

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Extraordinary Council

Date: **Thursday, 5th September, 2019**

Time: **7.00 pm**

Venue: **Council Chamber, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

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01623 457317

COUNCIL

Membership

Chairman: Councillor Tony Brewer

Vice-Chairman: Councillor Andy Meakin

Councillors:

John Baird
Kier Barsby
Ciaran Brown
Melanie Darrington
Andy Gascoyne
Arnie Hankin
David Hennigan
Trevor Locke
Sarah Madigan
Lauren Mitchell
Warren Nuttall
Kevin Rostance
Dave Shaw
Helen-Ann Smith
Lee Waters
Daniel Williamson
Jason Zadrozny

Chris Baron
Jim Blagden
Christian Chapman
Samantha Deakin
Dale Grounds
Andrew Harding
Tom Hollis
Rachel Madden
David Martin
Keir Morrison
Matthew Relf
Phil Rostance
John Smallridge
David Walters
Caroline Wilkinson
John Wilmott

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SUMMONS

You are hereby requested to attend a meeting of the Council to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. **Appointment of the Head of Paid Service.** 5 - 12
Minute No. CO.18
Chief Officers' Employment Committee – 13th August, 2019

Council is recommended to approve the appointment of Carol Cooper-Smith as Head of Paid Service from 23 September 2019.

(Report attached)
4. **Electoral Registration Officer and Returning Officer.** 13 - 18
5. **Capital Programme Amendment.** 19 - 22
6. **Changes to Committee Memberships.**

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Agenda Item 3



Report To:	CHIEF OFFICERS' EMPLOYMENT COMMITTEE	Date:	13 AUGUST 2019
Heading:	OPTIONS AND PROCESSES FOR APPOINTING TO THE POSITION OF HEAD OF PAID SERVICE/CHIEF EXECUTIVE, INCLUDING INTERIM ARRANGEMENTS		
Portfolio Holder:	LEADER OF THE COUNCIL, COUNCILLOR JASON ZADROZNY		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To advise the Committee on the options for appointing to the position of the Head of Paid Service/Chief Executive and to consider the process for such appointment. To also consider interim arrangements.

Recommendation(s)

Committee is asked to:

- 1. Confirm the preferred option and process for recruitment to the role of CEO/Head of Paid Service.**

Depending upon the preferred option, Committee may also be required to:

- 2. Instruct the HR Manager to carry out a review of the Job Description and Person Specification for the role of CEO/Head of Paid Service to present to a future meeting of the Committee for approval.**
- 3. Instruct the HR Manager, in conjunction with East Midlands Councils, to carry out a salary benchmarking exercise to present to a future meeting of the Committee for approval.**
- 4. Authorise the HR Manager to produce a specification for the services required from the recruitment agency and to instruct the Procurement Unit to seek quotations.**
- 5. Delegate authority to the Leader (in consultation with the Monitoring Officer) to appoint the successful recruitment agency.**
- 6. Approve the outline timeline set out in the report with a formal recruitment process commencing in January 2020.**
- 7. Approve the appointment of Carol Cooper-Smith as the Interim Chief Executive from 16 September 2019 for up to 10 months; and**
- 8. Recommend that Council approves the appointment of Carol Cooper-Smith as Head of Paid Service from 23 September 2019.**

Reasons for Recommendation(s)

The Council is legally required to appoint one of its officers to the position of Head of Paid Service. The Head of Paid Service is also currently the Chief Executive. The current Chief Executive has tendered his resignation.

Alternative Options Considered

(with reasons why not adopted)

As set out above, the Council must appoint a Head of Paid Service to comply with legislation. The report outlines the various options in relation to the appointment of a new Head of Paid Service and the potential processes and practical arrangements which will need to be considered.

Detailed Information

Background

The Council is required by legislation to appoint one of its officers as the Head of Paid Service. The role may be undertaken by any of its Chief Officers, although the Monitoring Officer cannot also be the Head of Paid Service. The current senior management structure incorporates a Chief Executive and the Chief Executive has been appointed as the Head of Paid Service. The current Chief Executive has tendered his resignation and will leave the Authority on 22 September 2019.

