051,804.91	3.65	74,890.88
01/12/2009	P	01/12/2019	5,000,000.00	3.77	188,500.00
14/12/2009	P	14/12/2019	10,000,000.00	3.91	391,000.00
15/02/1995	P	25/03/2020	5,000,000.00	8.625	431,250.00
21/04/2009	P	21/04/2020	10,000,000.00	3.54	354,000.00
12/05/2009	P	12/05/2020	10,000,000.00	3.96	396,000.00
21/10/1994	P	15/05/2020	5,000,000.00	8.625	431,250.00
07/12/1994	P	15/05/2020	5,000,000.00	8.625	431,250.00
21/11/2011	P	21/05/2020	15,000,000.00	2.94	441,000.00
16/08/1995	P	03/08/2020	2,997,451.21	8.375	251,036.54
09/12/1994	P	15/11/2020	5,000,000.00	8.625	431,250.00
10/05/2010	P	10/05/2021	2,710,314.88	3.09	83,748.73
21/10/1994	P	15/05/2021	10,000,000.00	8.625	862,500.00
10/03/1995	P	15/05/2021	11,900,000.00	8.75	1,041,250.00
12/06/1995	P	15/05/2021	10,000,000.00	8	800,000.00
02/06/2010	P	02/06/2021	5,000,000.00	3.89	194,500.00
16/08/1994	P	03/08/2021	2,997,451.21	8.5	254,783.35
START DATE		MATURITY DATE		INTEREST RATE %	ANNUAL INTEREST

DATE	TYPE	DATE	PRINCIPAL	RATE %	INTEREST
28/04/1994	P	25/09/2021	5,000,000.00	8.125	406,250.00
23/04/2009	P	23/04/2022	5,000,000.00	3.76	188,000.00
12/06/1995	P	15/05/2022	10,200,000.00	8	816,000.00
14/06/2010	P	14/06/2022	10,000,000.00	3.95	395,000.00
31/03/1995	P	25/09/2022	6,206,000.00	8.625	535,267.50
16/02/1995	P	03/02/2023	2,997,451.21	8.625	258,530.17
24/04/1995	P	25/03/2023	10,000,000.00	8.5	850,000.00
05/12/1995	P	15/05/2023	5,200,000.00	8	416,000.00
20/09/1993	P	14/09/2023	2,997,451.21	7.875	236,049.28
20/09/1993	P	14/09/2023	584,502.98	7.875	46,029.61
08/05/1996	P	25/09/2023	10,000,000.00	8.375	837,500.00
13/10/2009	P	13/10/2023	5,000,000.00	3.87	193,500.00
05/12/1995	P	15/11/2023	10,000,000.00	8	800,000.00
10/05/2010	P	10/05/2024	10,000,000.00	4.32	432,000.00
28/09/1995	P	28/09/2024	2,895,506.10	8.25	238,879.25
14/05/2012	P	14/11/2024	10,000,000.00	3.36	336,000.00
14/12/2009	P	14/12/2024	6,637,268.64	3.66	242,924.03
17/10/1996	P	25/03/2025	10,000,000.00	7.875	787,500.00
10/05/2010	P	10/05/2025	5,000,000.00	4.37	218,500.00
16/11/2012	P	16/05/2025	20,000,000.00	2.88	576,000.00
13/02/1997	P	18/05/2025	10,000,000.00	7.375	737,500.00
20/02/1997	P	15/11/2025	20,000,000.00	7.375	1,475,000.00
01/12/2009	P	01/12/2025	10,358,828.33	3.64	377,061.35
21/12/1995	P	21/12/2025	2,397,960.97	7.875	188,839.43
21/05/1997	P	15/05/2026	10,000,000.00	7.125	712,500.00
28/05/1997	P	15/05/2026	10,000,000.00	7.25	725,000.00
29/08/1997	P	15/11/2026	5,000,000.00	7	350,000.00
24/06/1997	P	15/11/2026	5,328,077.00	7.125	379,625.49
07/08/1997	P	15/11/2026	15,000,000.00	6.875	1,031,250.00
13/10/1997	P	25/03/2027	10,000,000.00	6.375	637,500.00
22/10/1997	P	25/03/2027	5,000,000.00	6.5	325,000.00
13/11/1997	P	15/05/2027	3,649,966.00	6.5	237,247.79
17/11/1997	P	15/05/2027	5,000,000.00	6.5	325,000.00
13/12/2012	P	13/06/2027	20,000,000.00	3.18	636,000.00
12/03/1998	P	15/11/2027	8,677,693.00	5.875	509,814.46
06/09/2010	P	06/09/2028	10,000,000.00	3.85	385,000.00
14/07/2011	P	14/07/2029	10,000,000.00	4.9	490,000.00
14/07/1950	P	03/03/2030	3,665.36	3	109.96
14/07/2011	P	14/07/2030	10,000,000.00	4.93	493,000.00
15/06/1951	P	15/05/2031	3,632.59	3	108.98
06/09/2010	P	06/09/2031	20,000,000.00	3.95	790,000.00
15/12/2011	P	15/06/2032	10,000,000.00	3.98	398,000.00
15/09/2011	P	15/09/2036	10,000,000.00	4.47	447,000.00
22/09/2011	P	22/09/2036	10,000,000.00	4.49	449,000.00
START		MATURITY		INTEREST	ANNUAL
DATE	TYPE	DATE	PRINCIPAL	RATE %	INTEREST

10/12/2007	P	10/12/2037	10,000,000.00	4.49	449,000.00
08/09/2011	P	08/09/2038	10,000,000.00	4.67	467,000.00
15/09/2011	P	15/09/2039	10,000,000.00	4.52	452,000.00
06/10/2011	P	06/10/2043	20,000,000.00	4.35	870,000.00
09/08/2011	P	09/02/2046	20,000,000.00	4.8	960,000.00
23/01/2006	P	23/07/2046	10,000,000.00	3.7	370,000.00
23/01/2006	P	23/07/2046	10,000,000.00	3.7	370,000.00
19/05/2006	P	19/11/2046	10,000,000.00	4.25	425,000.00
07/01/2008	P	07/01/2048	5,000,000.00	4.4	220,000.00
27/01/2006	P	27/07/2051	1,250,000.00	3.7	46,250.00
16/01/2007	P	16/07/2052	40,000,000.00	4.25	1,700,000.00
30/01/2007	P	30/07/2052	10,000,000.00	4.35	435,000.00
13/02/2007	P	13/08/2052	20,000,000.00	4.35	870,000.00
20/02/2007	P	20/08/2052	70,000,000.00	4.35	3,045,000.00
22/02/2007	P	22/08/2052	50,000,000.00	4.35	2,175,000.00
08/03/2007	P	08/09/2052	5,000,000.00	4.25	212,500.00
30/05/2007	P	30/11/2052	10,000,000.00	4.6	460,000.00
11/06/2007	P	11/12/2052	15,000,000.00	4.7	705,000.00
12/06/2007	P	12/12/2052	25,000,000.00	4.75	1,187,500.00
05/07/2007	P	05/01/2053	12,000,000.00	4.8	576,000.00
25/07/2007	P	25/01/2053	5,000,000.00	4.65	232,500.00
10/08/2007	P	10/02/2053	5,000,000.00	4.55	227,500.00
24/08/2007	P	24/02/2053	7,500,000.00	4.5	337,500.00
13/09/2007	P	13/03/2053	5,000,000.00	4.5	225,000.00
12/10/2007	P	12/04/2053	5,000,000.00	4.6	230,000.00
05/11/2007	P	05/05/2057	5,000,000.00	4.6	230,000.00
15/08/2008	P	15/02/2058	5,000,000.00	4.39	219,500.00
02/12/2011	P	02/12/2061	5,000,000.00	3.98	199,000.00
			1,092,846,979.05		61,411,262.57

SALIX Debt

START		MATURITY		INTEREST	ANNUAL
DATE	TYPE	DATE	PRINCIPAL	RATE %	INTEREST
07/01/2015	Z	01/09/2021	473,742.84	0	0
31/03/2015	Z	01/04/2023	1,352,173.05	0	0
22/09/2015	Z	01/10/2023	351,679.50	0	0
			<b>2,177,595.39</b>		<b>0</b>



## Appendix 2

### PRUDENTIAL INDICATORS

#### Indicator 1 - Estimate of Capital Expenditure

The actual capital expenditure that was incurred in 2014/15 and the estimates of capital expenditure to be incurred for the current and future years that are recommended for approval are:

	----- Capital Expenditure General Services -----						
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	Actual	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
	£000	£000	£000	£000	£000	£000	£000
Children and Families	16,903	46,877	49,310	6,558	10,019	14,601	393
Corporate Governance	7,582	2,729	18,879	1,028	165	165	165
Economic Development	0	58	0	0	0	0	0
Health and Social Care	4,616	6,328	4,229	114	0	0	0
Services for Communities (SFC)	85,260	76,616	98,942	73,598	30,719	24,201	19,834
SFC - Asset Management Programme	18,657	13,224	24,044	11,035	8,436	19,173	14,000
Other Capital Projects	1,049	259	0	0	0	0	0
Unallocated - indicative 5 year plan 2019-2023 funding	0	0	0	0	0	7,000	7,000
<b>Sub Total General Services Capital Expenditure</b>	<b>134,067</b>	<b>146,091</b>	<b>195,404</b>	<b>92,333</b>	<b>49,339</b>	<b>65,140</b>	<b>41,392</b>
Trams Project as approved by Council in Sept 2011 (not detailed in CIP)	5,246	0	0	0	0	0	0
<b>Total General Services Capital Expenditure</b>	<b>139,313</b>	<b>146,091</b>	<b>195,404</b>	<b>92,333</b>	<b>49,339</b>	<b>65,140</b>	<b>41,392</b>

Note that the 2016-2021 CIP includes slippage / acceleration brought forward based on projected capital expenditure reported at the nine month stage.

----- **Capital Expenditure Housing Revenue Account** -----

	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>

Housing Revenue Account	37,308	38,253	48,508	65,708	76,500	84,794	85,022
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**Indicator 2 - Ratio of Financing Costs to Net Revenue Stream**

Estimates of the ratio of financing costs to net revenue stream for the current and future years and the actual figures for 2014/15 are:

<b>Ratio of Financing Costs to Net Revenue Stream</b>							
	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
General Services	11.60	12.03	11.98	11.95	11.67	11.56	N/A
HRA	36.01	35.40	36.64	39.33	40.73	42.49	44.60

Note: Figures for 2017/18 onwards are indicative as the Council has not set a General Services or HRA budget for these years. The figures for General Services are based on the current long term financial plan that ends to 2019/20. HRA figures are based on the current business plan.

The estimates of financing costs include current commitments and the proposals in this budget.

### Indicator 3 - Capital Financing Requirement

Estimates of the end of year capital financing requirement for the authority for the current and future years and the actual capital financing requirement at 31st March 2015 are:

	----- Capital Financing Requirement -----						
	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
	Actual	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate
	£m	£m	£m	£m	£m	£m	£m
General Services	1,358	1,318	1,298	1,260	1,192	1,133	1,064
HRA	368	374	378	388	407	437	475

The capital financing requirement measures the authority's underlying need to borrow for a capital purpose. In accordance with best professional practice, the Council does not associate borrowing with particular items or types of expenditure. The authority has an integrated treasury management strategy and has adopted the CIPFA Code of Practice for Treasury Management in the Public Services. The Council has, at any point in time, a number of cashflows both positive and negative, and manages its treasury position in terms of its borrowings and investments in accordance with its approved treasury management strategy and practices. In day to day cash management, no distinction can be made between revenue cash and capital cash. External borrowing arises as a consequence of all the financial transactions of the authority and not simply those arising from capital spending. In contrast, the capital financing requirement reflects the authority's underlying need to borrow for a capital purpose.

CIPFA's Prudential Code for Capital Finance in Local Authorities includes the following as a key indicator of prudence:

"In order to ensure that the medium term debt will only be for a capital purpose, the local authority should ensure that debt 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 financing requirement for the current and next two financial years."

	<b>Gross Debt and the Capital Financing Requirement</b>						
	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Actual</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Gross Debt	1,629	1,576	1,516	1,454	1,441	1,410	1,377
Capital Financing requirements	1,726	1,692	1,676	1,648	1,599	1,571	1,539
(Over) / under limit by:	97	115	159	194	158	161	162

The Council's Capital Financing Requirement (CFR) is projected to reduce by £34m during 2015/16 as repayments for previous capital advances are higher than advances for in year expenditure. At 31/03/15, the authority was under borrowed by £97m. Current projections suggest that the authority will be under borrowed by approximately £115m at 31/03/16, although this may vary in light of actual capital expenditure and market conditions. This movement is a result of the reduction in CFR, partially offset by maturing external debt.

As demonstrated above, the authority does not currently envisage borrowing in excess of its capital financing requirement over the next few years. This view takes into account current commitments, existing plans, the repayment of the outstanding capital advance on the EICC - additional function space project following future receipt settlement, assumptions around cash balances and the proposals in this budget.

