

Public Document Pack

Cabinet

Monday, 2nd August, 2010
at 5.00 pm
Council Chamber

This meeting is open to the public

Members

Councillor Smith, Leader of the Council and
Cabinet Member for Economic Development
Councillor Moulton, Cabinet Member for Resources
and Workforce Planning
Councillor Baillie, Cabinet Member for Housing
Councillor Dean, Cabinet Member for Environment
and Transport
Councillor Hannides, Cabinet Member for Leisure,
Culture and Heritage
Councillor Holmes, Cabinet Member for Children
and Safeguarding
Councillor White, Cabinet Member for Adult Social
Care and Health
Councillor P Williams, Cabinet Member for Local
Services and Community Safety

(QUORUM – 3)

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BACKGROUND AND RELEVANT INFORMATION

The Role of the Executive

The Cabinet and individual Cabinet Members make executive decisions relating to services provided by the Council, except for those matters which are reserved for decision by the full Council and planning and licensing matters which are dealt with by specialist regulatory panels.

Executive Functions

The specific functions for which the Cabinet and individual Cabinet Members are responsible are contained in Part 3 of the Council's Constitution. Copies of the Constitution are available on request or from the City Council website, www.southampton.gov.uk

The Forward Plan

The Forward Plan is published on a monthly basis and provides details of all the key executive decisions to be made in the four month period following its publication. The Forward Plan is available on request or on the Southampton City Council website, www.southampton.gov.uk

Key Decisions

A Key Decision is an Executive Decision that is likely to have a significant

- financial impact (£200,000 or more)
- impact on two or more wards
- impact on an identifiable community

Decisions to be discussed or taken that are key

Implementation of Decisions

Any Executive Decision may be "called-in" as part of the Council's Overview and Scrutiny function for review and scrutiny. The relevant Overview and Scrutiny Panel may ask the Executive to reconsider a decision, but does not have the power to change the decision themselves.

Southampton City Council's Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

Procedure / Public Representations

Reports for decision by the Cabinet (Part A of the agenda) or by individual Cabinet Members (Part B of the agenda). Interested members of the public may, with the consent of the Cabinet Chair or the individual Cabinet Member as appropriate, make representations thereon.

Smoking policy – The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – Please turn off your mobile telephone whilst in the meeting.

Fire Procedure – In the event of a fire or other emergency, a continuous alarm will sound and you will be advised, by officers of the Council, of what action to take.

Access – Access is available for disabled people. Please contact the Cabinet Administrator who will help to make any necessary arrangements.

Municipal Year Dates (Mondays)

2010	2011
7 June	17 January
21 June	7 February
5 July	14 February
2 August	14 March
6 September	11 April
27 September	
25 October	
22 November	
20 December	

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Cabinet, and its Executive Members, are set out in Part 3 of the Council's Constitution.

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Executive Procedure Rules as set out in Part 4 of the Council's Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

PERSONAL INTERESTS

A Member must regard himself or herself as having a personal interest in any matter:

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Cont/...

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available via the Council's Website

1 APOLOGIES

To receive any apologies.

2 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS

In accordance with the Local Government Act, 2000, and the Council's Code of Conduct adopted on 16th May, 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer

3 STATEMENT FROM THE LEADER

4 RECORD OF THE PREVIOUS DECISION MAKING

Record of the decision making held on 5th July 2010, attached.

5 MATTERS REFERRED BY THE COUNCIL OR BY THE OVERVIEW AND SCRUTINY COMMITTEE FOR RECONSIDERATION (IF ANY)

There are no matters referred for reconsideration.

6 REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEES

There are no items for consideration.

7 EXECUTIVE APPOINTMENTS

To deal with any executive appointments, as required.

ITEMS FOR DECISION BY CABINET

8 WORKFORCE AND OTHER RELATED ISSUES

Report of the Solicitor to the Council seeking authority for the Chief Executive (Head of Paid Service) to take appropriate action in respect of equal pay litigation, attached.

9 CAPITAL REPAIRS TO NON-HOUSING PROPERTY

Report of the Cabinet Member for Resources and Workforce Planning seeking approval for the expenditure of approved Capital Funding, attached.

10 EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM

To move that in accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendix 1 to (item no:11)

Confidential appendix 1 contains information deemed to be exempt from general publication based by virtue of Categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution. It is not considered to be in the public interest to disclose this information because the Appendix contains confidential and commercially sensitive information which would impact on the integrity of a commercial procurement process and the Council's ability to achieve 'Best Value' in line with its statutory duties.

11 SEA CITY MUSEUM SCHEME APPROVAL

Report of the Cabinet Member for Leisure, Culture and Heritage seeking approval for various matters relating to the Sea City Museum Scheme, attached.

NOTE: There is a confidential appendix that is not for general publication.