The Role of the Chief Officers' Employment Committee

In accordance with the Constitution, the Chief Officers' Employment Committee is responsible for the appointment of Chief Officers and Statutory Officers. The Committee is required to:

- decide whether to appoint a Chief Officer/Statutory Officer from an internal pool of candidates or by external advertisement;
- approve a job description and person specification for the role;
- interview shortlisted candidates in accordance with the Council's Recruitment and Selection Policy and the advice of an HR adviser;
- consider interim arrangements;
- recommend appointments (including interim appointments) of statutory officers to Council for approval.

It is also expected that the Committee will approve further details of the recruitment process such as advertising arrangements, the use of a recruitment agency or other advisers to the Committee and the timeline for recruitment.

Options

There are several options for the Committee to consider in relation to the vacancy which are briefly as follows:

1. Internal appointment process for the role of Head of Paid Service/CEO;
2. External appointment process for the role of Head of Paid Service/CEO;
3. Other options rather than simply retaining Head of Paid Service/CEO, such as shared Head of Paid Service/CEO, not appointing a CEO (deleting the post) and designate an existing Chief Officer as Head of Paid Service;
4. Interim appointment to the role of Head of Paid Service/CEO whilst the role is reviewed and a recruitment process is put in place for options 1 or 2.

The Leader has indicated his preference for option 2 (external recruitment process for a Head of Paid Service/CEO) and the report is prepared on this basis. In accordance with the Committee's terms of reference, it is therefore asked to confirm its preferred option and process for recruitment.

Job Description and Person Specification

As set out above, it is the role of the Committee to approve the Job Description and Person Specification for the role of CEO/Head of Paid Service.

The existing job description and person specification has not been updated since 2015 and a review is necessary to ensure the Competency Framework adopted by the Council in the intervening period is incorporated.

Committee is asked to instruct the HR Manager to carry out a review of the Job Description and Person Specification for the role of CEO/Head of Paid Service to present to a future meeting of the Committee for approval.

Terms and Conditions of Employment and Salary

In order to ensure the salary and terms and conditions for the Head of Paid Service/CEO is in line with those of similar positions, it is advisable for the HR Manager, in conjunction with East Midlands Councils, to carry out a salary benchmarking exercise. The benchmarking exercise will be reported to a future meeting of the Committee along with the amended Job Description for approval prior to formally advertising the role.

The terms and conditions of service for the post of Chief Executive are governed by the “*Joint National Councils (JNC) for Chief Executives*” and it has been the practice of the Authority for the JNC Protocols to be applied to the Chief Executive’s employment. The Council’s employment policies are also applicable.

The Committee is recommended to instruct the HR Manager, in conjunction with East Midlands Councils, to carry out a salary benchmarking exercise to present to a future meeting of the Committee for approval.

Recruitment Agency

If the Committee decides to advertise the role externally then it would be advisable for the Council to use a specialist recruitment agency as part of the process to assist with an Executive Search.

In order to comply with Contract Procedure Rules, the Council will be required to seek a minimum of 3 written quotations before appointing a recruitment agency.

Committee is asked to:

- a) Authorise the HR Manager to produce a specification for the services required from the recruitment agency and to instruct the Procurement Unit to seek quotations; and**
- b) Delegate authority to the Leader (in consultation with the Monitoring Officer) to appoint the successful recruitment agency.**

Indicative Timeline

In light of the review and benchmarking work which needs to be undertaken, the preparation work required to plan for a recruitment process and, in the event that the Committee decides to carry out

an external process, the procurement of the recruitment agency, it is expected it will be a number of months before the role can be advertised. Committee should also ensure the recruitment process occurs at an optimal time, avoiding periods such as Christmas.

It is, therefore, anticipated that a further report will be brought to a Chief Officers' Employment Committee in early December 2019 to seek formal approval for the job description, salary and detailed recruitment process and timeline. It is proposed that the formal external recruitment will commence in January 2020.