#### Indicator 4 – Authorised Limit for External Debt

The authorised limit should reflect a level of borrowing which, while not desired, could be afforded, but may not be sustainable. Previously, the definition of long term liabilities was used to include funding required in respect of finance leases and PFI assets. In light of proposed changes to Financing Regulations which are likely to come into force from 1 April 2016, the definition of 'credit arrangements' has been used to calculate the authorised and operational limits requiring both the short and long term liabilities relating to finance leases and PFI assets to be considered rather than solely long term liabilities as before. In respect of its external debt, it is recommended that Council approves the following authorised limits for its total external debt gross of investments for the next five financial years. These limits separately identify borrowing under credit arrangements including finance leases and PFI assets. Council is asked to approve these limits and to delegate authority to the Acting Executive Director of Resources / Head of Finance, within the total limit for any individual year, to effect movement between the separately agreed limits for borrowing and credit arrangements, in accordance with option appraisal and best value for money for the authority. Any such changes made will be reported to the Council at its meeting following the change:

	<b>Authorised Limit for External Debt</b>				
	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Borrowing	1,591	1,617	1,631	1,559	1,508
Credit Arrangements	227	216	205	196	188
	<u>1,818</u>	<u>1,833</u>	<u>1,836</u>	<u>1,755</u>	<u>1,695</u>

These authorised limits are consistent with the authority's current commitments, existing plans and the proposals in this budget for capital expenditure and financing, and with its approved treasury management policy statement and practices. They are based on the estimate of most likely, prudent but not worst case scenario, with in addition sufficient headroom over and above this to allow for operational management, for example unusual cash movements. Risk analysis and risk management strategies have been taken into account, as have plans for capital expenditure, estimates of the capital financing requirement and estimates of cashflow requirements for all purposes.

### Indicator 5 – Operational Boundary for External Debt

The Council is also asked to approve the following operational boundary for external debt for the same time period. The proposed operational boundary equates to the estimated maximum of external debt. It is based on the same estimates as the authorised limit but reflects directly the estimate of the most likely, prudent but not worst case scenario, without the additional headroom included within the authorised limit to allow for example for unusual cash movements. The operational boundary represents a key management tool for in year monitoring. Within the operational boundary, figures for borrowing and credit arrangements are separately identified. The Council is also asked to delegate authority to the Acting Executive Director of Resources / Head of Finance, within the total operational boundary for any individual year, to effect movement between the separately agreed figures for borrowing and credit arrangements, in a similar fashion to the authorised limit. Any such changes will be reported to the Council at its next meeting following the change:

	<b>Operational Boundary for External Debt</b>				
	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>	<b>Estimate</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Borrowing	1,491	1,487	1,521	1,479	1,457
Credit Arrangements	227	216	205	196	188
	<u>1,718</u>	<u>1,703</u>	<u>1,726</u>	<u>1,675</u>	<u>1,645</u>

The Council's actual external debt at 31st March 2015 was £1,430.711m, comprising borrowing (including sums repayable within 12 months). Of this sum, £21.454m relates to borrowing carried out by the Council on behalf of the former Police and Fire Joint Boards.

In taking its decisions on this budget, the Council is asked to note that the estimate of capital expenditure determined for 2015/16 (see paragraph 1 above) will be the statutory limit determined under section 35(1) of the Local Government in Scotland Act 2003.

## Indicator 6 – Impact on Council Tax and House Rents

The estimate of the incremental impact of capital investment decisions proposed in this budget, together with changes in projected interest rates, over and above capital investment decisions that have previously been taken by the Council are:

a) for the band "D" Council Tax

2016/17	2017/18	2018/19	2019/20	2020/21
£	£	£	£	£
2.46	9.19	13.69	18.05	N/A

b) for average weekly housing rents

2016/17	2017/18	2018/19	2019/20	2020/21
£	£	£	£	£
-0.19	-0.68	-0.50	0.55	3.50

In calculating the incremental impact of capital investment decisions on the band "D" Council Tax, investment decisions relating to National Housing Trust Phases have been omitted. As agreed with the Scottish Government, the borrowing and associated interest costs related to this expenditure are directly rechargeable to the Limited Liability Partnerships (LLPs) at agreed periods in the future. As such, there is no cost to the Council in relation to this element of borrowing and therefore it has been omitted in calculating the incremental impact of capital investment decisions.

### **Consideration of options for the capital programme**

In considering its programme for capital investment, Council is required within the Prudential Code to have regard to:

- affordability, e.g., implications for Council Tax / House Rents;
- prudence and sustainability, e.g., implications for external borrowing;
- value for money, e.g., option appraisal;
- stewardship of assets, e.g., asset management planning;
- service objectives, e.g., strategic planning for the authority;
- practicality, e.g., achievability of the forward plan.

A key measure of affordability is the incremental impact on the Council Tax / rents, and the Council could consider different options for its capital investment programme in relation to their differential impact on the Council Tax / rents.

### **Indicators included in Treasury Management Strategy**

The Council's treasury management strategy and annual plan for 2016/17 will include the following:

- The Council has adopted the CIPFA Code of Practice for Treasury Management in the Public Services;
- It is recommended that the Council sets an upper limit on its fixed interest rate exposures for 2016/17, 2017/18, 2018/19, 2019/20 and 2020/21 of 100% of its net outstanding principal sums;
- It is further recommended that the Council sets an upper limit on its variable interest rate exposures for 2016/17, 2017/18, 2018/19, 2019/20 and 2020/21 of 75% of its net outstanding principal sums;
- This means that the Acting Executive Director of Resources / Head of Finance will manage fixed interest rate exposures within the range 25% to 100% and variable interest rate exposures within the range 0% to 75%. This reflects the need for a high level of liquidity to assist in managing counterparty exposure in the current market environment;



-It is recommended that the Council sets upper and lower limits for the maturity structure of its borrowing as follows.

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate:

	<b>Upper Limit</b>	<b>Lower Limit</b>
	<b>%</b>	<b>%</b>
under 12 months	25	0
12 months and within 24 months	25	0
24 months and within 5 years	50	0
5 years and within 10 years	75	0
10 years and above	100	20

The maximum total principal sum which may be invested with a maturity of up to 3 years is £100m.

In relation to Gross and Net Debt, the Council will continue its current practice of monitoring throughout the year that the projected Gross Debt position for the financial year 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 financing requirement for the current and next two financial years.

Treasury Management Policy Statement – The City of Edinburgh Council

## **The City of Edinburgh Council**

### **Treasury Management Policy Statement**

#### **Summary**

The Council has adopted the CIPFA Code of Practice on Treasury Management in the Public Services. As part of the adoption of that code, the Council agreed to create and maintain, as the cornerstones for effective treasury management:

- a Treasury Management Policy Statement (TMPS), stating the policies and objectives of its treasury management activities; and
- suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

This document outlines the Council's Treasury Management Policy Statement which provides a framework for the Council's treasury management activities. Any reference in the Treasury Policy Statement to the Chief Financial Officer should be taken to be any other officer to whom the Chief Financial Officer has delegated his powers.

#### **Approved Activities**

The Council defines its treasury management activities as:

“The management of the Council's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.

Subject to any legal restrictions, this definition covers the following activities:

- arranging, administering and managing all capital financing transactions
- approving, arranging and administering all borrowing on behalf of the Council
- cash flow management
- investment of surplus funds
- ensuring adequate banking facilities are in place, negotiating bank charges, and ensuring the optimal use by the Council of banking and associated facilities and services

The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the Council.

The Council also acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable performance measurement techniques, within the context of effective risk management.

#### **Treasury Management Strategy**

The treasury management strategy for the cash fund is to:

- Secure both capital and revenue funding at the lowest cost in the medium term; and
- ensure that surplus funds are invested in accordance with the list of approved organisations for investment, minimising the risk to the capital sum and optimising the return on these funds consistent with those risks

## **Approved Sources of Finance**

Finance will only be raised in accordance with legislation and within this limit the Council has a number of approved methods and sources of raising capital finance. No other instrument other than those listed below may be used

- Bank Overdraft
- Temporary Loans
- Loans from the Public Works Loan Board and other government bodies
- Loans from the European Community institutions
- Long-Term Market Loans
- Bonds
- Stock Issues
- Negotiable Bonds
- Internal (such as Capital Receipts, capital income from third parties and Revenue Balances)
- Commercial Paper
- Medium Term Notes
- Finance and Operating Leases
- Deferred Purchase Covenant Agreements
- Government and European Community Capital Grants
- Lottery Monies
- Public and Private Partnership funding initiatives

## **Permitted Instruments**

Where possible the Chief Financial Officer will manage all of the Council's temporary surplus funds together and invest them using the Council's Treasury Cash Fund. The investment restrictions contained in the Treasury Cash Fund Policy Statement therefore apply to the City of Edinburgh Council's monies.

However small operational balances will need to be retained with the Council's bankers, and in other cases – such as devolved schools – relatively small investment balances may be operated locally. Some allowance for temporary deposits has therefore been made.

In addition, the Council has some non-cash investment types and these are also included in the Policy Statement.

The Head of Finance may invest monies in accordance with the Council's requirements only by using the following instruments:

- (a) Temporary deposit with an approved institution of the Bank of England or with any other approved organisation for investment (see below)
- (b) Money Market Funds
- (c) Debt Management Office's Debt Management Agency Deposit Facility
- (d) Investment Properties
- (e) Loans to Other Organisations
- (f) Investment in share capital of Council Companies and Joint Ventures
- (g) Loans to / investment in the Loan Stock of Council Companies
- (h) Investment in Shared Equity Housing Schemes
- (i) Investment in the Subordinated Debt of projects delivered via the "HubCo" model

## **Approved Organisations for Investment**

The approved counterparty limits are as follows:

- (a) *The Council's bankers with no limit.*
- (b) *DMO's DMADF with no limit.*
- (c) *AAA Money Market Funds with no limit.*
- (d) *financial institutions on the Bank of England's authorised list where the lowest of their long term ratings from the three main Credit ratings agencies, S&P, Moodys and Fitch is the equivalent of A- or above up to a maximum of £10 million per institution*
- (e) *building societies where the lowest of their long term ratings from the three main Credit ratings agencies, S&P, Moodys and Fitch is the equivalent of A- or above up to a maximum of £5 million per institution.*
- (f) *Subordinated debt of projects delivered via "HubCo" model up to a maximum of £1 million.*

In addition, there is no explicit limit at present for the non-cash investment types. However, it is anticipated that each specific investment of these types would be reported individually to Council and a full list of them will be contained in the Treasury Annual Report.

The investment risks and controls to mitigate those risks are outlined to the end of this document.

### **Policy on Delegation**

Responsibility for the implementation and regular monitoring of the Council's treasury management policies and practices is retained by the Council.

The Council delegates responsibility for the execution and administration of Treasury Management decisions to the Chief Financial Officer who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

The Council nominates the Governance, Risk and Best Value Committee to be responsible for the ensuring effective scrutiny of the treasury management strategy and policies.

### **Reporting Arrangements**

This will include, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs. The Head of Finance will report to the Council as follows:

- (a) A Treasury Strategy prior to the commencement of the financial year.
- (b) A mid-term report during the financial year
- (c) A Treasury Annual Report as soon as practicable after the end of the financial year.
- (d) Ad hoc reports according to need.

Type of Investment	Treasury Risks	Mitigating Controls
a. Deposits with the Debt Management Account Facility (UK Government) ( <b>Very low risk</b> )	This is a deposit with the UK Government and as such counterparty and liquidity risk is very low, and there is no risk to value. Deposits can be between overnight and 6 months.	As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments.
b. Money Market Funds (MMFs) ( <b>low/medium risk</b> )	Pooled cash investment vehicle which provides short term liquidity. It is difficult to effectively monitor the underlying counterparty exposure, so will be sparingly used.	Funds will only be used where the MMFs are Constant Net Asset Value (CNAV), and the fund has a “AAA” rated status from either Fitch, Moody’s or Standard & Pools.
c. Call account deposit accounts with financial institutions (banks and building societies) ( <b>Risk is dependent on credit rating</b> )	<p>These tend to be moderately low risk investments, but will exhibit higher risks than the category (a) above. Whilst there is no risk to value with these types of investments, liquidity is high and investments can be returned at short notice.</p> <p>These will be used to provide the primary liquidity source for Cash Management</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Pools.</p> <p>On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence</p>
d. Term deposits with financial institutions (banks and building societies) ( <b>Low to medium risk depending on period &amp; credit rating</b> )	The risk on these is determined, but will exhibit higher risks than category (a) above. Whilst there is no risk to value with these types of investments, liquidity is low and term deposits can only be broken with the agreement of the counterparty, and penalties may apply	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Pools</p> <p>On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence.</p>
e. Investment properties	These are non-service properties which are being held solely for a longer term rental income stream or capital appreciation. These are highly illiquid assets with high risk to value (the potential for property prices to fall).	Property holding will be re-valued regularly and reported annually with gross and net rental streams.
f. Loans to third parties, including soft loans	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit substantial credit risk and are likely to be highly illiquid.	Each third party loan requires Member approval and each application is supported by the service rational behind the loan and the likelihood of partial or full default.
g. Loans to a local authority company	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit significant credit risk and are likely to be highly illiquid.	Each loan to a local authority company requires Member approval and each application is supported by the service rational behind the loan and the likelihood of partial or full default.

h. Shareholdings in a local authority company	These are service investments which may exhibit market risk and are likely to be highly illiquid.	Each equity investment in a local authority company requires Member approval and each application will be supported by the service rational behind the investment and the likelihood of loss.
i. Investment in Shared Equity Schemes	These are service investments which exhibit property market risk and are likely to be highly illiquid, with funds tied up for many years.	Each scheme investment requires Member approval and each decision will be supported by the service rational behind the investment and the likelihood of loss.
j. Investment in the Subordinated Debt of projects delivered via the "Hubco" model	These are investments which are exposed to the success or failure of individual projects and are highly illiquid	The Council and Scottish Government (via the SFT) are participants in and party to the governance and controls within the project structure. As such they are well placed to influence and ensure the successful completion of the project's term

## **The City of Edinburgh Council**

### **Treasury Cash Fund**

### **Treasury Management Policy Statement**

#### **Summary**

The Council operates the Treasury Cash Fund on a low risk low return basis for cash investments on behalf of itself, Lothian Pension Fund and other associated organisations. This Policy Statement covers the type of investments which are permitted for monies held with the Cash Fund and should be read in conjunction with the Treasury Policy Statement for the City of Edinburgh Council.

