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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: 08 December 2015

Hinckley & Bosworth
Borough Council

A Borough to be proud of

To: **Members of the Executive**

Mr MA Hall (Chairman)
Mr K Morrell (Vice-Chairman)
Mr CW Boothby
Mr C Ladkin

Mr M Nickerson
Mr RB Roberts
Mrs MJ Surtees
Ms AV Wright

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **EXECUTIVE** in the De Montfort Suite - Hub on **WEDNESDAY, 16 DECEMBER 2015 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Officer

EXECUTIVE - 16 DECEMBER 2015

A G E N D A

1. APOLOGIES

2. MINUTES (Pages 1 - 4)

To confirm the minutes of the meeting held on 4 November 2015.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from Members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**

5. QUESTIONS

To hear any questions in accordance with Council Procedure Rule 10.

6. ISSUES ARISING FROM OVERVIEW & SCRUTINY

(If any)

7. SUPPLEMENTARY BUDGET FOR WHEELED CONTAINERS (Pages 5 - 6)

Approval is sought for budget changes for income not realised in respect of replacement wheelie bins, in accordance with financial procedure rules.

8. CRITERIA FOR AWARDING DISCRETIONARY HOUSING PAYMENTS (Pages 7 - 12)

The Executive are asked to consider the criteria for awarding discretionary housing payments.

9. CHARITY SHOPS AND BUSINESS RATES (Pages 13 - 16)

Report of the Chief Executive seeking agreement on the local application of Discretionary Business Rates Relief in Hinckley Town Centre.

10. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

Items raised under item 3 to be taken at this point in the proceedings.

11. MATTER FROM WHICH THE PUBLIC MAY BE EXCLUDED

To consider the passing of a resolution under Section 100A(4) of the Local Government Act 1972 excluding the public from the undermentioned item of business on the ground that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 10 of Schedule 12A of that Act.

12. REQUEST CAPITAL BUDGET FOR INCENTIVES TO ATTRACT APPROPRIATE TENANTS TO BLOCK C, THE CRESCENT (Pages 17 - 20)

Report attached seeking support for a supplementary capital budget. This report is marked

'restricted' due to the commercial sensitivity of the contents.

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Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

EXECUTIVE

4 NOVEMBER 2015 AT 6.30 PM

PRESENT: Mr MA Hall - Chairman
Mr K Morrell – Vice-Chairman
Mr C Ladkin, Mr M Nickerson, Mr RB Roberts, Mrs MJ Surtees and Ms AV Wright

Members in attendance: Councillors Mr RG Allen, Mr DC Bill MBE, Mrs MA Cook, Mrs J Kirby, Mr LJP O'Shea and Mr SL Rooney

Officers in attendance: Steve Atkinson, Richard Crosthwaite, Sanjiv Kohli and Rebecca Owen

231 APOLOGIES

Apologies for absence were submitted on behalf of Councillor Boothby.

232 MINUTES

It was moved by Councillor Wright, seconded by Councillor Nickerson and

RESOLVED – the minutes of the meeting held on 23 September 2015 be confirmed and signed by the Leader.

233 DECLARATIONS OF INTEREST

No interests were declared at this stage.

234 ISSUES ARISING FROM OVERVIEW & SCRUTINY

The Chief Executive advised that the Scrutiny Commission had endorsed the response to the consultation on the future of the Magistrates' Courts and had unanimously agreed a response to the consultation on the future arrangements for the Fire and Rescue Service.

235 BUDGET STRATEGY 2016-17

The Executive gave consideration to the Budget Strategy for 2016/17. It was highlighted that, under paragraph 3.1, the final sentence of the first bullet point should refer to 2015/16 rather than 2014/15.

During discussion, the following amendments to the strategy were moved by Councillor Surtees and seconded by Councillor Hall:

- where fees were to be increased by more than 1.1%, any income attributable to the increase above this rate be set aside in an improvement reserve (page 11 of the report)
- The ICT retender saving be amended from £100k to £50k (page 9 of the report)
- The £50k for private management of the Atkins building be excluded from the cast down figure (page 9 of the report).

The amendments were supported and it was therefore

RESOLVED – the budget strategy, as amended, be approved.

236 TOWN CENTRES VISION

Members received a high level report setting out the ambition for town centres within the borough. The following requests were made:

- The mention of ‘stalled’ sites in paragraph 1.1 be amended to ‘previously identified’ sites
- Paragraph 2.2 be amended to refer to ‘continued use of COP powers as a last resort’
- The need to improve the gateways to the borough
- The significant loss of the Co-op in Hinckley closing.

Members requested that intended improvements in Hinckley such as Wood Street, car parking and Stockwell Head and the Cultural Quarter be included in the vision document. In response members were reminded that this was a high level document covering all town centres and it was suggested that the information requested be put into a Hinckley-specific document.

It was moved by Councillor Ladkin, seconded by Councillor Wright and

RESOLVED –

- (i) The Town Centres vision document be approved;
- (ii) The continued use of Compulsory Purchase Order procedures as a last resort be supported.

237 COMBINED AUTHORITY

A report was presented to the Executive in relation to the proposal to establish a Combined Authority for Leicester and Leicestershire. It was explained that, with regard to recommendation (i), a motion signed by eight members had been received requesting rescission of the decision made at the previous meeting of Council, which agreed not to pursue, amongst other matters, membership of the Coventry & Warwickshire Local Enterprise Partnership and Leicester & Leicestershire Combined Authority (minute 205 refers).