Committee is asked to approve the outline timeline set out above with a formal recruitment process commencing in January 2020.

Interim Appointment

As set out above, the current CEO will leave the Authority on 22 September 2019. In the event that the Committee decides to carry out a full external recruitment for the role, and bearing in mind the indicative timeline above, it will not be possible for the newly appointed CEO/Head of Paid Service be in post prior to the current CEO's departure. As previously noted, the Council is legally required to have an officer appointed as Head of Service in place at all times to meet its statutory obligations. In light of this, the Committee is asked to consider the following options for interim arrangements:

1. Select an Interim CEO/Head of Paid Service from members of the corporate management team who declares an interest in the role.
2. Seek an interim CEO/Head of Paid Service from outside of the Council.

Previous advice presented to this Committee has not encouraged selecting an Interim CEO/Head of Paid Service from members of the corporate management team if there are internal officers who would apply for the permanent role. The reasons being twofold:

- a) Their suitability for the interim role could not easily be divorced from deliberations on an individual's application for the permanent position; and
- b) If there is interest from more than one internal officer, making an internal interim appointment would potentially provide one individual with an advantage over others for the permanent role which could create potential accusations of unfairness in the process.

In light of the advice previously given to the Committee and the need to ensure an interim appointment is made in a timely manner to enable a handover period with the current CEO, the Leader is recommending the appointment of Carol Cooper-Smith as Interim CEO/Head of Paid Service. Carol has had two lengthy periods of employment with the Council at Director level and as such she knows the organisation and the District well and will be able to hit the ground running. During her time with the Council she has built good working relationships with partners and stakeholders, such as the Police and the Local Enterprise Partnership, which will also ensure a consistency in approach during the interim period. Carol is available to commence the position without delay, as set out below, and has confirmed that she is happy to take up the role on an interim basis.

It is proposed that the interim appointment will be on the same terms and conditions of service (using the existing job description) as for the current CEO/Head of Paid Service.

It is suggested that, subject to Council approval, Carol will commence employment as Interim CEO on 16 September 2019 and be appointed to the Head of Paid Service role with effect from 23 September 2019 following the departure of the current CEO.

In light of the indicative recruitment timeline set out above, the length of time the recruitment process will take and the potential for notice periods if the permanent appointment is external to the organisation, it is suggested the interim arrangement with Carol Cooper-Smith is approved for up to 10 months.

The Committee is asked to:

- a) Approve the appointment of Carol Cooper-Smith as the Interim Chief Executive from 16 September 2019 for up to 10 months; and**
- b) Recommend that Council approves the appointment of Carol Cooper-Smith as Head of Paid Service from 23 September 2019.**

It is anticipated that an Extraordinary Council Meeting will take place in early September 2019 for the approvals to be obtained.

Recruitment and Selection Training

Members who are yet to receive recruitment and selection training will be able to undertake this prior to the recruitment process taking place.

Electoral Registration Officer and Returning Officer

It is to be noted by the Committee that separate appointments will be necessary through **Council** in respect of the roles of Electoral Registration Officer and Returning Officer as these are not automatically roles of the CEO/Head of Paid Service. A report will be presented to the Extraordinary Council meeting which will take place in early September 2019.

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The Chief Officers' Employment Committee Terms of Reference are set out at 1.8 of Part 3, Scheme of Delegation in the Constitution. The Employment Procedure Rules are set out in Part 4, Rules of Procedure in the Constitution.

Section 4 of the Local Government and Housing Act 1989 requires the Council to appoint one of its officers as the Head of Paid Service. In accordance with Section 5(1A) of the 1989 Act, the Head of Paid Service cannot also be the Monitoring Officer.