#### **Approved Activities**

The activity undertaken in the management of cash balances and their investment in cash and near cash instruments. In undertaking this activity, the key objective is the security of the monies invested. Accordingly, the investment types and counterparty limits below represent a prudent attitude towards the instruments with which and the institutions with whom investment will be undertaken.

#### **Treasury Management Strategy**

The treasury management strategy for the cash fund is to ensure that surplus funds are invested in accordance with the list of approved organisations for investment, minimising the risk to the capital sum and optimising the return on these funds consistent with those risks

#### **Permitted Instruments**

The Chief Financial Officer may invest monies in accordance with the Council's requirements only by using the following instruments:

- (a) Temporary deposit, Certificate of Deposit, collateralised deposit, structured deposit, commercial paper, floating rate note or Bonds with an approved institution of the Bank of England or with any other approved organisation for investment (see below)
- (b) UK Treasury Bills
- (c) Gilt-edged securities
- (d) Reverse Repurchase Agreements
- (e) Money Market Funds and Bond Funds
- (f) Debt Management Office's Debt Management Agency Deposit Facility

#### **Limits on Investment**

The approved limits on counterparties and investment types are as follows (where money limits and percentages are stated, the greater of the two should be applied):

- (a) DMO's DMADF, UK Treasury Bills and UK Gilts with no limit
- (b) UK local authorities with no limit.
- (c) other public bodies up to a maximum of £20 million per organisation.
- (d) The Council's bankers, where not otherwise permitted under (k) below, up to a limit of £20m on an overnight only basis other than when funds are received into the Council's bank account without pre-notification.

- (e) Money Market Funds with no limit in total but with no more than £30 million or 15% of the funds under management with any one Fund.
- (f) Bond Funds with no more than £20 million or 10% of the funds under management.
- (g) Supranational Bonds with a limit of £60 million or 20% of the fund in total.
- (h) financial institutions where the relevant deposits, CDs or Bonds are guaranteed by a sovereign government of AA or above up to a maximum of £60 million or 20 percent of the fund per institution for the duration of the guarantee in addition to the appropriate counterparty limit for the institution.
- (i) Local Authority Collateralised deposits up to a maximum of £30 million or 15 percent of the fund per institution up to a maximum of 5 years in addition to the appropriate counterparty limit for the institution.
- (j) Structured deposits up to a maximum of £20 million or 10 percent of the fund, subject to the appropriate counterparty limits for the institution also being applied.
- (k) financial institutions included on the Bank of England's authorised list under the following criteria:

<b>Credit Rating</b>	<b>Banks Unsecured</b>	<b>Banks Secured</b>	<b>B. Socs. Unsecured</b>	<b>B. Socs. Secured</b>
AAA	20% or £60m	20% or £60m	20% or £60m	20% or £60m
AA+	15% or £30m	20% or £60m	15% or £30m	20% or £60m
AA	15% or £30m	20% or £60m	15% or £30m	15% or £30m
AA-	15% or £30m	20% or £60m	10% or £20m	15% or £30m
A+	10% or £20m	15% or £30m	10% or £20m	10% or £20m
A	10% or £20m	15% or £30m	10% or £20m	10% or £20m
A-	10% or £20m	15% or £30m	5% or £20m	15% or £30m
BBB+	5% or £10m	5% or £10m	n/a	n/a
BBB or BBB-	5% or £10m	5% or £10m	n/a	n/a
None	n/a	n/a	n/a	n/a

The credit ratings quoted in the above table are for the financial institution, instrument or security provided and are the lowest of the relevant long term ratings from the three main Credit ratings agencies, S&P, Moodys and Fitch.



### **Time Limits**

In addition to the monetary limits above, the following maximum time limits will be placed on investments:

<b>Category</b>	<b>Max. Time Limit</b>
20% of Assets Under Management / £60m	5 Years
15% of Assets Under Management / £30m	1 Years
10% of Assets Under Management / £20m	6 months
5% of Assets Under Management / £10m	3 months

In addition to the above limits, no more than 25% of assets under management will have a maturity greater than 1 year.

In considering an investment, consideration is given to a wide range of information, not simply the credit ratings of the institution being considered. This will include financial information on the institution, relevant Credit Default Swaps and equity pricing data, and the general macro-economic, market and sector background. The investment risks and controls to mitigate those risks are outlined to the end of this document.

### **Policy on Delegation**

The Treasury Cash Fund is operated under the Council's Treasury Policy Statement and the delegations are defined in that document.

### **Reporting Arrangements**

This will include, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs. The Head of Finance will report to the Council as follows:

- (a) A Treasury Strategy prior to the commencement of the financial year.
- (b) A mid-term report during the financial year.
- (c) A Treasury Annual Report as soon as practicable after the end of the financial year.
- (d) Ad hoc reports according to need.

Type of Investment	Treasury Risks	Mitigating Controls
a. Deposits with the Debt Management Account Facility (UK Government) <b>(Very low risk)</b>	This is a deposit with the UK Government and as such counterparty and liquidity risk is very low, and there is no risk to value. Deposits can be between overnight and 6 months.	As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments.
b. UK Treasury Bills <b>(Very Low Risk)</b>	These are marketable securities issued by the UK Government and as such counterparty and liquidity risk is very low, although there is potential risk to value arising from an adverse movement in interest rates unless held to maturity. Maturity at issue is only 1, 3 or 6 months so will be used mainly in the 1 to 3 month period to provide a high level of security but a better return than the DMADF in (a).	As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments.
c. UK Gilts <b>(Very Low Risk)</b>	These are marketable securities issued by the UK Government and as such counterparty and liquidity risk is very low, although there is potential risk to value arising from an adverse movement in interest rates unless held to maturity. There is a risk to capital if the Gilt needed to be sold, so should only be used on a hold to maturity basis as a proxy for a slightly longer maturity Treasury Bill	As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments. Would only be used on a hold to maturity basis at the very short end of the yield curve.
d. Deposits with other local authorities or public bodies <b>(Very low risk)</b>	These are considered quasi UK Government debt and as such counterparty risk is very low, and there is no risk to value.	Little mitigating controls required for local authority deposits, as this is a quasi UK Sovereign Government investment.
e. Money Market Funds (MMFs) <b>(low/medium risk)</b>	Pooled cash investment vehicle which provides short term liquidity. It is difficult to effectively monitor the underlying counterparty exposure, so will be used for only a small proportion of the Fund	Funds will only be used where the MMFs are Constant Net Asset Value (CNAV), and the fund has a "AAA" rated status from either Fitch, Moody's or Standard & Pools.
f. Bond Funds <b>(low/medium risk)</b>	AAA Rated Pooled cash investment vehicle investing in a range of Government, Financial Institutions and Government Bonds.	Fairly liquid vehicle investing in Bonds with a high average credit rating, will only be used for a relatively small proportion of the fund.
g. Call account deposit accounts with financial institutions (banks and building societies) <b>(Risk is dependent on credit rating)</b>	These tend to be moderately low risk investments, but will exhibit higher risks than the categories (a) to (d) above. Whilst there is no risk to value with these types of investments, liquidity is high and investments can be returned at short notice.  These will be used to provide the primary liquidity source for Cash Management	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Pools.  On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence.

<p>h. Term deposits with financial institutions (banks and building societies) <b>(Low to medium risk depending on period &amp; credit rating)</b></p>	<p>The risk on these is determined, but will exhibit higher risks than categories (a) to (d) above. Whilst there is no risk to value with these types of investments, liquidity is low and term deposits can only be broken with the agreement of the counterparty, and penalties may apply.</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poors</p> <p>On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence.</p>
<p>i. Certificates of deposits with financial institutions <b>(risk dependent on credit rating)</b></p>	<p>These are short dated marketable securities issued by financial institutions and as such counterparty risk is low, but will exhibit higher risks than categories (a) to (d) above. There is risk to value of capital loss arising from selling ahead of maturity if combined with an adverse movement in interest rates. Liquidity risk will normally be low.</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poors.</p> <p>On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence.</p>
<p>j. Structured deposit facilities with banks and building societies (escalating rates, de-escalating rates etc.) <b>(Low to medium risk depending on period &amp; credit rating)</b></p>	<p>These tend to be medium to low risk investments, but will exhibit higher risks than categories (a) to (d) above. Whilst there is no risk to value with these types of investments, liquidity is very low and investments can only be broken with the agreement of the counterparty (penalties may apply).</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poors.</p> <p>On day to day investment dealing with this criteria will be further strengthened by the use of additional market intelligence.</p>
<p>k. Bonds <b>(Low to medium risk depending on period &amp; credit rating)</b></p>	<p>This entails a higher level of risk exposure than gilts and the aim is to achieve a higher rate of return than normally available from gilts. They do have an exposure to movements in market prices of assets held.</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, on a hold to maturity basis. Bonds may also carry an explicit Government Guarantee.</p>
<p>l. Floating Rate Notes <b>(Low to medium risk depending on credit rating)</b></p>	<p>These are Bonds on which the rate of interest is established periodically with reference to short term interest rates.</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poors.</p> <p>Will be used in an increasing interest rate environment but only for a limited proportion of the portfolio.</p>
<p>m. Commercial Paper <b>(Low to medium risk depending on credit rating)</b></p>	<p>These are short term promissory notes issued at a discount par. They entail a higher level of risk exposure than gilts and the aim is to achieve a higher rate of return than normally available from gilts. They do have an exposure to movements in market prices of assets</p>	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, on a hold to maturity basis. They are relatively short maturity.</p>

	held.	
n. Secured Investments <b>(relatively low risk due to dual recourse)</b>	These include Reverse Purchase Agreements (Repo) and Covered Bonds issued by banks and building societies.	Both Repo and Covered Bonds provide opportunities to lower credit risk by having any exposure supported by an enhanced level of high quality collateral such as Gilts in the case of Repo. The lower credit risk is reflected in the Cash Fund being able to invest larger % or value amounts as shown in the criteria for financial institutions in (k).

10:00am Thursday 10 March 2016

## SESplan Governance Review and 2016/17 Operating Budget – referral from the Planning Committee

Item number	8.8
Report number	
Wards	All

### Executive summary

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At its meeting of 25 February 2016, the Planning Committee considered a report by the Executive Director of Place on changes to SESplan's governance framework that would expedite plan preparation and clarify governance arrangements and the 2016/17 operating budget.

The report has been referred to the Council for ratification of the new governance arrangements.

### Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Terms of Referral

## SESplan Governance Review and 2016/17 Operating Budget

### Terms of referral

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- 1.1.1 On 25 February 2016, the Planning Committee considered the attached report by the Executive Director of Place on changes to SESplan's governance framework that would expedite plan preparation and clarify governance arrangements.
- 1.2 SESplan is the Strategic Development Planning Authority for Edinburgh and south east Scotland. It comprises six councils: City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian. SESplan operates through a Joint Committee made up of two members from each constituent council and is responsible for preparing a strategic development plan (SDP) for south east Scotland.
- 1.3 The governance of SESplan is set out in its Constitution, Scheme of Delegation and Financial Rules. This framework was established by the SESplan Joint Committee in August 2008 and subsequently ratified by the six member authorities. At that time, it was agreed to keep these arrangements under review. The SESplan scheme of delegation requires that any amendments approved by the SESplan Joint Committee are referred to the six councils for ratification. In Edinburgh, the authority to ratify any changes lies with full Council.
- 1.4 SESplan's constitution, scheme of delegation and financial rules have been reviewed. On 14 December 2015, the SESplan Joint Committee agreed to amend each of the three documents and, as required by the constitution, refer the proposed changes to the constituent councils for ratification.
- 1.5 The context for the review, the proposed amendments in detail and their reasoned justification are set out in the SDP Manager's report to the Joint Committee, on 14 December 2015 (Appendix 1 to the report by the Executive Director of Place). This includes the revised versions of the three governance documents.
- 1.6 At its meeting on 18 November 2013, the Joint Committee agreed that, to provide greater continuity to the process of preparing the SDP, it would be helpful if the Convenership and Vice Convenership of the Committee ran for two years rather than one, as specified in the Constitution. It was noted also that, in terms of SDP2, this would broadly accord with key stages in the preparation process leading to submission of the Proposed Plan to Ministers in early 2017. The amendments proposed to Section 5 of the Constitution formalise the arrangements for the rotation of these roles every two years.
- 1.7 The Scheme of Delegation notes that all major decisions on SDP content must be ratified by all six member councils and specifies that decisions to approve the

Main Issues Report, Proposed Plan and modifications to the Proposed Plan must be ratified. The need for ratification does, however, reduce the scope to manage the timetable. Reducing the situations in which ratification is required could enable the timely progress of the plan and associated documents and bring efficiencies in terms of SESplan and member authorities' resources.