Friday, 23 July 2010

SOLICITOR TO THE COUNCIL

EXECUTIVE DECISION MAKING

RECORD OF THE DECISION MAKING HELD ON 5 JULY 2010

Present:

Councillor Samuels	-	Leader of the Council
Councillor Holmes	-	Cabinet Member for Children's Services and Learning
Councillor Smith	-	Cabinet Member for Economic Development
Councillor Dean	-	Cabinet Member for Environment and Transport
Councillor P Williams	-	Cabinet Member for Housing and Local Services
Councillor Hannides	-	Cabinet Member for Leisure, Culture and Heritage
Councillor Moulton	-	Cabinet Member for Resources and Workforce Planning

9. APOLOGIES

Apologies were received from Councillors Walker and White.

10. PROPOSALS TO EXTEND THE COXFORD AREA RESIDENTS' PARKING SCHEME IN WARREN CRESCENT, WARREN AVENUE, CHESTNUT ROAD, SYCAMORE ROAD, HOLLAND PLACE, STOKES ROAD AND BRACKEN LANE. (TRO)

DECISION MADE: (Ref: CAB 10/11 3528)

On consideration of the report of the Head of Highways and Parking Services concerning objections received during public consultations on proposals to extend the Coxford Area Residents' Parking Scheme in Warren Crescent, Warren Avenue, Chestnut Road, Sycamore Road, Holland Place, Stokes Road and Bracken Lane. the decision maker made the following decision:-

- (i) That the Cabinet consider and determine the objection to the proposals to extend permit parking in the vicinity of Warren Crescent;
- (ii) That if the Cabinet supports the proposals they are approved as revised

11. PROPOSED REVERSAL OF ONE-WAY SYSTEM, LYON STREET (TRO)

DECISION MADE: (Ref: CAB 10/11 3524)

On consideration of the report of the Head of Highways and Parking Services concerning objections received during public consultations on proposals for the reversal Of One-Way System, Lyon Street, the decision maker made the following decision:-

- (i) That the Cabinet consider and determine this objection to the reversal of the one-way system in Lyon Street

12. RECORD OF THE PREVIOUS DECISION MAKING

The record of the Executive Decision Making held on 7th June and 21st June 2010 were received and noted as a correct record.

13. EXECUTIVE APPOINTMENTS

Cabinet approved the following appointments:

Councillor Letts - Partnership for Urban South Hampshire – Overview and Scrutiny Committee

Councillor Marsh-Jenks – Standing Advisory Council for Religious Education

14. CORPORATE PLAN 2010-13

On consideration of the report of the Assistant Chief Executive (Strategy) Cabinet agreed the following:

- (i) To note the comments received from the Overview and Scrutiny Management Committee as set out in the consultation section of the report.
- (ii) To endorse the draft 2010/11 Corporate Plan and refer it to Full Council for approval as part of the Council's overall Policy Framework
- (iii) To delegate authority to the Chief Executive, following consultation with the Leader of the Council, to amend the draft plan as necessary to ensure that it reflects member feedback and aligns with any new budgetary or policy developments which will have a significant impact on the Council's activities in 2010/11.

15. EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL PAPERS INCLUDED IN THE FOLLOWING ITEM

In accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendices 1 and 2 to item no 12.

Confidential appendices 1 and 2 contain information deemed to be exempt from general publication based on Categories 3 (financial and business affairs), and 7A (obligation of Confidentiality) of paragraph 10.4 of the Council's Access to Information Procedure Rules.

16. HIGHWAYS SERVICE PARTNERSHIP: APPROVAL TO AWARD CONTRACT

DECISION MADE: (Ref: CAB 10/11 3933)

On consideration of the report of the Cabinet Member for Environment and Transport and having complied with the requirements of Paragraph 15 – General Exception of the Access to Information Procedure Rules: Cabinet agreed the following:

- (i) To enter into a contract for a period of 10 years plus period of flexible extendibility with a company within the Balfour Beatty Group to deliver the Council's highways services.
- (ii) To delegate authority to the Solicitor to the Council, following consultation with the Executive Director of Neighbourhoods and Executive Director of Resources to finalise and enter into all necessary or ancillary contractual arrangements and documentation with a company within the Balfour Beatty Group, subject to the parameters set out within the report, and specifically in confidential Appendix 1.
- (iii) To authorise the Executive Director of Resources and / or the Solicitor to the Council to take any further action necessary to give effect to the decisions of the Executive in relation to this matter.

17. RESPONSE TO THE SCRUTINY INQUIRY INTO DISTRICT CENTRES

DECISION MADE: (Ref: CAB 10/11 3390)

On consideration of the report of the Cabinet Member for Economic Development Cabinet agreed the following:

- (i) Approve the response to the 19 recommendations as detailed in Appendix 1.
- (ii) That the role of co-ordinating actions of various relevant departments within the Council, to improve the economic climate of the District Centres, be delegated to the Head of City Development and Economy after consultation with local interest such as traders' associations and residents' associations.
- (iii) To delegate authority to the Head of City Development and Economy to negotiate and look to other departments for supporting resources with regard to the prioritising and monitoring of district centre improvements.