The procurement process for the engagement of a recruitment agency will comply with Contract Procedure Rules as set out above.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	At this stage of the process costs relate to overlap costs of CEO and Interim which will be in the region of £1,900 (70% General Fund share). Future costs of the recruitment agency, advertising and other recruitment costs will be calculated in the interim and reported to COEC in December 2019.
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	30% of the CEO salary is charged to the HRA. This would be an additional one-off cost of £800.
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
Failure to have a Head of Paid Service in place at all times would be a breach of statutory provisions.	This will be mitigated by the Committee proceeding as recommended to set out a recruitment process and by the Council appointing an interim CEO/Head of Paid Service.

Human Resources:

HR have been involved in the body of the report, all relevant policies and procedures will be adhered to throughout the process.

Equalities:

All relevant policies and procedures will be adhered to throughout the process.

Other Implications:

None.

Report Author and Contact Officer

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Agenda Item 4



Report To:	COUNCIL	Date:	5 SEPTEMBER 2019
Heading:	ELECTORAL REGISTRATION OFFICER AND RETURNING OFFICER		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To consider the requirement to appoint an Electoral Registration Officer (ERO) and Returning Officer (RO) and to deal with consequential issues including fees, insurance and indemnities for the interim period following the departure of the current ERO/RO.

Recommendation(s)

1. With effect from 23 September 2019 to appoint or authorise Ruth Dennis, Director of Legal and Governance (Monitoring Officer) :
 - (a) As the Electoral Registration Officer (ERO) for the Council pursuant to Section 8(2)(a) of the Representation of the People Act 1983;
 - (b) As the Returning Officer (RO) pursuant to Section 35(1) of the Representation of the People Act 1983 with authority to act in that capacity for elections to the Council and all or any Parish Councils within the Council's administrative area; and
 - (c) To act in respect of all related electoral, poll or referendum duties, including elections to the County Council, European Parliament and for national and regional polls or referenda.
2. With effect from 23 September 2019 to appoint or authorise Ian Dobson, Service Manager Electoral Services as, Deputy Electoral Registration Officer pursuant to Section 52(2) of the 1983 Act.
3. With effect from 23 September 2019 to confirm that the appointment of Robert Mitchell as ERO/RO is no longer operable.
4. That, in relation to the duties of Returning Officer (RO), or any other electoral referendum or polling duties arising from such appointment, the Returning Officer (RO) shall:
 - (a) Be entitled to be remunerated in accordance with the scale of fees approved from time to time in respect of the District, Parish and Nottinghamshire County Council for local elections; and
 - (b) Be entitled to be remunerated in accordance with the relevant scale of fees prescribed by a Fees Order in respect of national, regional or European Parliament elections, polls or referenda; and
 - (c) In all cases where it is a legal requirement or normal practice to do so, fees paid to the Returning Officer (RO) shall be superannuable and the Council shall pay the appropriate employer's contribution to the superannuation fund, recovering such employer's contributions from Central Government or other local authorities or agencies where this can be done.
5. That, in relation to the conduct of local authority elections and polls, and elections to the United Kingdom Parliament, and all other electoral duties where the Council is entitled by law to do so, the Council shall take out, and maintain in force, insurance indemnifying the Council and the Returning Officer (RO) against:
 - (a) legal expenses reasonably incurred in connection with the defence of any proceedings brought against the Council, or the Returning Officer (RO); and/or
 - (b) the cost of holding another election in the event of the original election being declared invalid;

provided that such proceedings or invalidation are the result of the accidental contravention of the Representation of the People Acts, or other legislation governing the electoral process, or accidental breach of any ministerial, or other duty, by the Returning Officer (RO), or any other person employed by, or officially acting for her in connection

with the election or poll). Also, that, in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the Council, through its internal insurance fund or otherwise, will indemnify the Returning Officer (RO) up to the value of such excess.

Reasons for Recommendation(s)

Robert Mitchell, CEO, was appointed as RO/ERO with effect from 1 January 2016. The Council is required by legislation to appoint an Officer of the Council to be the ERO and RO. When the current RO/ERO leaves the Council on 22 September 2019, the Council needs to appoint an officer in accordance with statutory requirements pending the new Chief Executive coming into post.

Alternative Options Considered

Members may suggest an alternative Officer for the appointments and may suggest alternative arrangements regarding payment of fees, insurance and/or indemnity.