- 1.8 The proposed Scheme specifies that the Joint Committee may approve the publication of Supplementary Guidance for consultation. Any Supplementary Guidance which is to be prepared must be specifically identified in the approved plan and must be limited to the provision of further information or detail in respect of policies or proposals set out in the plan. Such guidance must be consistent with the approved plan. The decision to adopt the Supplementary Guidance following consultation would continue to require ratification by the member authorities.
- 1.9 The Planning Committee agreed:
- 1) To support the proposed changes to SESplan's governance framework and refer them to full Council for ratification;
  - 2) To ratify SESplan's 2016/17 operating budget and approve the payment of £46,550 as this Council's contribution.

## For Decision/Action

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- 2.1 The Council is asked to ratify the changes to SESplan's governance framework

## Background reading / external references

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### Kirsty-Louise Campbell

Interim Head of Strategy and Insight

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## Links

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<b>Coalition pledges</b>	See attached report
<b>Council outcomes</b>	See attached report
<b>Single Outcome Agreement</b>	See attached report
<b>Appendices</b>	See attached report

# Planning Committee

10.00am, Thursday, 25 February 2016

## SESplan Governance Review and 2016/17 Operating Budget

Item number

Report number

Executive/routine

Wards:

All

### Executive summary

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The purpose of this report is to invite Committee to support proposed changes to SESplan's governance framework and refer them to full Council for ratification. Committee is also asked to ratify SESplan's 2016/17 operating budget and approve the payment of £46,550 as this Council's contribution.

The purpose of the amendments to governance is to expedite plan preparation and clarify governance arrangements.

SESplan operating costs for financial year 2016/17 are £286,336. Costs will be met by equal contributions from member authorities totalling £279,300 and the shortfall made up from reserves and other income.

### Links

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Coalition pledges [P8, P30](#)

Council outcomes [CP10](#)

Single Outcome Agreement [SO1](#)



## SESplan Governance Review and 2016/17 Operating Budget

### Recommendations

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- 1.1 It is recommended that the Committee:
- supports proposed changes to SESplan's governance framework and refers them to full Council for ratification; and
  - ratifies SESplan's 2016/17 operating budget and approves the payment of £46,550 as this Council's contribution.

### Background

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- 2.1 SESplan is the Strategic Development Planning Authority for Edinburgh and south east Scotland. It comprises six councils: City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian. SESplan operates through a Joint Committee made up of two members from each constituent council and is responsible for preparing a strategic development plan (SDP) for south east Scotland.
- 2.2 The governance of SESplan is set out in its Constitution, Scheme of Delegation and Financial Rules. This framework was established by the SESplan Joint Committee in August 2008 and subsequently ratified by the six member authorities. At that time, it was agreed to keep these arrangements under review. The SESplan scheme of delegation requires that any amendments approved by the SESplan Joint Committee are referred to the six councils for ratification. In Edinburgh, the authority to ratify any changes lies with full Council.
- 2.3 The costs of running SESplan are set out in the Operating Budget. SESplan financial rules require that this is ratified by member authorities.

### Main report

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#### **Constitution, Scheme of Delegation and Financial Rules**

- 3.1 SESplan's constitution, scheme of delegation and financial rules have been reviewed. On 14 December 2015, the SESplan Joint Committee agreed to amend each of the three documents and, as required by the constitution, refer the proposed changes to the constituent councils for ratification.

- 3.2 The context for the review, the proposed amendments in detail and their reasoned justification are set out in the SDP Manager's report to the Joint Committee, on 14 December 2015 (Appendix 1). This includes the revised versions of the three governance documents.
- 3.3 At its meeting on 18 November 2013, the Joint Committee agreed that, to provide greater continuity to the process of preparing the SDP, it would be helpful if the Convenership and Vice Convenership of the Committee ran for two years rather than one, as specified in the Constitution. It was noted also that, in terms of SDP2, this would broadly accord with key stages in the preparation process leading to submission of the Proposed Plan to Ministers in early 2017. The amendments proposed to Section 5 of the Constitution formalise the arrangements for the rotation of these roles every two years.
- 3.4 The Scheme of Delegation notes that all major decisions on SDP content must be ratified by all six member councils and specifies that decisions to approve the Main Issues Report, Proposed Plan and modifications to the Proposed Plan must be ratified. The need for ratification does, however, reduce the scope to manage the timetable. Reducing the situations in which ratification is required could enable the timely progress of the plan and associated documents and bring efficiencies in terms of SESplan and member authorities' resources.
- 3.5 The proposed Scheme specifies that the Joint Committee may approve the publication of Supplementary Guidance for consultation. Any Supplementary Guidance which is to be prepared must be specifically identified in the approved plan and must be limited to the provision of further information or detail in respect of policies or proposals set out in the plan. Such guidance must be consistent with the approved plan. The decision to adopt the Supplementary Guidance following consultation would continue to require ratification by the member authorities.

#### **2016/17 Operating Budget**

- 3.6 The SESplan operating budget for 2016/17 was approved by SESplan Joint Committee on 14 December 2015, subject to ratification by the six member councils. The SESplan report and the operating budget itself are appended to this report (Appendix 2). It is estimated that SESplan's fixed costs - mainly salaries, accommodation and IT - will be £264,336. Variable costs, made up of technical support and a 10% contingency, total £22,000. The estimated total costs for the financial year 2016/17 are therefore £286,336. This will be funded from member contributions of £279,300, sales and interest from SESplan's revenue balance totalling £1,250 and £5,786 from reserves.

- 3.7 Each member authority is liable for one sixth of the annual Operating Budget. Contributions take into account cyclical changes to variable costs related to the development plan cycle. In anticipation of savings in 2014/2015, including accommodation costs following the relocation of the core team, the Joint Committee agreed that a target of 5% savings on the contribution at that time, of £49,000 per member authority, would be set for 2014/15. This was equivalent to a £2,450 reduction in member authorities' annual contributions and this was refunded to members in 2014/2015. It was agreed that SESplan's costs continue at the reduced level set in 2014/15 and it is proposed that contributions continue to be maintained at £46,550 per annum over the next three years.
- 3.8 SESplan Financial Rules state that member authority contributions are to be in place by the end of April each year.

### **Measures of success**

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- 4.1 Clarification of governance arrangements for SESplan Joint Committee.
- 4.2 Sufficient funding in place to progress the Strategic Development Plan at a rate which provides an up to date policy context for the Local Development Plan.

### **Financial impact**

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- 5.1 There are no direct financial impacts associated with the governance changes.
- 5.2 The Council is required to make a contribution of £46,550 towards the SESplan operating costs. The sum will be paid from the approved revenue budget for 2016/17 to Fife Council, the authority responsible for administering SESplan's budget.

### **Risk, policy, compliance and governance impact**

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- 6.1 Amendments agreed by the Joint Committee clarify governance arrangements but do not compromise the constituent councils' democratic oversight role.
- 6.2 There are risks to the strategic development plan (SDP) process if sufficient funding is not available to progress the SDP at a rate which provides up to date strategic planning policy context for the timeous progression of the Local Development Plan. The risks associated with this area of work are significant in terms of finance, reputation, and performance in relation to the statutory duties of the Council as Planning Authority, Roads Authority and Education Authority. The identified operating budget should ensure timeous progress of the SDP.

## Equalities impact

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7.1 An Equalities and Rights Impact Assessment has been carried out. There is no equalities impact arising from this report.

## Sustainability impact

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8.1 There is no sustainability impact as a result of this report.

## Consultation and engagement

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9.1 No consultation has been undertaken in relation to the preparation of this report.

## Background reading/external references

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[SESplan Scheme of Delegation, Constitution and Financial Regulations](#)

## Paul Lawrence

Executive Director of Place

Contact: Lindsay Robertson, Senior Planning Officer

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## Links

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<b>Coalition pledges</b>	<b>P8</b> - Make sure the city's people are well-housed, including encouraging developers to built residential communities, starting with brownfield sites <b>P30</b> - Continue to maintain a sound financial position including long-term financial planning
<b>Council outcomes</b>	<b>CP10</b> - A range of quality housing options <b>CP12</b> - A built environment to match our ambition
<b>Single Outcome Agreement</b>	<b>SO1</b> - Edinburgh's economy delivers increased investment, jobs and opportunities for all
<b>Appendices</b>	Appendix 1: SDP Manager's report to 14 December 2015 SESplan Joint Committee - SESplan Governance Review Appendix 2: SDP Manager's report to 14 December 2015 SESplan Joint Committee – Finance

For Decision	✓
For Information	

## ITEM 10 – SESPLAN GOVERNANCE REVIEW

Report by: Ian Angus, SDP Manager

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### Purpose

This report introduces proposed amendments to SESplan’s Constitution, Scheme of Delegation and Financial Rules to accord with decisions of the Joint Committee, clarify and update details in these documents. The current governance documents are available on the [SESplan website](#). The report also proposes the adoption of Standing Orders to assist in the management of the operation of the Joint Committee.

### Recommendations

It is recommended that the SESplan Joint Committee:

- a) Approve the amendments to the SESplan Constitution as set out in Appendix 1 and incorporated in the Constitution attached as Appendix 2 to this report;
- b) Approve the proposed amendments to the Scheme of Delegation, as set out in Appendix 1 and incorporated in the Scheme of Delegation attached as Appendix 3 to this report;
- c) Approve the proposed amendment to the Financial Rules, as set out in Appendix 1 and incorporated in the Financial Rules attached as Appendix 4 to this report;
- d) Refer the amendments to the SESplan Constitution, the Scheme of Delegation and Financial Rules (a, b and c above) to the constituent Councils for ratification;
- e) Remit the Clerk to prepare a revised Constitution and Scheme of Delegation for execution by the SESplan constituent Councils on the amendments being duly ratified; and
- f) Adopt the draft Standing Orders, as set out in Appendix 5 to this report.

### Resource Implications

The changes proposed would result in a reduction in member and officer time required to deal with ratification processes.

### Legal and Risk Implications

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All risks are detailed in the SESplan Risk Register and reported to Joint Committee on an annual basis.

## **Policy and Impact Assessment**

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No separate impact assessment is required.

### **1. Background**

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- 1.1 The governance of SESplan is set out in its Constitution, Scheme of Delegation and Financial Rules. This framework was established by the SESplan Joint Committee in August 2008 and subsequently ratified by the six member authorities. At that time, it was agreed to keep these arrangements under review. Any changes to the three documents must be agreed by the six member authorities. At its meeting on 5 December 2011, the Joint Committee agreed amendments to the Constitution, Scheme of Delegation and Financial Rules to facilitate the timeous progress of the SDP and to adopt more proportionate financial reporting requirements. These amendments were ratified by all member authorities. The documents, as amended, are available at the [SESplan website](#).
- 1.2 On 18 November 2013, the Joint Committee agreed the appointment of the Convener and Vice Convener for 2014 and 2015. This report proposes amendments to the Constitution to formalise this cycle. Consideration of this matter also offers an opportunity to update and clarify other details within the Constitution, Scheme of Delegation and Financial Rules.

### **2. Constitution, Scheme of Delegation and Financial Rules**

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- 2.1 The amendments proposed to the Constitution, Scheme of Delegation and Financial Rules and the reasons for making these are summarised in Appendix 1 to this report. The most significant amendments relate to the rotation of the Convenership and Vice Convenership and a clarification regarding requirement for the ratification of decision to publish draft Supplementary Guidance for consultation.
- 2.2 At its meeting on 18 November 2013, the Joint Committee agreed that, to provide greater continuity to the process of preparing the SDP, it would be helpful if the Convenership and Vice Convenership of the Committee ran for two years rather than one, as specified in the Constitution. It was noted also that, in terms of SDP2, this would broadly accord with key stages in the preparation process leading to submission of the Proposed Plan to Ministers in early 2017. The amendments proposed to Section 5 of the Constitution formalise the arrangements for the rotation of these roles every two years.

- 2.3 The Constitution specifies that all major decisions about the content of the Strategic Development Plan, with the exception of the submission of the Proposed Plan to Ministers when no Modifications are proposed, must be ratified by each of the six member authorities. The Joint Committee is to agree a Scheme of Delegation with the member authorities which defines the nature and amount of authority delegated from the councils to the Joint Committee. The Scheme of Delegation is to be kept under review and can only be amended with the agreement of the member authorities.
- 2.1 The Scheme of Delegation notes that all major decisions on SDP content must be ratified by all six member councils and specifies that decisions to approve the MIR, Proposed Plan and modifications to the Proposed Plan must be ratified. The ratification of a Joint Committee decision relating to the SDP takes 4 - 6 weeks but SESplan Core Team resources are applied to other aspects of the project throughout the period, reducing the impact on the programme. The need for ratification does, however, reduce the scope to manage the timetable, for example around council recesses, and requires resources of the member authorities. Reducing the situations in which ratification is required could enable the timely progress of the plan and associated documents and bring efficiencies in terms of SESplan and member authorities' resources.
- 2.2 It is considered that decisions to approve the Main Issues Report, Proposed Plan and modifications to the Proposed Plan are major decisions on SDP content and it would not be appropriate to extend delegation to include these at this time. It is proposed however that the Scheme specifies that the Joint Committee may approve the publication of Supplementary Guidance for consultation. Any Supplementary Guidance which is to be prepared must be specifically identified in the approved plan and must be limited to the provision of further information or detail in respect of policies or proposals set out in the plan. Such guidance must be consistent with the approved plan. The decision to adopt the Supplementary Guidance following consultation would continue to require ratification by the member authorities.
- 2.3 While maintaining member authorities' control of the process, there are potential efficiencies to member authorities and the Core Team in reducing the requirement for the ratification of Joint Committee decisions, for example ratification of the decision to publish a Main Issues Report for consultation. Control could be maintained, for example, by enabling the triggering of a ratification cycle by any member at any stage before and including the

relevant meeting of the Joint Committee. The potential for efficiencies will arise in the preparation of the MIR for SDP3, estimated to be in 2019 - 2020.