18. RESPONSE TO THE SCRUTINY INQUIRY INTO DOMESTIC VIOLENCE

DECISION MADE: (Ref: CAB 10/11 3527)

On consideration of the report of the Cabinet Member for Economic Development Cabinet agreed the following:

- (i) To approve the Cabinet's responses as set out in Appendix 1.

19. WOOLSTON AND ST ANNE'S CONSERVATION AREAS APPRAISAL

DECISION MADE: (Ref: CAB 10/11 3542)

On consideration of the report of the Cabinet Member for Environment and Transport Cabinet agreed the following:

- (i) To consider the representations received in relation to the proposed changes to the Woolston Conservation Area.
- (ii) To approve the 'Woolston – Southampton Conservation Areas Appraisal' (document in Members Rooms) setting out the changes to the Woolston and St. Anne's Road Conservation areas (five in all) for development control purposes for all proposals within the conservation areas received after 01 August 2010.

- (iii) To approve the maps setting out the boundary changes to the conservation areas at Appendix 2.
- (iv) To delegate authority to the Head of Planning & Sustainability following consultation with the Solicitor to the Council to make such amendments as may be necessary to give effect to the recommendations of Cabinet or as otherwise considered appropriate and to finalise the draft of the 'Woolston – Southampton Conservation Areas Appraisal' for publication.
- (v) To delegate authority to the Solicitor to the Council to give notice of the revised conservation area prior to implementation.

20. SUSTAINABLE PROCUREMENT POLICY

DECISION MADE: (Ref: CAB 10/11 3586)

On consideration of the report of the Cabinet Members for Environment and Transport and Resources and Workforce Planning and having had regard to s.2 Local Government Act 2000 and the provisions of the Community Strategy: Cabinet agreed the following:

- (i) To approve the Sustainable Procurement Policy, as set out in Appendix 1, as a framework within which to take forward future procurement activities across the Council.
- (ii) To endorse the Sustainable Procurement Resource Plan (attached as Appendix 2) to achieve Level 2 of the UK Flexible Framework by April 2011, following a review, progress to Level 3 by April 2012 should there be no net financial implication.
- (iii) To approve the Employment and Skills Statement, as set out in Appendix 4, to communicate to Council suppliers how they can provide additional skills and learning benefits for the community through their contracts.
- (iv) To delegate authority to the Head of Policy and Performance (Environment) to make any minor changes to the policy and Resource plan following consultation with the Cabinet Member for Environment and Transport.

21. CHANGES TO EXISTING REVENUE AND CAPITAL BUDGETS

DECISION MADE: (Ref: CAB 10/11 1676)

On consideration of the report of the Cabinet Member for Resources and Workforce Planning Cabinet agreed to recommend the following to Full Council:

- (i) Note the key issues outlined in Appendix 1 arising from the Budget on 22nd June that will have an impact on Local Government.
- (ii) Note the high level forecast for the General Fund for the next three years contained in Appendix 2.
- (iii) Note the cuts in Government grant for 2010/11 detailed in Appendix 3.
- (iv) Approve the reductions in budget for 2010/11 in Appendix 4 in response to the cut in Government grant.
- (v) Note the actions that are being taken to manage the in year cuts in grant outlined in paragraphs 21 to 25.

- (vi) Approve an additional draw from General Fund Balances of up to £1M in 2010/11 if required during the year.
- (vii) Approve the efficiencies, income generation proposals and service reductions as set out in Appendix 5, subject to recommendation (viii).
- (viii) Note that prior to a final decision being made regarding grant reductions and new income generation referred to in Appendix 5, formal consultation with affected people and organisations be commenced as soon as possible and to note that the implementation of these savings is subject to the outcome of consultation with affected parties.
- (ix) Delegate authority to the Executive Director of Resources following consultation with the Solicitor to the Council and the Cabinet Member for Resources and Workforce Planning to make any further changes to budgets during 2010/11 in response to the cuts in Government grants, subject to these being reported to Council at a later date.

22. REDUCTION IN SIZE OF PLOT FOR DISPOSAL AT HAREFIELD PRIMARY SCHOOL

DECISION MADE: (Ref: CAB 10/11 3989)

On consideration of the report of the Cabinet Member for Children's Services and Learning and having complied with the requirements of Paragraph 15 – General Exception of the Access to Information Procedure Rules Cabinet agreed the following::

- (i) To approve a reduction in the size of the plot of land for disposal at Harefield Primary School previously approved by Cabinet on 17th March 2008; and to note the likely consequential reduction in the realisable capital receipt and the knock on impact to the funding of the Harefield Primary rebuild project.
- (ii) To delegate to the Executive Director of Children's Services and Learning in consultation with the Executive Director of Resources, following consultation with the Cabinet Member for Children's Services and the Cabinet Member for Resources, authority to determine the size of the plot ultimately declared surplus to educational requirement at Harefield Primary School.
- (iii) To delegate authority to the Executive Director of Children's Services and Learning, following consultation with the Solicitor to the Council, to do anything necessary to give effect to the proposals set out in this report. Including but not limited to the entering into and varying of contracts; submission of planning applications; and all other matters ancillary to, conducive to, or calculated to facilitate the completion of the Harefield Primary School project.