Detailed Information

Statutory Requirements

Section 8(2)(a) of the Representation of the People Act 1983 (the 1983 Act) requires that every district council should appoint an officer of the Council to be the Electoral Registration Officer (ERO) for its district. In accordance with Section 52(2) of the 1983 Act, a Deputy ERO may be appointed by the Council. The ERO may appoint officers to assist him/her.

Section 35(1) of the 1983 Act requires that every district council should appoint an officer of the Council to be the Returning Officer (RO) for the elections of councillors of the district and councillors of the parishes within the district. In accordance with Section 35(4) a Deputy RO may be appointed by the RO.

For Parliamentary Constituency elections, the Sheriff of the County is designated by statute/order as the RO. However, these duties are discharged by an Acting Returning Officer (ARO) as prescribed by Section 28 of the Representation of the People Act 1983. This provides that the ARO duties should be carried out by the ERO appointed by the Council. The ARO is given all powers, obligations, rights and liabilities of the RO together with the power to appoint deputies.

For European Parliamentary elections, a Regional Returning Officer is appointed with the poll itself being conducted by Local Returning Officers (LRO) who is the ARO (Regulation 6, European Parliamentary Regulations 2004). The LRO may appoint a deputy.

The County Council is responsible for appointing a RO for County elections and that Authority will appoint Deputy Returning Officers to act in each district.

Legislation does not dictate that a particular level of officer or a particular post holder must be appointed to these roles. However, guidance suggests it should be a senior officer and in practice is often the CEO.

Robert Mitchell, CEO, was appointed as RO/ERO with effect from 1 January 2016.

Responsibilities and Accountability

The duties of an ERO/RO/ARO/LRO are separate from his/her duties as a local government officer. The officer is personally liable for the Electoral Register and the conduct of elections. The ERO/RO/ARO/LRO acts independently of the Council and is only accountable to the courts. The Council does not provide direction or exercise control whilst the officer is undertaking these duties.

So for instance, the ERO would personally face a fine of up to £5,000 for an act or omission (Section 63(1) of the 1983 Act) whilst undertaking that role. Furthermore, claims relating to damage to buildings used during elections or for injuries to election staff are the responsibility of the RO/ARO/LRO. For this reason, the RO/ARO/LRO will carry his/her own insurance. The Council's insurance policies indemnify the RO/ARO/LRO against legal expenses reasonably incurred in connection with the defence of any proceedings, brought against the RO/ARO/LRO and for the costs of holding another election in the event of the original election being declared invalid. In relevant elections, the Secretary of State may indemnify the officer. Where a policy carries an excess, it appears to be common practice, for the avoidance of doubt, for the Council to pass a formal resolution to indemnify the RO/ARO up to the value of the excess.

Fees and Expenditure

Fees for local government elections (District and Parish) are determined by an amalgamation of local authorities within Nottinghamshire to ensure consistency. The District Council is responsible for paying the RO fees and expenditure for local government elections.

The ARO/LRO is entitled to reasonable charges for specified services and expenses as laid down by the Secretary of State. For Parliamentary and European elections the Secretary of State is responsible for meeting election expenditure and fees are set by Order.

All fees payable to the RO are superannuable.

Appointment of ERO/RO/ARO/LRO

Robert Mitchell, the current ERO/RO is due to leave the Authority on 22 September 2019 and in accordance with other items on the agenda, an Interim CEO/Head of Paid Service is due to be recommended for appointment by Council. To ensure the Council remains compliant with statutory responsibilities, the Council must appoint an ERO/RO to cover the interim period before a permanent appointment to the role of CEO/Head of Paid Service is made.

The proposed Interim CEO/Head of Paid Service has no electoral registration or elections experience, therefore it is recommended Ruth Dennis, Director of Legal and Governance (Monitoring Officer) is appointed to the role of ERO/RO (on an interim basis) as she has strategically managed Electoral Services for a number of years and has experience of carrying out the Deputy ERO and Deputy RO roles across the full remit of elections during that time.