- 2.4 It is noted also that, at this stage, the outcome of the current review of the planning system in Scotland is unknown but may necessitate a review of the governance of the SDPA. In this context, it is proposed that the Scheme of Delegation continues to be kept under review.

### **3. Standing Orders**

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- 3.1 In common with those of the other SDPAs, SESplan's constitution enables the Joint Committee to adopt Standing Orders but, to date, SESplan has not done this. Each of the other SDPAs has adopted such regulations to assist in clarifying the arrangements for the management of their business. For the same reason, it is recommended that the Joint Committee adopt Standing Orders as set out Appendix 5, attached to this report.

### **4. Conclusions**

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- 4.1 SESplan's Constitution must be updated to amend the arrangements for the rotation of the Convener and Vice Convenership of the Joint Committee to accord with the decision of the Joint Committee on this matter. This allows the Joint Committee the opportunity to clarify and update other, more detailed aspects of the Constitution, Scheme of Delegation and Financial Rules. It will be helpful also to take the opportunity to adopt Standing Orders to assist in the management of the operation of the Joint Committee.

### **Appendices**

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- Appendix 1 Proposed amendments to the SESplan Constitution, Scheme of Delegation and Financial Rules
- Appendix 2 SESplan Constitution including amendments 14 December 2015
- Appendix 3 SESplan Scheme of Delegation including amendments 14 December 2015
- Appendix 4 SESplan Financial Rules including amendment 14 December 2015
- Appendix 5 SESplan Standing Orders

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**Report Agreed By:** Ian Angus, SDP Manager

**Author Name:** Ian Angus, SDP Manager



**APPENDIX 1 – Proposed amendments to the SESplan Constitution, Scheme of Delegation and Financial Rules**

## Proposed amendments to the SESplan Constitution, Scheme of Delegation and Financial Rules

Constitution		
Paragraph	Amendment	Reason
1.3d	Remove reference local plans.	Updating to accord with statute.
1.3f	Replace reference to 'structure plans' with 'development plans'.	Updating to accord with statute.
1.3g	Replace 'strategies in structure plans or the SDP' with 'the spatial strategy of the SDP'.	Updating to accord with statute.
1.3g	Delete 'according to a Scheme to be agreed by Member Councils'.	Updating to accord with the SESplan Project Board decision on 2 November 2012 that the principles should be reflected in the roles and responsibilities of the Project Board, Operational Group and Core Team but that there should not be a scheme or 'code'. Note – the currently adopted Constitution is inconsistent in its use of 'code' and 'scheme'.
3.1	Delete.	This paragraph repeated what is established in statute, that the Joint Committee will be advisory only but its advice and decisions will be considered by the member authorities.
3.4	Remove para 3.4, which referred to Edinburgh and Lothians Structure Plan Joint Liaison Committee.	Updating to reflect the superseding of the Structure Plan by the approved SDP and the dissolution of the Joint Liaison Committee.
5.1-5.2 and 5.4-5.5	Amendments to establish a rotation of the Convenership and Vice Convenership of the Joint Committee once every two years.	Updating to accord with the decision of the Joint Committee on 18 November 2013.
9.7	Remove reference to amendments to the 'Code of Practice'.	Updating to accord with the SESplan Project Board decision on 2 November 2012 that the principles should be reflected in the roles and responsibilities of the Project Board, Operational Group and Core Team but that there should not be a scheme or 'code'.
14.1	Remove reference to the review of the 'Code of Practice'.	Updating to accord with the SESplan Project Board decision on 2 November 2012 that the principles should be reflected in the roles and responsibilities of the Project Board, Operational Group and Core Team but that there should not be a scheme or 'code'. Note – The amended Constitution retains the role of the Joint Committee to comment on planning applications referred to it by Member Councils.

<b>Scheme of Delegation</b>		
<b>Paragraph</b>	<b>Amendment</b>	<b>Reason</b>
2.3h	Remove references to consultation 'code of practice' but retain delegation to the Joint Committee to advise on planning proposals referred to the Joint Committee by member authorities.	Clarification and to accord with amendment to para 1.3g, 9.7 and 14.1 of Constitution.
2.3i	Remove reference to 'local plans'.	Updating to accord with statute.
2.3k - New	Add 2.3k: 'Approving draft statutory Supplementary Guidance prepared in accord with the SDP for consultation'	To delegate the power to the Joint Committee to approve draft Supplementary Guidance for consultation without the requirement for ratification of that decision by Member Councils.
2.3l	Replace 'Adoption of the Action Programme' with 'Adoption and updating the Action Programme'.	Clarification.
2.5	Insert 'following the statutory period for representations' following 'any modifications' in first sentence	Clarification.
2.4 – 2.6A	Amendments to clarify text.	Clarification. There is no change in the substance of the section.
3.1a	Replace 'Recruitment below the management level' with 'Recruitment of the Strategic Development Plan Manager and project team'.	Clarification of increased delegation to the Project Board and to reflect practice.

<b>Financial Rules</b>		
<b>Paragraph</b>	<b>Amendment</b>	<b>Reason</b>
Audit	Amend to confirm that SESplan audit will be completed by independent auditor.	Update to accord with a statutory requirements.

**APPENDIX 2 – SESplan Constitution including amendments 14 December 2015**

# SESplan

The Strategic Development Planning Authority  
for Edinburgh and South East Scotland

## Edinburgh and South East Scotland Strategic Development Plan Joint Committee: Constitution

### 1 Strategic Development Planning Authority Duties, Objectives and Powers

1.1 The following planning authorities comprise the Strategic Development Planning Authority (“the Authority”) for the Edinburgh city region: the City of Edinburgh Council, East Lothian Council, Fife Council, Midlothian Council, Scottish Borders Council and West Lothian Council. This group of authorities has a statutory duty under section 4 of the Planning etc. (Scotland) Act 2006 (“the Act”) to work together and prepare, and keep under review, a Strategic Development Plan (SDP) for the Edinburgh city region.

1.2 The Statutory duties of the Authority are to

- a) submit to Scottish Ministers, within a period of three months from designation as an SDPA, a plan showing the proposed boundary of the SDP area, with a justification statement as required by Section 5 of the Act;  
and,
- b) prepare, monitor and keep under review a Strategic Development Plan for the strategic development area.

1.3 Its other aims shall be to:

- c) agree programmes of joint working to deal with matters arising from the above;
- d) advise and make recommendations to the six Member Councils on conformity of local development plans with the Strategic Development Plan and on other issues arising from the statutory duties;
- e) liaise with and make representations to central Government, Scottish Enterprise and other bodies and agencies as necessary on matters of relevance to strategic planning in the SDP area;

- f) respond to and comment on development plans, planning applications and other development proposals submitted to the Joint Committee for comment by adjoining non-Member Councils;
- g) receive reports from the Member Councils on development management matters that raise significant issues for the spatial strategy of the SDP, or would have significant cross-boundary impacts; and
- h) take such other action as may be necessary from time to time to sustain the policies contained in the SDP.

1.4 The Authority is empowered to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of these aims and objectives. Unlike Regional Transport Partnerships, primary and secondary legislation confers no independent powers to SDPAs. Specifically, the SDPA has no legal power to borrow money, give grants, employ staff, acquire land or enter into contracts. Where these are necessary, a constituent council will perform these functions on behalf of the SDPA.

## **2 The Joint Committee**

2.1 The duties of the Authority will be carried out by a joint committee of members representing the constituent authorities. This will be called the Edinburgh and South East Scotland Strategic Development Plan Joint Committee (“the Joint Committee”). The following provisions set out a constitution for the Joint Committee.

## **3 Joint Committee Constitution**

3.1 The Joint Committee shall have twelve members, to be appointed from the members of the six Member Councils. Each Member Council shall appoint two members to the Joint Committee.

3.2 The “constituent authorities” means the City of Edinburgh Council, East Lothian Council, Fife Council, Midlothian Council, Scottish Borders Council and West Lothian Council.

## **4 Appointment of Members by Member Councils**

4.1 Each of the Member Councils shall appoint members to the Joint Committee and such members shall stay in office until re-appointed or replaced by the Member Councils. Each of the Member Councils, following an Ordinary Election, shall as soon as practicable appoint or re-appoint members.

- 4.2 A local authority member shall cease to be a member of the Joint Committee when he or she ceases to be a member of the constituent council which appointed him/her or on the appointment of another member in his/her place.
- 4.3 The Joint Committee shall have the ability to co-opt additional non-voting members to represent other interests or provide specialist expertise, for example a representative from the regional transport partnership.

## **5 Appointment of Convener and Vice-Convener**

- 5.1 The Joint Committee shall be convened and chaired by one authority, which said role will commence on January 1 of the relevant year. The role will rotate every two years. The sequence of rotation of this role will be alphabetical by Council, unless otherwise determined by the Joint Committee.
- 5.2 The Joint Committee shall, at its final meeting in the second year of the Convenor's term of office appoint a Convener from the Committee members representing the authority which will next convene and chair the Joint Committee, to hold office for two years.. The Joint Committee shall appoint a Vice-Convener from the Committee members representing the authority to next take on the role of convening and chairing the Joint Committee, to hold office for two years.
- 5.3 The Convener, (or in his/her absence, the Vice-Convener) shall preside at any meeting. In the absence of (both) the Convener and the Vice-Convener, the members shall appoint another member to chair the meeting.
- 5.4 The administration of the Joint Committee will be the responsibility of the authority convening and chairing the Joint Committee.

## **6 Substitution**

- 6.1 Any member of the Joint Committee may be represented by another member of the same authority.
- 6.2 A person appointed as a substitute shall have the same powers at the meeting as the member whom he or she is representing.

## **7 Vacancies**

- 7.1 Where a casual vacancy occurs the Member Council shall appoint a new member.

- 7.2 Where a vacancy occurs in the case of the Convener, the Vice-Convener shall assume the office of Convener until the anticipated expiry of the outgoing Convener's term of office.
- 7.3 Where a vacancy occurs in the case of the Vice-Convener, the Joint Committee shall appoint a replacement until the anticipated expiry of the outgoing Vice-Convener's term of office.
- 7.4 The proceedings of the Joint Committee shall not be invalidated by any vacancy or vacancies amongst members or any defects in the method of appointment of any of its members.

## **8 Quorum**

- 8.1 The quorum of the Joint Committee shall be four, provided that not less than three Member Councils are represented.

## **9 Meetings**

- 9.1 The Joint Committee shall meet not less than 2 times per year.
- 9.2 The Convener, in consultation with senior officers of the Member Councils shall fix the date, time and place of meetings, subject to any previous agreement by the Joint Committee.
- 9.3 A member council can request a special meeting in exceptional circumstances where a matter requires to be considered by the Joint Committee sooner than the schedule permits.
- 9.4 Meetings shall be held in public and the Local Government (Access to Information) Act 1985 shall apply.
- 9.5 All matters coming before the Joint Committee shall be decided by the majority of members present and voting thereon. In the case of equality of votes, the person presiding at the meeting will have a second or casting vote, except in the case of appointment of members, in which case the decision shall be by lot.
- 9.6 The Joint Committee, on simple majority, shall have the power to make representation on strategic planning matters and related issues to Member Councils or, where appropriate, the Scottish Government and other organisations. Documents can be published, and evidence given, in the name of the Joint Committee with the agreement of all Member Council. Individual councils have the right to separately put forward contrary views.



- 9.7 The Joint Committee shall have the power to adopt standing orders regulating its business.
- 9.8 Senior officers of each authority will have the right to submit individual reports and recommendations to the Joint Committee.

## **10 Professional Support**

- 10.1 Professional support for the work of the Joint Committee shall be provided by a Strategic Development Plan Manager and a small dedicated team of officers. The SDP Manager will be managed by a project board comprising senior officers from each of the Member councils. Its duties shall include agreeing reports to be presented to the Joint Committee.
- 10.2 From time to time, planning officers and technicians in the Member Councils may be required to provide professional and technical support to the work of the small dedicated team.
- 10.3 The Member Councils shall use their reasonable endeavours to meet any request from the Joint Committee or the SDP Manager for the secondment of appropriate/relevant staff to help prepare, monitor and review the SDP. Any such secondment will be on terms as may be agreed between the Member Council and the Joint Committee.