NOTE: in accordance with the Council's Constitution, specifically the Access to Information procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of any consideration of the confidential appendices 1 and 2 to item no 18.

Confidential appendices 1 and 2 contain information deemed to be exempt from general publication based on Categories 3 (financial and business affairs), and 7A (obligation of Confidentiality) of paragraph 10.4 of the Council's Access to Information Procedure Rules.

23. SCHOOLS' DEFICIT BUDGETS 2010/11

DECISION MADE: (Ref: CAB 10/11 3525)

On consideration of the report of the Head of Standards (Children's Services and Learning) the Cabinet Member for Children's Services and Learning agreed the following:

- (i) That the deficit budgets for the following schools for 2010/11 be approved:

Sinclair Primary and Nursery School	£15,000
Holy Family Catholic Primary School	£11,000
Chamberlayne College of the Arts	£65,000
Upper Shirley High School	£96,000
St George Catholic VA College	£90,000
Vermont School	£72,000
Total Requested	£349,000

DECISION-MAKER:	CABINET		
SUBJECT:	WORKFORCE AND OTHER RELATED ISSUES		
DATE OF DECISION:	2 AUGUST 2010		
REPORT OF:	HEAD OF PAID SERVICE (CHIEF EXECUTIVE), MONITORING OFFICER (SOLICITOR TO THE COUNCIL) AND CHIEF FINANCIAL OFFICER (EXECUTIVE DIRECTOR OF RESOURCES)		
AUTHOR:	Name:	Mark Heath	Tel: 023 8083 2371
	E-mail:	mark.heath@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

None.

SUMMARY

The purpose of this report is to enable the Executive to authorise the Chief Executive (Head of Paid Service) to take appropriate action in respect of equal pay litigation currently being taken against the Council.

RECOMMENDATIONS:

- (i) That the Chief Executive (Head of Paid Service) be given delegated authority, following consultation with the Solicitor to the Council (Monitoring Officer), Executive Director of Resources (Chief Financial Officer) and the Cabinet Member for Resources to take any action necessary (including defend, settle or in any other way take action) in relation to any Equal Pay Claims or other linked or associated matters currently made or in future made against the Council;
- (ii) That the Chief Executive (Head of Paid Service), Solicitor to the Council (Monitoring Officer), Executive Director of Resources (Chief Financial Officer) and Head of Organisational Development be given delegated authority to take any further action necessary to give effect to the content of this report; and
- (iii) To approve an amount of up to £200,000 to fund further legal and other associated costs of defending the Equal Pay Claims, to be met from the Organisational Development Reserve.

REASONS FOR REPORT RECOMMENDATIONS

1. It is appropriate, given the size and nature of the equal pay litigation that Members are formally updated as to progress in relation to this matter and further that the future direction, management and strategy behind the Council's management of this litigation is clearly understood and appropriately authorised.

CONSULTATION

2. There has been internal consultation between Council officers, as well as informal briefings for the Executive, as well as relevant opposition spokespersons on the content of this report.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. In relation to the litigation, the approach set out in this report is considered the only pragmatic approach, as the alternative would be that every claim is considered and individual decisions are determined by Members, and given the nature and size of the litigation, this is considered the appropriate approach and, therefore, whilst there are alternative options, they are not considered practicable.

DETAIL

4. Men and women carrying out equal work for the same employer are entitled to the same terms and conditions of employment. This right derives from both European Legislation (Article 141 of the EC Treaty and the Equal Pay Directive) and from the Domestic Equal Pay Act 1970
5. In general terms, the 1970 Act gives women and men the right to equal pay for equal work unless there is a genuine material reason for the inequality that is not related to sex. The 1970 Act achieves this by implying an “equality” clause into every contract of employment that enables the contract to be modified if a successful claim is made.
6. In order to establish the rights to equal pay under the 1970 Act, the employee must establish a “comparator” of the opposite sex who works in the “same employment” and then establish that s/he and the comparator are
 - i. employed on “like work”: or
 - ii. employed in jobs that are “equal value”; or
 - iii. employed in jobs that have been “rated as equivalent
7. Once the employee has established their claim to equal pay, then it falls upon the employer to show that the reason for the inequality is genuinely due to a “material factor” that is not the difference in sex. If the employer cannot show that, it will be liable to the employee
8. It is important to note that the 1970 Act applies to both men and women, it applies to anyone engaged under a contract personally to execute any work or labour. That is a wider definition than that of an employee found in the Employment Rights Act 1996, and extends the scope of the 1970 Act to the vast majority of workers, including the self employed.
9. It is also important to note that the Act is concerned with equal pay, not fair pay.