It is proposed to appoint Ian Dobson, Service Manager, Electoral Services to act as Deputy ERO.

There is no specific statutory requirement for the Council to actually revoke an appointment of ERO/RO. However, it seems that any new appointment to those posts has the effect of overriding earlier appointments. For the avoidance of doubt, it is suggested that if the Council resolves to change the appointments, a resolution is also passed to clarify that the earlier appointment is no longer operable.

Implications

Corporate Plan:

The management and delivery of lawful elections and the publication of the Register of Electors is outside the remit of the Corporate Plan.

Legal:

It is a statutory requirement for the Council to appoint an Electoral Registration Officer and a Returning Officer. Legal issues are contained within the report.

Finance:

The proposed change has no impact on existing budgets. Fees will be met by the relevant bodies identified in the report. The Returning Officer is responsible for making appropriate arrangements for tax and superannuation obligations.

Budget Area	Implication
General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
Failure to appoint an appropriately experienced officer to act as ERO/RO following the departure of the current ERO/RO would firstly see the Council in breach of its statutory duties and secondly jeopardise the Council's ability to carry out its electoral registration and election duties satisfactorily and in accordance with legislation.	Appointment of an ERO/RO as recommended mitigates these risks.

Human Resources:

There are no contractual changes arising from the proposed appointments.

Equalities:

No direct implications.

Other Implications:

None

Report Author and Contact Officer

Robert Mitchell
CHIEF EXECUTIVE
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Report To:	COUNCIL	Date:	05 SEPTEMBER 2019
Heading:	CAPITAL PROGRAMME AMENDMENT		
Portfolio Holder:	COUNCILLOR DAVID MARTIN		
Ward/s:	ALL		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

The report sets out:

1. A proposed amendment to the timing of the Capital Programme regarding investment in commercial property
2. Authorisation for the release of returned capital resulting from the sale of an investment property to be reinvested in further investment property acquisitions.

Recommendation(s)

It is recommended that Council:

1. **Approve the changes to the timing of the Capital Programme as detailed in the report.**
2. **Authorise the release and reinvestment of the principal amount invested arising from the sale of a commercial property investment in April 2019**

Reasons for Recommendation(s)

Making the proposed change to the timing of the Capital Programme would allow for the potential for further commercial property investment activity to occur in 2019/20, to potentially accelerate rental income streams thereby reducing earlier, the budgeted shortfalls in the Medium Term Financial Strategy (MTFS) and help protect services on which our residents rely. The overall total amount of investment in the Capital Programme already approved by Council will not be affected by this proposed change.

Authorising the release and reinvestment of the principal amount from the sale of an investment property in April 2019 will further accelerate the potential for income to be generated earlier to support the MTFS and help protect services on which our residents rely.

Alternative Options Considered

(with reasons why not adopted)

1. **No alteration to the Capital Programme timing** – Not bringing future budgeted investment sums forward will restrict (and potentially prevent) additional investment activity in 2019/20 and will require potential acquisitions to occur in future years, thereby reducing the corresponding potential surplus available to support the MTFS. This may also increase the required level of budget savings required for 2020/21.
2. **No reinvestment of returned capital** – if the returned capital resulting from the sale of an investment property is not reinvested, it will not generate a surplus to support the MTFS. The returned capital forms part of the initial £25m property investment fund and the principal amount should again be used as such.

Detailed Information

Capital Programme amendment

In March 2019, Council approved the Capital Programme for 2019/20 through 2022/23. An element of that programme was further commercial property investment activity and £20m was budgeted to be invested in each year.

The 2019/20 approved allocation includes £20m approved by Full Council on the 4th March 2019 and £1.251m slippage on the 2018/19 approved by Full Council on the 25th July 2019.

This Capital Programme amendment is requested as recent and imminently proposed investment activity in 2019/20 would result in an available remaining balance of only £4m.

In order to maximise investment opportunities as they arise and deliver a surplus to support the MTFS, it is recommended that a further £20m be brought forward for investment into 2019/20. Table 1 illustrates this below.