## **11 Financial Arrangements**

- 11.1 The Joint Committee shall have no dedicated budget of its own. Financial support will be provided by the Member Councils on the basis of an equal, one-sixth share of all costs incurred in relation to the Joint Committee and its operations.
- 11.2 The level of financial devolution will be kept under review by the Joint Committee and can be amended with the agreement of all Member Councils.
- 11.3 For employment law purposes and to aid financial accountability, one SDPA Member Council will act as the employing authority, to be agreed by the Member Councils. The Member Councils will pay to that council one-sixth of the total costs reasonably incurred by it in connection with employing the dedicated team.
- 11.4 Financial contributions from the constituent authorities to the work of the Joint Committee generally, not including dedicated team staff costs, will be channelled through one council, to be agreed by the Member Councils.

## **12 Scheme of Delegation**

- 12.1 The Joint Committee will agree a Scheme of Delegation with the Member Councils. This will define the nature and amount of authority delegated from those councils to the Joint Committee, and from the Joint Committee to officers.
- 12.2 All major decisions, for example about the content of the Strategic Development Plan, but with the exception of submission of the Proposed Plan to Scottish Ministers when no Modifications are proposed, will require to be ratified by each of the six constituent member authorities. The level of delegated authority to the Joint Committee from Member Councils, and from the Joint Committee to officers, shall be governed by a separate Scheme of Delegation to be agreed by the councils.
- 12.3 The Scheme of Delegation will be kept under review by the Joint Committee and can only be amended with the agreement of all the Member Councils.

## **13 Commencement and Variation**

- 13.1 This constitution shall be deemed to have commenced on xxxx (*date to be added on date of execution*) and may be varied only by the agreement of all the Member Councils.

## **14 Consulting on Planning Proposals**

- 14.1 The Joint Committee shall have an advisory role in relation to planning proposals referred to it by Member Councils.

## **15 Annual Report**

- 15.1 The Joint Committee will prepare an annual report on its work to each of the Member Councils on or around 31 August each year.

**APPENDIX 3 – SESplan Scheme of Delegation including amendments 14 December 2015**

# SESplan

The Strategic Development Planning Authority  
for Edinburgh and South East Scotland

## 1.0 SCHEME OF DELEGATION

Powers delegated in this scheme must be carried out within the financial parameters set out by the separate minute of agreement on finance.

### 1.1 Commencement of the Scheme

The scheme shall commence and have effect as from xxxx (*date of execution to be added*).

### 1.2 The Interpretation of the Scheme

In the scheme the following words shall have the meanings assigned to them, that is to say:-

Member Councils are the City of Edinburgh, East Lothian, Fife, Midlothian, Scottish Borders and West Lothian Councils;

2006 Act means the Planning etc. (Scotland) Act 2006;

“SESplan” means the Strategic Development Planning Authority for Edinburgh and South East Scotland;

“Officer” means an official carrying out a function of SESplan, whether the project board or its appointees, directly employed, seconded or otherwise.

### 1.3 Alteration of Scheme

This scheme of delegation will be kept under review and can be amended with the agreement of all Member Councils.

## 2.0 DELEGATION FROM MEMBER COUNCILS TO SESPLAN

2.1 Member Councils delegate to the joint committee (“SESplan”) the power to discharge the following functions conferred by the 2006 Act on the Member Councils as joint SDPA authorities.

2.2 This delegation does not prevent any or all the member councils from discharging those statutory functions.

2.3 Delegation covers:

- a) Approving responses to relevant consultations from other bodies;
- b) Managing work on SDP preparation, monitoring and review;
- c) Initiating public consultation and stakeholder engagement;
- d) Setting a programme for relevant studies to assist in the preparation of the SDP;
- e) Recruiting and managing staff in the SDP project team;
- f) Arrangements for team premises;
- g) Authorising spending within the financial parameters set out by the separate agreement on finance;
- h) Advising on planning proposals referred to the Joint Committee by member councils;
- i) Advising and making recommendations to the Member Councils on conformity of local development plans with the strategic development plan;
- j) Approving background documents to the Strategic Development Plan including background technical papers, Equalities Impact Assessment, Schedule of Responses to the Main Issues Report, Monitoring Statement and the Development Plan Scheme;
- k) Approving draft statutory Supplementary Guidance prepared in accord with the SDP for consultation; and
- l) Adopting and updating the Action Programme.

2.4 Reports will be submitted to individual Member Councils, for information only, on substantive decisions taken and action authorised under delegated authority.

2.5 At the stage of submitting the Proposed Plan to Scottish Ministers the Joint Committee can decide, following consideration of representations received during the statutory period for representations, to submit the Proposed Plan without making any modifications. In addition to those functions listed at 2.3 above, where, and only where, the Joint Committee decide to make no changes, then the Joint Committee is authorised under delegated authority to submit the Proposed Plan and Summary of Unresolved Issues directly to Scottish Ministers without requiring the decision to be ratified by the Member Councils.

2.6 Other than those matters detailed in 2.3 and 2.5 above, and that matter detailed in 2.6A below, all other major decisions on SDP content will require to be ratified by all six Member Councils.

2.6A When the proposed plan is to be submitted to Scottish Ministers, the 2006 Act allows one or more Member Council to set out alternative proposals, along with their reasons for those alternatives. Therefore when the proposed plan is being submitted to Ministers (otherwise than in accordance with paragraph 2.5 above) ratification by at least four out of the six Member Councils will be required to allow the proposed plan to be submitted to Ministers

## 2.7 **Urgent Matters**

Where urgent decisions are required to be taken and do not fall within the scope of delegation to SESplan, Member Councils will convene special committee meetings, if necessary, to ensure that decisions can be made timeously and to prevent delay to the preparation of the SDP.

## 2.8 **Disputes**

If SESplan fails to reach consensus on matters delegated to it, then the matter will be referred to individual Member Councils. This provision does not apply in the circumstances of para 2.5 above.

## 3.0 **DELEGATION FROM SESplan TO OFFICERS**

3.1 SESplan delegates to officers:

- a) Recruitment of the Strategic Development Plan manager and project team, so long as such posts are within the approved structure and budget
- b) Day to day management of staff in the SDP project team

- c) Liaison with and representation of SESplan to central government and other bodies as necessary on matters relating to the SDP area
- d) Implementation of financial resources as authorised by SESplan
- e) Preparation of SDP up to drafting main stage outputs:
  - i. Preparation of main issues report and supporting documents – subject to approval by SESplan, and ratification by all Member Councils.
  - ii. Preparation of proposed plan – subject to approval by SESplan, and ratification by Member Councils
  - iii. Modification of proposed plan – subject to approval by SESplan and ratification by all Member Councils
- f) Initiation and management of consultation exercises subject to agreement of SESplan
- g) Responding to relevant consultations from other bodies
- h) Commissioning studies to assist in the preparation of the SDP

3.2 The provisions of the scheme of delegation to officers are intended to assist in the efficient and effective management of SESplan's activities. Officers must pay due regard to the need for appropriate periodic reporting of delegated decisions to SESplan.

### 3.3 **Urgent Matters**

Where urgent decisions are required to be taken to allow work on the SDP to progress and they do not fall within the scope of delegation to officers, SESplan will, if necessary, convene a special committee meeting.

**APPENDIX 4 –SESplan Financial Rules including amendments 14 December 2015**





The Strategic Development Planning Authority  
for Edinburgh and South East Scotland

## **SESplan FINANCIAL RULES**

### **General**

These rules apply to the operation of SESplan's finances. SESplan is the strategic planning authority for Edinburgh and South East Scotland. Its membership comprises East Lothian Council, City of Edinburgh Council, Fife Council, Midlothian Council, Scottish Borders Council and West Lothian Council ("the member councils").

All transactions will be conducted in accordance with Fife Council's regulations, schemes and procedures.

### **Partner Liability**

Fife Council, as Lead Authority, will adopt the role of "Partnership Banker" and will pay all legitimate approved expenditure including staffing & premises costs and hold all partnership balances which will be carried forward to the next financial year, unless agreed otherwise by the Joint Committee.

Fife Council will ensure that any monies that it receives on behalf of SESplan under its role as 'Partnership Banker' are clearly identified within its accounts and recorded separately from the rest of the Council's finances. Interest charged/accrued on any credit or debit on the SESplan budget will be retained within the identified SESplan accounts.

All partner authorities are liable equally for all legitimate approved expenditure and any other liabilities incurred. All partner authorities also have equal ownership over any SESplan assets.

Fife Council will invoice the other Partner Authorities at the beginning of each financial year to obtain their total annual contribution to the agreed SESplan budget.

This invoice will include VAT at the appropriate rate.

In the event that another partner authority incurs legitimate approved expenditure directly then they must invoice Fife Council, with VAT, to recover this. This expenditure will then be included in SESplan's costs.

### **Budget Setting**

Operating Budgets for the next financial year should be proposed by the Strategic Development Plan (SDP) Manager, approved by the SESplan Joint Committee and ratified by the member councils by the end of December.

### **Authorising Expenditure**

All expenditure relating to the SESplan budget is the responsibility of the Strategic Development Plan Manager and must be within budgets agreed by the Project Board.

No official may incur any expenditure beyond the agreed SESplan budget unless it has firstly been approved by the Project Board, in accordance with the SESplan Scheme of Delegation.

### **Suppliers' Invoices**

The Strategic Development Plan Manager will be responsible for ensuring that invoices are properly certified for payment and for approving other officers who may authorise invoices and the limits of their authority.

All Invoices must be made out to Fife Council, to ensure payment. Any Invoices that are made out to the partnership directly or any other authority cannot be paid by Fife Council.

### **External Funding**

Any external funding received in connection to the project from Central Government, Local Government and any other sources will be held by Fife Council.

### **Salaries and Wages**

Appointments of all employees shall be made in accordance with the procedures approved by Joint Committee through the SESplan scheme of delegation and accord with the approved establishment, grade and rates of pay.

The processing and payment of salaries and wages shall be done through Fife Council's bureau payroll system.

Legitimate travel, hospitality and other expenses incurred in the course of duty, shall be reimbursed through Fife Council's bureau payroll system.

### **Audit**

Expenditure & income will be recorded within Fife Council's financial ledger and will be audited by an independent auditor under Part VII of the Local Government (Scotland) Act 1973. Fife Council's internal audit service will act as SESplan's internal auditors.

### **Reporting Requirements**

Every SESplan Joint Committee report is required to include the financial consequences of proposals for the current and future years to be stated.

The Treasurer, who will be an identified employee of Fife Council, in conjunction with the Strategic Development Plan Manager, is required to submit detailed monitoring reports to the SESplan Joint Committee **twice a year, with one occasion being at the end of each financial year**. These reports will compare actual expenditure to date and projected/final outturn expenditure with the budget position.

### **Further Information**

For further information regarding these Financial Rules, please contact Lesley Burnie (Finance), Fife Council, Fife House, North Street, Glenrothes, KY7 5LT. Telephone - 03451 555 555 extension 444128. Email - [lesley.burnie@fife.gov.uk](mailto:lesley.burnie@fife.gov.uk).

**APPENDIX 5 – SESplan Standing orders 14 December 2015**

**STANDING ORDERS**

**of**

**THE EDINBURGH AND SOUTH EAST SCOTLAND  
STRATEGIC DEVELOPMENT PLANNING AUTHORITY  
JOINT COMMITTEE**

These Standing Orders shall apply and have effect on and from the day they are adopted by the Joint Committee with such amendments as may be made by the Joint Committee from time to time. These Standing Orders shall also apply, so far as relevant, to Sub-Committees.

## **PART I**

### **MEETINGS AND PROCEEDINGS OF THE JOINT COMMITTEE**

#### **Days and Times of the Meetings**

1. (1) The ordinary meetings of the Joint Committee shall be held in accordance with the timetable to be determined by the Joint Committee.
- (2) All other meetings of the Joint Committee shall be held at such place and on such date and at such hour as the Joint Committee may, from time to time, direct.
2. The Convener, or, in his or her absence, the Vice-Convener, may in special circumstances (of which the Convener or the Vice-Convener, as the case may be, shall be the sole judge) alter the date of any ordinary meeting of the Joint Committee.

#### **Special Meetings**

3. The Clerk shall call a meeting of the Joint Committee at any time on being required to do so by the Convener or, in his or her absence, the Vice-Convener, or on receiving a requisition in writing for that purpose signed by at least three members of the Joint Committee specifying the business proposed to be transacted at the meeting, which meeting shall be held within fourteen days of receipt of the requisition.

#### **Calling of Meetings**

4. (1) Notice of all meetings of the Joint Committee shall be given by the Clerk and the notice shall specify the business proposed to be transacted at the meeting and the order in which such business is to be brought before the meeting.
- (2) Not less than three clear days before a meeting of the Joint Committee a summons to attend the meeting, specifying the business to be transacted thereat and signed by the Clerk shall be left at or sent by post either to the usual place of residence of every member of the Joint Committee or Sub-Committee thereof or (if a member gives notice in writing to the Clerk that he or she desires summonses to be sent to

some address specified in the notice other than his place of residence) to that other address.

- (3) Want of service of a summons on any member of the Joint Committee shall not affect the validity of a meeting of the Joint Committee.

### **Quorum**

5. No business shall be transacted at a meeting of the Joint Committee unless four members representing no less than three of the four constituent Councils are present.