Activity taken to date

10. To date, the Council has received a number of claims that allege disparate pay between the claimant and their comparators. These cases have been managed on behalf of the Council by the Solicitor to the Council, who has instructed Counsel to advise and represent the Council.

The current situation of the litigation

11. The litigation has recently been the subject of a case management hearing and as a result of that it is now appropriate to formally update Members and get express authority to manage the litigation on behalf of the Council. The delegation, which is to the Chief Executive following consultation with the other two Statutory Officers as well as the relevant Cabinet Member (the

Cabinet Member for Resources) will ensure that an appropriate response can be made on a claim by claim basis. The Executive Director of Resources (in her capacity of Chair of the Board dealing with equal pay issues) has kept opposition Groups Spokespersons briefed as well as obviously the Cabinet Member, and will continue to do so.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

12. Any potential costs arising from successful litigation against the Council would be revenue in nature. However it is possible to apply for a capitalisation direction from the DCLG to help spread the cost of the payments over several years.

Revenue

13. A sum of £200,000 was approved in 2009/10 to fund legal and other associated costs of dealing with the equal pay claims. Only a small element of this remains in 2010/11 and therefore up to a further £200,000 is requested to take this work forward and will be met from the Organisational Development Fund.

Property

14. None.

Other

15. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

16. The Council has been addressing a number of equal pay claims for some time. Management of that litigation remains ongoing. It is appropriate to give delegated authority to the most senior Officers of the Council to take whatever action is necessary to manage those claims, following consultation with the Cabinet Member.

Other Legal Implications:

17. None.

POLICY FRAMEWORK IMPLICATIONS

18. None.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	None
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Documents In Members' Rooms

1.	None
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Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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Background documents available for inspection at: N/A

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	All
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ITEM NO:9

DECISION-MAKER:	CABINET		
SUBJECT:	CAPITAL REPAIRS TO NON-HOUSING PROPERTY		
DATE OF DECISION:	2 AUGUST 2010		
REPORT OF:	CABINET MEMBER FOR RESOURCES AND WORKFORCE PLANNING		
AUTHOR:	Name:	Richard Hodge	Tel: 023 8083 2601
	E-mail:	Richard.Hodge@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Not Applicable

SUMMARY

The Council's approved Capital Programme for 2010/11 includes funding for repairs to the Art Gallery Roof and replacement of the Air Handling Units which control the internal environmental conditions within the galleries. Both of these elements of the building require urgent replacement to maintain the normal operation of the Art gallery.

This report seeks approval for expenditure of £1.936M phased £968,000 in 2010/11 and £968,000 in 2011/12.

RECOMMENDATIONS:

- (i) To approve in accordance with Financial Procedure Rules capital expenditure of £1.936M phased £968,000 in 2010/11 and £968,000 in 2011/12.
- (ii) That the Head of Property and Procurement is granted Delegated Powers to vary the scope and programme of the work following consultation with the Cabinet Member for Resources and Workforce Planning.

REASONS FOR REPORT RECOMMENDATIONS

- 1 To carry out urgent work to the Art Gallery to maintain the use of this facility.

CONSULTATION

- 2 This report and the programme for the work are being produced in consultation with the Art Gallery Management (Arts & Heritage) to minimise the disruption to the gallery exhibition programme and normal operation.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 3 Do nothing in which case the use of the Art Gallery may be restricted due to periodic roof leaks and the inability to control the internal temperatures and humidity which are fundamental to the loan of exhibits.
- 4 To carry out the work as part of the Civic Centre refurbishment. The works to the North Block will not be undertaken until 2012/13. The work to the Art Gallery needs to be undertaken as soon as possible to allow continued use of the facility.

- 5 Reduce the scope of the work to resolve only the immediate problems. This is not considered an alternative that will give value for money as some repairs require removal of the Air Handling Units in order to carry out the repairs and further reactive repairs are likely to be required in the near future due to the poor condition of the roof lights and roof deck covering.

DETAIL

- 6 For a number of years the air handling units which control the temperature and humidity in the Art Gallery have been in a poor and deteriorating condition. This has not been able to be addressed, nor has normal maintenance been carried out, due to restrictions on access for Health and Safety reasons due to the position of the air handling units on the roof adjacent to the glazed rooflights.
- 7 The replacement of the air handling units had been proposed as part of the Capital Repairs Budget programme in 2009/10 but further investigations revealed additional problems in replacing the units resulting in cost escalation which was beyond the available budget, and therefore the project was suspended pending the availability of significant additional funding.
- 8 During the winter of 2009/10 there were a number of instances of roof leaks brought about by severe heavy rainfall. On two occasions this coincided with important events in the gallery and could have damaged the reputation of the Council. If such extreme heavy rainfall events occur in the future then similar problems can be expected to reoccur. The investigation of the roof condition following these incidents revealed the condition of the roof to be significantly worse than previously observed, particularly the roof covering, rooflights and a number of installation defects. Piecemeal repairs were determined to be incapable of resolving the underlying problems and reducing the risks posed to the normal use of the gallery.
- 9 As the roof repairs will require removal of the air handling units it was logical to combine both projects and therefore resolve the two main issues affecting the Art Gallery.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

- 10 The scheme was approved as a £1.936m addition to the Resources Capital Programme by Council on 17 February 2010, phased £968,000 in 2010/11 and £968,000 in 2011/12.