Table 1 – Commercial Property Investment capital scheme

Financial Year	2019/20	2020/21	2021/22	2022/23	Total
Current programme	£21.251m	£20.000m	£20.000m	£20.000m	£81.251m
Recommended programme	£41.251m	£20.000m	£20.000m	£0.000m	£81.251m

In both cases, the total budget for commercial property investment activity is £81.251m. The approved budget of £81.251m is all funded from prudential borrowing, therefore prudential borrowing of £20m will also be required to be brought forward. The revenue borrowing and interest costs associated with the prudential borrowing are met by the income stream from the commercial property investment activity.

No changes in the Capital and Investment Strategies are required.

The benefits of the recommended programme change are:

- A broader range of opportunities may be considered as the available budget to invest will be larger

- Surplus generated to support the MTFs can be realised sooner than the current programme allows, thereby delivering greater surplus over time and help to minimise the level of savings required for 2020/21.

Reinvestment of returned capital

In August 2018, the Council acquired a commercial investment property in Glenrothes. £4.334m was invested in this transaction and formed part of the £25m commercial property investment fund at that time, the purchase was funded through prudential borrowing.

In April 2019, the Council sold the same investment property. The sale resulted in a capital receipt of £5.539m. The capital receipt will be used to repay the prudential borrowing associated with the original purchase of £4.334m.

It is recommended that £4.334m be added to the commercial property investment scheme in the Capital Programme, funded by prudential borrowing. This will allow the level of commercial property investments and prudential borrowing to be at the same level prior to the sale of Glenrothes. This would maintain the £105m investment in properties already approved by Council through to 2022/23.

Table 2 below illustrates the new recommended programme following amendments for the £20m being brought forward and increasing the programme to allow for re-investment following the sale of Glenrothes.

Table 2 – Commercial Property Investment capital scheme

Financial Year	2019/20	2020/21	2021/22	2022/23	Total
Current programme	£21.251m	£20.000m	£20.000m	£20.000m	£81.251m
Recommended programme	£45.585m	£20.000m	£20.000m	£0.000m	£85.585m

Implications

Corporate Plan:

The proposed changes to the 2019/20 to 2022/23 Capital Programme reflects the priorities detailed in the Corporate Plan.

Legal: In exercising its fiduciary duty the Council should be satisfied that the proposals put forward are a prudent use of the Authority’s resources in both the short and long term; that the proposals strike the right balance between the interests of Council Tax payers and ratepayers on the one hand and the community’s interests in adequate and efficient resources on the other; and that they are acting in good faith for the benefit of the community whilst complying with all statutory duties.

All capital projects require input from Legal Services in relation to contracts. The Council must ensure that robust contractual arrangements are in place, specifications are clearly defined, and it is clear which project risks are the responsibility of the Contractor and which remain with the Council. This is to avoid potential contractual disputes and to limit the potential financial impact on the Council should they arise.

This report is brought before Council in accordance with the Budget and Policy Framework Procedure Rules and the Council’s Financial Regulations.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	Acceleration of the purchase of suitable Investment Properties will provide the potential to reduce the size of the revenue budget gap for 2020/21.
General Fund – Capital Programme	The timing change of the programme will not increase the overall budgeted amount allocated to Investment Property acquisitions.
Housing Revenue Account – Revenue Budget	No impact
Housing Revenue Account – Capital Programme	No impact

Risk:

Risk	Mitigation
There is a risk that guidance awaited from CIPFA may impact the Council's plans with regard to the acquisition of Investment properties as set out in the Capital Strategy and Investment Strategy.	On receipt and evaluation of the guidance, should it impact on the Council's Capital and Investment Strategy, a report will be taken to Council to consider and agree the way forward in light of any required change of approach. This is in line with what is already stated within the Capital Strategy approved by Council in March 2019.

Human Resources:

Not applicable

Equalities:

Not applicable

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

(if applicable)

Report Author and Contact Officer

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