### **Order of Business**

6. The business of the Joint Committee at an ordinary meeting shall (unless otherwise directed by the Convener who may, at his/her discretion, alter the order of business at any stage) proceed in the following order:-
  - (a) Minutes of the Joint Committee and Committees and Sub-Committees thereof.
  - (b) Ordinary business including business on agenda at the request of members.
  - (c) Matters of urgency of which no previous notice has been given, provided that consideration of any such matters shall be subject to the provisions of Standing Order 7.

### **Matter of Urgency**

7. An item of business shall not be considered at a meeting of the Joint Committee unless either:-
  - (a) a copy of the agenda including the item (or a copy of the item subject to exclusion as provided for in terms of Section 50B(2) of the Local Government (Scotland) Act 1973) is open to inspection by members of the public at the offices of the Constituent Authorities for at least three days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
  - (b) by reason of special circumstances, which shall be specified in the minutes, the Convener of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

### **Convener / Vice Convener**

9. A Convener and a Vice-Convener shall be appointed by the members of the Joint Committee at its first meeting. The Convener and Vice-Convener shall not both be persons appointed by the same Council. The Convener, if present, shall preside at meetings of the Joint Committee and in his or her absence the Vice-Convener shall preside. If both are absent another member of the Joint Committee, chosen by the members present, shall preside.

### **Powers and Duties of Convener**

10. It shall be the duty of the Convener:-
- (a) to preserve order, and to ensure that every member of the Joint Committee shall have a fair hearing;
  - (b) to decide all matters of order, competency and relevancy;
  - (c) to decide between two or more members of the Joint Committee wishing to speak by calling on the member who has first caught his or her eye; and
  - (d) to ensure that due and sufficient opportunity is given to members of the Joint Committee who wish to speak to express their views on the subject under discussion.
11. The decision of the Convener on all matters within his or her competency shall be final, and shall not be open to question or discussion.
12. Deference shall at all times be paid to the authority of the Convener. When he or she rises to speak he or she shall be heard without interruption.

### **Membership**

13. (1) With regard to the allocation of places on the Joint Committee, should it be necessary or expedient for any of the constituent authorities to change their nominated representatives at any time, other than at the meeting of the Joint Committee immediately following an election, it shall be competent for such changes to be intimated to the Joint Committee and the change shall have effect from the next meeting of the Joint Committee.



- (2) Notwithstanding the provisions of any Standing Order, it shall be competent for substitutions to be intimated and effected for individual meetings of the Joint Committee.

### **Suspension of Members**

14. If any member of the Joint Committee disregards the authority of the Convener, or obstructs the meeting, or conducts himself or herself offensively at the meeting, such member may be suspended for the remainder of the sitting. A motion to suspend a member shall be made and seconded without discussion and forthwith put to the meeting. Any member of the Joint Committee so suspended shall forthwith leave the meeting and shall not without the consent of the meeting again enter the meeting, and if any member so suspended refuses to leave the meeting when so required by the Convener he or she may immediately by order of the Convener be removed from the meeting by a Joint Committee officer or by any other person authorised by the Convener to remove him/her.

### **Adjournment**

15. (1) In the event of disorder arising at any meeting of the Joint Committee, the person in the chair may adjourn the meeting to a date he or she may fix or which the Convener of the Joint Committee may afterwards fix, and the quitting of the chair by the Convener shall be the signal that the meeting is adjourned.
- (2) The Joint Committee may, at any of their meetings, adjourn the same to such date as they may then fix, failing which as the Convener of the Joint Committee or, in his or her absence, the Vice-Convener, may thereafter fix.
- (3) A motion for the adjournment of the meeting may be made at any time (not being in the course of a speech) and shall have precedence over all other motions. It shall be moved and seconded without discussion, and shall forthwith be put to the meeting.

### **Reception of Deputations**

16. (1) All applications requesting the Joint Committee to receive a deputation shall be in writing, duly signed, addressed and, where possible, delivered to the Clerk at least five clear working days prior to the date of the meeting at which the subject may be considered. Any later requests for deputations to be received shall be reported to the meeting and shall be dealt with in accordance with the provisions of the remainder of this Standing Order.

- (2) An application requesting the Joint Committee to receive a deputation shall in the first instance be submitted to the Joint Committee and the deputation shall, if so resolved, be received and heard by the Joint Committee.
- (3) No deputation exceeding ten in number shall be received by the Joint Committee.
- (4) Not more than two speakers on any deputation shall be heard, and the time allowed to the deputation for speaking shall not exceed seven minutes except at the discretion of the Convener.
- (5) Any member of the Joint Committee may put any relevant question to the deputation, but no member shall express an opinion upon, nor shall the Joint Committee discuss, the subject on which the deputation has been heard, until the deputation has withdrawn.

#### **Order of Debate**

17. (1) Any member of the Joint Committee desiring to speak at any meeting of the Joint Committee shall indicate accordingly and when called upon shall address the Convener, and direct his/her speech:-
  - (a) to the matter before the meeting by proposing, seconding, or supporting a motion or any amendment relative thereto;
  - (b) to a point of order; or
  - (c) to asking a question.
- (2) A member shall not speak supporting a motion or any amendment until the same shall have been seconded.
- (3) Subject to the right of the mover of a motion to reply, a member shall not speak more than once on the same issue at any meeting of the Joint Committee, except on a point of order, or with the permission of the Convener, in explanation or to clear up a misunderstanding in regard to some material part of his/her speech, in which case he/she shall introduce no new matter.
- (4) The mover of an original motion shall have a right of reply, but he/she shall introduce

no new matter, and, after he/she has commenced his/her reply, no other member shall speak on the issue except as provided in the immediately preceding paragraph of this Standing Order.

### **Motions and Amendments**

18. (1) The import of all motions and amendments shall be stated immediately on their being proposed to the meeting by the mover before being spoken to.
- (2) All amendments must be relative to the motion and after the first amendment has been voted upon, all subsequent amendments must be substantially different from the first amendment.
- (3) In any case where a motion or an amendment has been duly seconded neither the motion nor the amendment, as the case may be, shall be altered in substance or withdrawn without the consent of a majority of the members present.
- (4) Whenever an amendment upon an original motion has been moved and seconded, no further amendment shall be moved until the result of the first amendment has been determined. If an amendment be rejected, further amendments to the original motion may be moved. If any amendment be carried, such amendment shall take the place of the original motion and shall become the motion upon which any further amendments may be moved.

### **Closure of Debate**

19. A motion that the debate be adjourned, or that the question be now put, may be made at any stage of the debate, (not being in the course of a speech), and such motion, if seconded, shall be the subject of a vote without further debate.

### **Method of Voting**

20. (1) The vote of the Joint Committee shall be taken by calling the roll of those present, beginning with the Convener, and the voting shall be recorded in the minutes.
- (2) After the Convener or the Clerk has announced the issue on which the vote is to be taken, no member shall interrupt the proceedings in any way whatsoever (except that, in the case where his or her name has not been called, a member may direct attention to the fact and request that his or her name be called) until the result of the division has been intimated.

- (3) A member who is absent from the meeting when his or her name is called in a division shall be entitled to record his or her vote if he or she enters the meeting before the result of the division has been intimated, provided the attention of the Clerk is directed to the return of such member before the result of the division has been intimated.

### **Casting Vote**

21. Subject to the provisions of any enactment and of any Statutory Order or Instrument the person presiding at a meeting of the Joint Committee shall in the case of an equality of votes have a second or casting vote except where the matter which is the subject of the vote relates to the appointment of a member of the Joint Committee to any particular office or Committee, in which case the decision shall be by lot.

### **Points of Order**

22. (1) Any member of the Joint Committee may, at any meeting of the Joint Committee, speak upon a point of order if he or she does so as soon as it arises, and if he or she states that they are making a point of order and forthwith states the point of order to which they rise.
- (2) The member who is then addressing the Joint Committee shall cease speaking, and the member who makes the point of order shall, when he/she has concluded, also cease speaking. No other member shall be entitled to speak to the point of order raised except by permission of the Convener.
- (3) The Convener shall thereupon decide the question, and, thereafter, the member who was addressing the Joint Committee at the time the point of order was raised shall be entitled (if the ruling permits him or her so to do) to continue to speak, giving effect to the ruling of the Convener.

### **Inclusion of Business on Joint Committee Agenda at the Request of Members**

23. Subject to the provisions of the Local Government (Scotland) Act 1973 any Member of the Joint Committee who wishes brought before the Joint Committee any matter which can be competently considered thereby, shall submit to the Clerk a detailed written statement and notice of the matter not later than five clear working days before the issue of the agenda and papers to Members in order that the Clerk in terms of sections 50B, 50C and 50F of the 1973 Act may determine whether exempt information as included in Schedule 7A to the

said Act is likely to be disclosed. A member whose item is included on an agenda in terms of this Standing Order shall, when that item is rendered, be called upon to speak first.

#### **Alteration or Revocation of Previous Resolution**

24. (1) Subject to the provisions of paragraph (2) of this Standing Order, no resolution of the Joint Committee shall be altered or revoked except by a subsequent resolution made by the Joint Committee and arising from a recommendation, involving alteration or revocation, approved by a majority of the members present at a meeting of the Joint Committee. Provided that no resolution shall be altered or revoked within six months of its adoption.
- (2) The alteration or revocation of any resolution of the Joint Committee shall not affect or prejudice any proceedings, action, or liability competently done or undertaken under any such resolution prior to its alteration or revocation.

#### **Admission of Press and Public**

25. (1) Subject to paragraphs (2) and (3) of this Standing Order, every meeting of the Joint Committee shall be open to the public and press.
- (2) The public and press shall be excluded from any meeting of the Joint Committee during consideration of an item of business whenever it is likely, in view of the nature of the business, that, if they were present, information would be disclosed which was confidential in terms of Part IIIA of the 1973 Act.
- (3) The Joint Committee may, by resolution, exclude the public and press from any meeting of the Joint Committee during consideration of an item of business whenever it is likely, in view of the nature of the business, that, if they were present, information would be disclosed which falls within one or more of the categories of exempt information in terms of Part IIIA of the 1973 Act.
- (4) A resolution under paragraph 3 of this Standing Order shall:-
- (a) identify the proceedings or the part of the proceedings to which it applies; and
  - (b) state, in terms of the Act the category or categories of exempt information concerned.

### **Suspension of Standing Orders**

26. It shall be competent, subject to the provisions of Standing Order 32(2), for a member of the Joint Committee at any time to move the suspension of any Standing Order as far as applicable which motion shall without any discussion be moved and seconded and be put to the meeting, and the motion shall be held to be carried if supported by a simple majority of those present and voting.

### **The Ethical Standards in Public Life Etc. (Scotland) Act 2000**

27. All members of the Joint Committee shall be guided by the provisions of the Code of Conduct for Councillors.

## **PART II**

### **CONSTITUTION, MEETINGS AND PROCEEDINGS OF SUB-COMMITTEES**

These Standing Orders shall also apply, so far as relevant, to Sub-Committees.

#### **Appointment of Sub-Committees**

28. The Joint Committee may, as they shall deem necessary from time to time, appoint Sub-Committees for the fulfilment of any of the functions of the Joint Committee.
29. The Constitution of Standing Sub-Committees shall, so far as is practicable, reflect the geographical balance of the Joint Committee's membership.

#### **Membership of Sub-Committees**

#### **Delegation to Sub-Committees**

30. Subject to the provisions of the constitution, any enactment and of any Statutory Order, Instrument, or Scheme, the Joint Committee may at any time delegate any function to a Sub-Committee or a Principal Officer of the Joint Committee.

#### **Quorum of Sub-Committees**

31. Unless otherwise stipulated by the Joint Committee the quorum of all Sub-Committees shall be four.

## **PART III**

### **REVISION OF STANDING ORDERS**

- (1) Subject to the terms of any enactment and of any Standing Order, Instrument or Scheme, the foregoing Standing Orders may be altered or revoked at any ordinary meeting of the Joint Committee, if at least seven days prior notice of the motion is given to the Clerk and the motion for alteration or revocation is supported by a majority of the Joint Committee present and voting.
  
- (2) The preceding paragraph of this Standing Order shall not apply to these Standing Orders or portions thereof which incorporate the provisions of Statutes or of Statutory Orders or Instruments which cannot be altered or revoked by the Joint Committee.

For Decision	✓
For Information	

## ITEM 8 – FINANCE

Report by: Ian Angus, SDP Manager

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### Purpose

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This Report presents the following for SESplan Joint Committee consideration:

- Expenditure against the approved Operating Budget for 2015 / 2016 up to October 2015;
- Total forecast expenditure against the approved Operating Budget for 2015 / 2016; and
- Operating Budget for 2016 / 2017, 2017 / 2018 and 2018 / 2019.

### Recommendations

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It is recommended that the SESplan Joint Committee:

1. Notes the expenditure against the approved Operating Budget for 2015 / 2016 up to October 2015 as set out in Appendix 1;
2. Notes the total forecast expenditure against the approved Operating Budget for 2015 / 2016 as set out in Appendix 1;
3. Approves the Operating Budget for 2016 / 2017 as set out in Appendix 1;
4. Notes the Operating Budgets for 2017 / 2018 and 2018 / 2019 as set out in Appendix 1;
5. Agrees that member contributions for financial year 2016 / 2017 will be set at £46,550 (excluding VAT) per authority, payable to Fife Council by the 30 April 2016; and
6. Notes that Member Authorities will be required to ratify the approval of the Operating Budget for 2016 / 2017 at Recommendation 3 of this Report and to make their required contributions by the due date.