Revenue

- 11 The revenue costs are expected to be similar to the existing installation but this can only be determined through the design of the new air handling unit installation. It is therefore expected that repair and maintenance costs will be met from existing resources.

Property

- 12 The proposals in this report are consistent with and support the Council's Corporate Property Strategy.

Other

- 13 None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 14 The Council has a number of different repairing and maintenance liabilities, including specific contractual obligations arising from leased properties, as well as a general duty under occupiers liability legislation and Health and Safety legislation to keep the properties concerned in a safe condition. The repairs to be carried out will help ensure this and maintain the continuity of services provided.
- 15 The proposals in this report relate to the maintenance of property held by the Council under various holding powers including The Local Government Act 1972 in relation to the discharge of the Council's various statutory functions under principally the Local Government Acts 1972, 2000 and 2003.

Other Legal Implications:

- 16 None.

POLICY FRAMEWORK IMPLICATIONS

- 17 Repair and maintenance is essential to ensure properly functioning buildings for the efficient delivery of the Council's services and the implementation of its strategic policies.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	None
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Documents in Members' Rooms

1.	None
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Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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Background documents available for inspection at: N/A

KEY DECISION? YES

WARDS/COMMUNITIES AFFECTED:	Central facility serving the whole community of the city and beyond.
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ITEM NO: 11

DECISION-MAKER:	CABINET		
SUBJECT:	SEA CITY MUSEUM SCHEME APPROVAL		
DATE OF DECISION:	2 AUGUST 2010		
REPORT OF:	CABINET MEMBER FOR LEISURE, CULTURE AND HERITAGE		
AUTHOR:	Name:	Tina Dyer-Slade	Tel: 023 8083 3597
	E-mail:	tina.dyer-slade@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Appendix 1 is not for publication by virtue of Categories 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution. It is not considered to be in the public interest to disclose this information because the Appendix contains confidential and commercially sensitive information which would impact on the integrity of a commercial procurement process and the Council's ability to achieve 'Best Value' in line with its statutory duties.

SUMMARY

The purpose of this project is to seek the approvals needed to take the Sea City Museum project through to completion. On 20th April 2009, Cabinet gave approval to spend £992,000 on developing Phase 1 of the Sea City Museum within the Leisure and Culture Capital Programme funded from Council resources and a successful Heritage Lottery Fund (HLF) bid. On the 23rd November 2009, Cabinet gave approval to spend a further £375,000 to undertake further development work at risk whilst the Round Two bid was being considered by the HLF. On the 17th February 2010 Council added £13,585m in to the Leisure Capital programme for the implementation phase of the project. £1.223m was made available to carry out repairs to the building fabric, including asbestos removal in the areas of the building not being used as part of the first phase of the project. In March 2010 the HLF advised that the bid had been successful and therefore this report seeks all the approvals necessary to take the project through to completion.

RECOMMENDATIONS:

- (i) That, in accordance with Finance Procedure Rules, Cabinet approve the transfer of a ringfenced capped sum of £1.283m from the Resources portfolio into the Leisure and Culture Capital Programme per the approval to carry out repairs to the fabric of the building, any underspends will be transferred back to the ASAP project;
- (ii) That, in accordance with Finance Procedure Rules, Cabinet approves the increase in the total spend on the implementation of this scheme by £14,793,997 (to a total scheme value of £16,209,000) to be phased £4,185,565 in 2010/2011, £9,878,424 in 2011/2012 and £452,168 in 2012/2013 and £277,840 in 2013/2014;
- (iii) That Cabinet notes that the additional capital financing costs in 2010/11 of £40,000 can be met from existing capital financing budgets but that a sum to cover the additional capital financing costs in subsequent years

will need to be allocated from the £2M allowance made for additional pressures that was included in the high level General Fund forecast reported to Cabinet on 5 July and that this may need to be increased if the circumstances set out in the report to Council in February materialise;

- (iv) That Cabinet approves the implementation of a procurement exercise to identify a management partner for Sea City Museum, with the option of including other heritage venues, subject to an economic assessment of the costs and benefits being completed in accordance with the councils approved project appraisal process and, on the basis that the procurement proceeds:
- Agrees to draw up to £150,000 from contingencies to fund the procurement exercise in 2010/11 and
 - Delegate authority to the Executive Director of Neighbourhoods, following consultation with the Executive Director of Resources and the Solicitor to the Council, to do anything necessary to conclude the procurement including, but not limited to the evaluation of tenders, selection of the preferred bidder and contractual and financial close
- (v) That Cabinet gives delegated authority to the Executive Director for Neighbourhoods, following consultation with the Solicitor to the Council and the Executive Director of Resources, to enter into any agreements or undertake any other actions necessary to implement this project to completion.