### Resource Implications

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As set out below and in Appendix 1.

### Legal and Risk Implications

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There are risks to the process if sufficient funding is not available to progress the Strategic Development Plan (SDP) at a rate which provides up to date strategic planning policy context for the timeous progression of the member authorities' Local Development Plans (LDP), as is required by the relevant legislation. All risks and responses to these are detailed in the SESplan Risk Register and reported to Joint Committee on an annual basis.

### Policy and Impact Assessment

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No separate impact assessment is required.

## **1. Operating Budget 2015 / 2016**

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### **Monitoring Expenditure to Date**

- 1.1 The Annual Audit identified one action related to the presentation of financial monitoring reports to the Joint Committee. This was identified as a risk as the Joint Committee may not be fully informed of the ongoing financial position and emerging financial risks of the Authority. It was agreed at the 28 September meeting of the Joint Committee that detailed financial monitoring reports would be submitted for Committee consideration twice a year with one occasion being at the end of each financial year. This Report therefore notes the total expenditure to October 2015 of £151,014 against the approved Operating Budget for 2015 / 2016 of £300,874 (See Appendix 1).
- 1.2 To date spend on variable costs totals around £25,917. Expenditure on technical support to date includes amongst other items around £16,210 for GIS and graphics support provided by Scottish Borders and City of Edinburgh, £1,300 for placing the statutory notice advertising the publication of MIR2 within the Scotsman newspaper, £3,600 for printing hard copies of MIR2 and supporting documents for distribution to Community Councils, Member Authority planning receptions, key agencies and neighbouring authorities amongst others and £900 consultants fees for finalising the second SESplan Housing Need and Demand Assessment for robust and credible assessment by the Centre for Housing Market Analysis within the Scottish Government.
- 1.3 In terms of income, to date, Fife Council only has paid the required contribution of £46,550. Invoices have been raised and forwarded to Member Authorities (City of Edinburgh, East Lothian, Midlothian, Scottish Borders and West Lothian) for the remaining member contributions of £232,750 to be paid.

### **Forecast Expenditure against Approved Operating Budget**

- 1.4 This Report also notes the total forecast expenditure in 2015 / 2016 relative to the Operating Budget for 2015 / 2016 which was approved at SESplan Joint Committee on the 15 December 2014 (See Appendix 1).
- 1.5 The 2015 / 2016 Budget included provision for staffing within the Core Team of the SDP Manager, Lead Officer (0.8 FTE), Planner and Temporary Planner (contract to December 2016). To provide technical and administrative support to the Core Team, a Student Planner was appointed on a temporary (one year) full time contract in August 2014. The contract was extended for a further year in August 2015 on a part time basis (0.4 FTE) and will end in August 2016.
- 1.6 There is a forecast total overspend of £4,792 on staffing in 2015 / 2016 due to additional costs related to maternity leave (assumed 12 months from January 2016).

- 1.7 In terms of other fixed costs there is a forecast total overspend of £1,800 on travel expenses and mileage, with total forecast spend for 2015 / 2016 estimated at £5,100. This is primarily a result of the relocation expenses for the Core Team associated with the office accommodation move from Edinburgh to Livingston which are payable for a four year period (December 2014 – December 2018). Ordinary travel expenses have also increased following the move from central Edinburgh to Livingston and it has been assumed that expenses will remain at the £5,100 level for 2016 / 2017 and into 2017 / 2018 and 2018 / 2019. Additional travel expenses were also incurred in the current financial year as a result of the Main Issues Report 2 consultation.
- 1.8 There is a total forecast underspend of £3,000 on administration support. It was envisaged that administration support would be sought from West Lothian Council to assist with the Main Issues Report 2 consultation. Administration support was not required and it is anticipated that minimal support will be required over the period to March 2016. The total allowance has therefore been reduced from £4,000 to £1,000 to cover any administration support should it be required.
- 1.9 The forecast is that the full variable budget of £44,000 will be spent over the financial year 2015 / 2016.
- 1.10 The difference between income and expenditure in 2015 / 2016 will be covered by funding expenditure from reserves brought forward from prior years.

## **2. Operating Budget 2016 / 2017 and Forecast Operating Budgets 2017 / 2018 and 2018 / 2019**

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- 2.1 Appendix 1 sets out a proposed Operating Budget for the financial year, 2016 / 2017. As is required under SESplan's Financial Rules, the Budget is presented for discussion and approval by the Joint Committee before ratification of that decision by the Member Authorities.
- 2.2 The 2016 / 2017 Operating Budget includes an allowance for staffing within the Core Team of the SDP Manager, Lead Officer (1 FTE – Maternity Leave cover over the period January 2016 – January 2017), Planner and Temporary Planner, a total of £227,199. The existing contract for the Temporary Planner ends in December 2016. It is proposed that the Temporary Planner post will be extended for a further year to December 2017. This will provide for stability within the Core Team over the period to submission of Strategic Development Plan 2 to Ministers (programmed for Spring 2017), allow for work streams relating to engagement and improved graphics to be progressed and take forward the actions from the lessons learned in the Main Issues Report 2 consultation.
- 2.3 The Student Planner post at 0.4 FTE will end in August 2016. There is no allowance for continuation of the Student Planner post.
- 2.4 The SESplan Core Team is also reliant on resources within the Member Authorities to assist with processing of responses received on consultations as well as technical assessments related to

transport, the spatial strategy and housing amongst other topics. It should be noted that there is a risk to the preparation of the SDP in not maintaining the resource within the Core Team, since the resources within Member Authorities to backfill any SESplan resource gaps are also limited and increasingly under pressure.

- 2.5 Accommodation costs within West Lothian Civic Centre in Livingston have been assumed at £7,500 in 2015 / 2016 with an increase of 1.5% per year for inflation. The Core Team moved into the Civic Centre in December 2014. Confirmation of the heads of terms and lease for the SESplan accommodation has been sought but the contract has yet to be signed with West Lothian Council. The issue has been identified as a risk on the SESplan Risk Register in the meantime.
- 2.6 In terms of IT / Software, the Operating Budget includes £12,000 for Objective and £1,500 per annum for Objective Connect. These systems allow management of the drafting of the plan and supporting documents and consultations on these and the sharing of papers with members and other stakeholders. Also included is the annual hosting of the SESplan website and recharge for West Lothian IT services who provide IT hardware and support to the Core Team.
- 2.7 Audit fees in 2014 / 2015 were £3,380 and costs have been assumed to be the same in future years (i.e. no reduction but also no inflation). The Budget also includes some provision for administrative support from West Lothian on an annual basis.
- 2.8 The 2016 / 2017 Operating Budget includes £20,000 for spend on technical support plus £2,000 contingency. The largest spend in this financial year will relate to GIS / Graphics support for the Proposed Plan and the Proposed Plan Period for Representations, primarily the costs of placing the statutory advert and printing hard copies of the Plan for distribution to Members Authorities and Community Councils amongst others.
- 2.9 The 2017 / 2018 Operating Budget includes £25,000 for spend on technical support plus £2,500 contingency. The largest spend in this financial year will relate to the Examination. The Examination for Strategic Development Plan 1 cost just under £25,000, therefore the Budget for 2017 / 2018 is considered realistic. However there is likely to be a requirement for Hearings on the Proposed Plan which may require the use of the contingency budget. TAYplan will be submitting its Proposed Plan for Examination ahead of SESplan and costs associated with that will provide an indication of likely costs for SESplan.
- 2.10 The 2018 / 2019 Operating Budget includes £20,000 for spend on technical support plus £2,000 contingency. The largest spend in this financial year will relate to pre Main Issues Report 3 engagement and evidence gathering.
- 2.11 Reserves would be maintained at around £20,000 per annum in each of the three years.

- 2.12 Each member authority is liable for one sixth of the annual Operating Budget. Members' contributions are payable to Fife Council on or before 30 April each year. In 2008, the members agreed a budget of £360,000 (£60,000 per authority). The actual budget for 2008 / 2009 only required a contribution of £17,000 per authority. The contributions increased to £40,000 per annum in 2009 – 2012, due to the Core Team then having a full staff complement and the costs of preparing the Main Issues Report and Proposed Plan. The one off government grant and 'carry forwards' were spent over these years and exhausted at the point when costs were expected to be the greatest, in 2012 - 2013.
- 2.13 Due to this combination of pressures, an increase in members' contributions to £49,000 per authority in 2012 / 2013 was agreed by the Joint Committee at its meeting on the 5 December 2011. Contributions were set at that level taking into account cyclical changes to the variable costs such as the Examination process and activity on SDP2 and to provide certainty to Member Authorities and the SESplan Budget planning process.
- 2.14 In anticipation of savings in 2014 / 2015, including in accommodation costs following the relocation of the Core Team, then expected early in that year, the Joint Committee agreed that a target of 5% savings would be set for 2014 / 2015 and following years. This is equivalent to a £2,450 reduction in the Member Authorities' annual contributions and this was refunded to members in 2014 / 2015. It was agreed that SESplan's costs continue at a reduced level in 2015 / 2016 and that contributions were maintained at £46,550 in 2015 / 2016. It is proposed that contributions continue to be maintained at £46,550 per authority per annum over the next three years.

### **3. Conclusion**

- 3.1 The SESplan Financial Rules state that Member Authority contributions are to be in place by the end of April each year, within one month of the start of the financial year. It will therefore be requested that £46,550 be paid to Fife Council on or before the 30 April 2016.
- 3.2 It is requested that all member authorities take steps now in their budget setting to ensure that contributions will be in place by the start of the next financial year.

### **Appendices**

- 1 SESplan Operating Budget 2015 / 2016 (Expenditure to October 2015 and Total Forecast) and Three Year Operating Budget (2016 / 2017 - 2018 / 2019)

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**Report Agreed By:** Ian Angus, SDP Manager

**Author Name:** Alice Miles, Lead Officer

**APPENDIX 1 – SESPLAN OPERATING BUDGET 2015 / 2016 (EXPENDITURE TO OCTOBER 2015 AND TOTAL FORECAST) AND THREE YEAR OPERATING BUDGET (2016 / 2017 - 2018 / 2019)**

**Appendix 1 - SESplan Operating Budget 2015 / 2016 (Expenditure to October 2015 and Total Forecast) and Three Year Operating Budget (2016 / 2017 - 2018 / 2019)**

DESCRIPTION	2015 / 2016 Operating Budget	2015 / 2016 Expenditure to October 2015	2015 / 2016 Forecast	2015 / 2016 Variance	2016 / 2017 Operating Budget	2017 / 2018 Operating Budget	2018 / 2019 Operating Budget
Single Status Staff Costs	218,708	121,972	223,500	4,792	227,199	217,384	220,984
Training	2,000	250	2,000	0	1,000	1,000	1,000
Rent	7,500	-2,084	7,500	0	7,613	7,727	7,843
Travel Expenses / Mileage	3,300	2,862	5,100	1,800	5,100	5,100	5,100
IT / Software	16,000	1,955	16,000	0	16,000	16,240	16,484
Telephone Rental	516	86	516	0	524	532	540
Audit Fees	3,350	0	3,350	0	3,400	3,400	3,400
Administration Support	4,000	0	1,000	-3,000	2,000	2,000	2,000
Consumables	1,500	56	1,500	0	1,500	1,500	1,500
<b>Fixed</b>	<b>256,874</b>	<b>125,097</b>	<b>260,466</b>	<b>3,592</b>	<b>264,336</b>	<b>254,883</b>	<b>258,851</b>
Technical Support	40,000	25,917	40,000	0	20,000	25,000	20,000
Contingency 10%	4,000	0	4,000	0	2,000	2,500	2,000
<b>Variable</b>	<b>44,000</b>	<b>25,917</b>	<b>44,000</b>	<b>0</b>	<b>22,000</b>	<b>27,500</b>	<b>22,000</b>
<b>Expenditure</b>	<b>300,874</b>	<b>151,014</b>	<b>304,466</b>	<b>3,592</b>	<b>286,336</b>	<b>282,383</b>	<b>280,851</b>
Member Authority Contributions	-279,300	-46,550	-279,300	0	-279,300	-279,300	-279,300
Sales	-250	0	-250	0	-250	-250	-250
Income / Interest on Revenue Balance	-1,000	0	-1,000	0	-1,000	-1,000	-1,000
<b>Income</b>	<b>-280,550</b>	<b>-46,550</b>	<b>-280,550</b>	<b>0</b>	<b>-280,550</b>	<b>-280,550</b>	<b>-280,550</b>
<b>Net</b>	<b>20,324</b>	<b>104,464</b>	<b>23,916</b>	<b>3,592</b>	<b>5,786</b>	<b>1,833</b>	<b>301</b>
(Take From) / Add to Reserves	-20,324		-23,916	-3,592	-5,786	-1,833	-301
<b>NET TOTAL</b>	<b>0</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Usable reserve balance</b>	-30,512		-26,920	3,592	-21,134	-19,301	-19,000
<b>Usable reserve balance at 1/4/15</b>	-50,836						
<b>Usable reserve as % of expenditure</b>			-8.8%		-7.4%	-6.8%	-6.8%
<b>Additional contributions</b>							
Target reserve (1 month's operating costs)					23,861	23,532	23,404
Shortfall on target reserve of 1 month's operating costs					0	0	0
Councils					6	6	6
Additional contribution required per council					0	0	0