REASONS FOR REPORT RECOMMENDATIONS

1. To enable the implementation of the project, which is necessary at this time if the target completion date of 2012 is to be achieved.

CONSULTATION

2. Over 2000 people were consulted during the development of the Sea City Museum project prior to submission of the round two bid in November 2009. More recently the project plans and models were displayed in the art gallery for public viewing in February 2010 to coincide with the planning application being submitted. Since the last report in November 2009 communications have continued with a wide range of organisations outside the city council including the HLF, English Heritage, the Police, the Coroner's Service, local interest groups and the two city universities. Regular communications have been maintained with Capita regarding the accommodation project which is closely related. Consultation within the City Council has also continued with officers in:- Planning, Procurement, Civic Buildings, Insurance, Transport, Highways, Open Spaces, Legal Services, Finance and Projects.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Not to authorise the expenditure required to implement the project. This would prevent the project proceeding.

DETAIL

4. In April 2009, Cabinet approved expenditure of £992,000 to take the development of the project from early feasibility to the stage when it would be ready to make a Round 2 application to the HLF. This application was submitted in October 2009.

On the 23rd November 2009, Cabinet gave approval to spend a further £375,000 to undertake further development work at risk whilst the Round Two bid was being considered by the HLF. Prior to this £48,000 had been approved for the feasibility stage of the project bringing the total approved spend to £1,415m. On the 17th February 2010 Council added £13,585m in to the Leisure and Culture Capital Programme to demonstrate their commitment to the project to the HLF. £1.223m was made available to carry out repairs to the building fabric, including asbestos removal in the areas of the building not being used as part of the first phase of the project. In March 2010 the HLF advised that the bid had been successful in being awarded a further £4.6m towards the project on top of the funding already awarded after the round 1 application. A further £60,000 is being transferred from Resources Portfolio as a contribution towards the provision of a new transformer and associated works as the electrical demands for the civic complex exceeds the supply available. The HLF element of the project has been reduced by £74,003 due to savings made on the project. The increased funding requiring approval for Phase 1 is £13,510,997 and for phase 2 £1,283,000 making a total of £14,793,997.

5. Phase 1 of Sea City Museum will include two permanent exhibitions plus a special exhibitions gallery. The Gateway exhibition will tell the story of Southampton as Gateway to the World, and will chart the movement of people through the port since pre-history. The Titanic crew's story exhibition will tell the so far untold story of impact the Titanic had upon Southampton and particularly the crew and their families. The first temporary exhibition will be about "Titanic the Legend" covering the fascination in the Titanic since 1912, which has revealed itself through the production of films, publications and the search for the wreck. During the first year of opening there will be a particular emphasis on the Titanic to tie in with the 100 year commemoration of the sinking of RMS Titanic.
6. The project will create a nationally important visitor attraction that will showcase the City's archaeology and heritage collections. Extensive use will be made of personal objects, documents, photographs and oral history testimony from the collections.
7. The business plan submitted to the HLF as part of the Round 2 application estimates around 150,000 visitors per year. A procurement process is currently being planned to ensure that there is management in place early enough to ensure effective marketing and promotion of the venue in advance of opening to ensure these visitor targets are met.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

8. The total scheme value for the Sea City Museum is £16,209,000. Of this sum, £1,415,003 of expenditure has already been approved, with the balance of £14,793,997 now requiring approval.

The total scheme value is broken down as follows:

	£
Heritage Museum (main contract and fit out)	14,986,000
Repairs to existing building incl asbestos removal	1,223,000
Total	16,209,000

9. To implement the scheme Cabinet needs to approve, in accordance with finance procedure rules, the final phase of spending on this scheme of £14,793,997 to be phased £4,185,565 in 2010/2011, £9,878,424 2011/2012 and £452,168 in 2012/2013 and £277,840 in 2013/2014. This expenditure includes spending of £1.283M on the cost of a transformer and associated works plus repairs to the building fabric for the areas of the building not being used as part of the first phase. Provision for this spending is currently in the Resources portfolio capital programme but it is preferable in contract management terms for the works to be undertaken at the same time as the main heritage centre works.
10. The table below shows the breakdown of costs during the implementation period of the project

Element	Detail	Estimate
Professional Fees and specialists	Design Team and Specialist Consultants	£1,254,083
Main Contract	Main Building works contract	£7,923,295
Exhibition Contract	Contract for the fit out of the museum	£3,615,657
City Council Staff cost	Those staff costs funded by the project	£192,741
Other	Survey costs/planning and legal fees and contingency	£1,808,221
Total Project Costs		£14,793,997

11. Of this new spending £4.6M will be funded by a grant from the HLF and there is a fundraising target of £5M. In addition funding of £1.283M is being transferred from the Resources Portfolio to match the transfer of capital budgets. Any underspends on this part of the project will be transferred back to the Resources Portfolio.
12. Progress has been made in relation to the fundraising element of the project. A fundraising group has been formed which it is intended will become a charitable trust with a remit to raise funding for the cultural quarter. A fundraising strategy has been developed which clearly sets out the approach proposed and there is also a prospectus that will be used to share with potential funders to attract interest.
13. This leaves £3.911M of resources required for which the council needs to identify

the funding. The report to Council in February 2010 gave details of the various funding avenues being explored but at this time, there is no certainty they will yield any substantial amounts. Whilst every effort will continue to be made to secure funding from these sources it would be prudent to assess the revenue implications on the basis that the £3.911M will need to be funded by prudential borrowing.

14. It is also the case that the £5M fundraising is unlikely to be delivered in time to meet the expenditure plans. The table below summarises the spending plans and expected funding:

	2010/11	2011/12	2012/13	2013/14	Later Years	Total
	£000	£000	£000	£000	£000	£000
Expenditure	4,186	9,878	452	278	0	14,794
Funded by:						
HLF	647	2,746	1,184	23	0	4,600
Fundraising	900	2,000	700	500	900	5,000
Agreed SCC funding	427	829	27	0	0	1,283
Long term borrowing	1,089	2,619	123	80	0	3,911
Temporary borrowing	1,123	1,684	-1,582	-325	-900	0
Total	4,186	9,878	452	278	0	14,794

15. The revenue costs associated with the above borrowing was not allowed for in the report to Cabinet on 5 July on "Changes to existing revenue and capital budgets". An estimate of the annual revenue costs is shown below:

Year	Revenue costs £000
2010/11	40
2011/12	170
2012/13	260
2013/14	250
Ongoing	240

Appendix 2 to the July report gave a high level forecast for the General Fund and this included a £2M pa allowance for other (unknown) pressures. An allocation could be made from this provision to fund this development but it would need to be borne in mind that this will reduce the sum available for any pressures (legislative changes and/or unavoidable impacts) which arise. The additional costs in 2010/11 can be met from within existing capital financing budgets.

Revenue

16. The plans for the Sea City Museum, which brings with it the closure of the Maritime Museum and Gods House Tower, and the opening of Tudor House Museum and Westgate Hall mean that it has been necessary to fully review the

current Arts and Heritage revenue budgets. The conclusion of this analysis is that there are options available to keep overall Arts and Heritage costs within existing budgets. These are set out in Appendix 1. This will reduce the ability of the service to deliver further savings in future budget rounds.

17. One of the options for keeping within revenue budgets is to consider the procurement of management partner. The procurement will be conducted in such a way that there would be the option of including other cultural venues. The costs and benefits of this need to be considered in accordance with the councils approved project appraisal process. Council on 14 July agreed to allocate £50,000 towards the costs of this procurement. The total costs will be established as part of the project appraisal referred to above. The procurement needs to be conducted as quickly as possible so the funding will be needed in 2010/11. It is therefore proposed that £150,000 is moved from the general fund contingency to the revenue development fund. This will enable spending of up to £200,000 to be incurred on the procurement in 2010/11.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

18. Under section 12 of the Public Libraries and Museums Act 1964, a local authority may provide and maintain museums within its area and may do all such things as may be necessary or expedient for or in connection with the provision and maintenance thereof. Under section 111 of the Local Government Act 1972, the Council shall have the power to do anything calculated to facilitate, or is conducive or incidental to, the discharge of its functions. This includes the power to enter into a contract in this regard.

Other Legal Implications:

19. Relevant procurement law and the Council's Contract Procedure Rules will be followed in taking this proposal forward".

POLICY FRAMEWORK IMPLICATIONS

20. The 'City of Southampton Community Strategy Towards 2026' launched in 2007 identifies within one of its 6 objectives, the importance of building upon existing collections to create new ventures which celebrate our rich maritime heritage for the benefit of visitors and residents. 'Towards an International City of Culture' arts and heritage strategic vision, approved by Southampton City Council in September 2008, proposes the Heritage Centre as a core ingredient of Southampton's emerging Cultural Quarter.

Property

21. If the Sea City Museum project does not proceed, in order for alternative uses to be viable, the Council would be required to invest significantly in major repairs to the Magistrates Court building over the next few years to maintain its weather tightness. There is no allowance for this in future repairs and maintenance budgets. To allow any functional use of the building will require a significant upgrade of the building for which there is no funding identified. Limited option appraisals have been undertaken to identify possible alternative uses, with no viable alternatives identified to date.

SUPPORTING DOCUMENTATION

Appendices

1.	Revenue assessment Confidential – not for general publication
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Documents In Members' Rooms

1.	None
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Background Documents

1.	None	
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Background documents available for inspection at: N/A

KEY DECISION? YES

WARDS/COMMUNITIES AFFECTED:	ALL
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by virtue of paragraph number 3, 4 of the Council's Access to information Proceedure Rules

Document is Confidential

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