Officers explained the reasons for the recommendations including the need to delegate some areas – the detail of the negotiations, not the decision to pursue the application, which Council would be asked to approve on 10 November – and also the reason for a report coming before both the Executive and Council, which was not in accordance with usual decision making practices, but had arisen from a countywide agreement to follow this route.

Some members felt that individual matters for delegated decision should be discussed with them, and in response it was noted that it would be within the Leader’s discretion to bring matters back to his group, although there were often tight timescales to meet. The Chief Executive agreed also to provide members with as much detail as possible in relation to matters as they arise.

It was moved by Councillor Hall, seconded by Councillor Morrell and

RESOLVED – Council be RECOMMENDED to approve

- (i) the rescission of parts (iii), (iv) and (v) of the decision of Council on 12 October in relation to the Coventry & Warwickshire Local Enterprise Partnership and Leicester & Leicestershire Combined Authority (minute 205 refers;
- (ii) the Scheme for the Combined Authority;
- (iii) the Governance Review;
- (iv) the publication of the Scheme and its submission to the Department for Communities and Local Government;
- (v) authorisation for the Chief Executive, following consultation with the Leader, to make any final amendments to the Scheme and Governance Review prior to their submission to the Department for Communities and Local Government;
- (vi) authorisation for the Chief Executive, following consultation with the Leader, to enter into discussions with the Department for Communities and Local Government and such other Government departments and other persons as are considered necessary by the Chief Executive to agree the terms of the Order establishing the Combined Authority and to approve the final form of the Order on behalf of the Council;
- (vii) authorisation for the Chief Executive, following consultation with the Leader:
 - a. to negotiate, agree and execute all ancillary documents in support of the operation of the Combined Authority, including (without limitation) the constitution of the Combined Authority; and
 - b. to take all decisions and actions necessary to enable the establishment of the Combined Authority.

238 DATA PROTECTION POLICY

Members received the updated Data Protection Policy which had been refreshed and updated with new officer titles and contact details for the Information Commissioner, and the document had been made more user friendly. It was moved by Councillor Hall, seconded by Councillor Surtees and

RESOLVED – the Data Protection Police be approved and adopted.

(The Meeting closed at 7.04 pm)

CHAIRMAN

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EXECUTIVE – 16 DECEMBER 2015

SUPPLEMENTARY BUDGET REQUEST – WHEELED CONTAINERS

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

- 1.1 In accordance with financial procedure rules to obtain approval for budget changes for income not realised in respect of replacement wheeled containers (wheelie bins).

2. RECOMMENDATION

- 2.1 That Executive approves a virement of £35,000 in 2015/16 to reduce the income budget for the provision of wheeled containers and increase the income budget from trade waste.
- 2.2 That Executive approves a virement of £35,000 in 2016/17 to reduce the income budget for the income for the provision of wheeled containers and increase the income budget from trade waste.

3. BACKGROUND TO THE REPORT

- 3.1 An income budget of £35,000 was introduced in 2015/16 for replacement wheelie bins where residents damage bins (due to negligence).
- 3.2 Self-damage (negligence) is difficult to evidence other than by fire damage. To date, only one instance of self-damage to a bin has been reported and paid for (damage by hot ashes).
- 3.3 Based on current results, the forecast budget will not be realised. To fund the forecast income deficit, it is proposed the additional income generated from trade waste services is used to offset the unrealised income. Fees and charges will be reviewed for 2016/17 together with associated income budgets accordingly.
- 3.4 In addition, the policy to charge for replacement bins will be reviewed by the Portfolio holder for Street Scene Services. Any changes will be reported to Executive as part of fees and charges reports.

4. FINANCIAL IMPLICATIONS [IB]

- 4.1 For 2015/16 additional net trade waste income of £35,000 is expected. The additional pressure of £35,000 can therefore be funded from existing resources. A virement to reduce the income budget for replacement bins by £35,000 and an increase in the income budget for trade waste by £35,000 is therefore required.
- 4.2 From 2016/17 additional net trade waste income will continue. After allowing for the £35,000 net additional income in 2015/16 a net additional £15,000 is expected. However the additional income has already been identified as part of the officer savings target. Therefore a virement for £35,000 is also required in 2016/17. The balance of £15,000 will be included as part of the officer savings target for the 2016/17 budget setting process.

5. LEGAL IMPLICATIONS (JB)

5.1 None

6. CORPORATE PLAN IMPLICATIONS

None

7. CONSULTATION

7.1 Not applicable

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Costs of administering charges are greater than the sum collected and/or are politically sensitive	Review of charges by Waste Manager for consideration by the Executive lead for Street Scene.	Darren Moore

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 Not applicable

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: None

Contact Officer: Caroline Roffey 5782 or Darren Moore 5976
Executive Member: Cllr Mark Nickerson



EXECUTIVE – 16 DECEMBER 2015

CRITERIA FOR AWARDING DISCRETIONARY HOUSING PAYMENTS

REPORT OF DEPUTY CHIEF EXECUTIVE (CORPORATE DIRECTION)

WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

- 1.1 To seek Executive's views on amending the criteria for awarding Discretionary Housing Payments.

2. RECOMMENDATION

The Executive approves:

- 2.1 The continued support of those claimants whose properties have been adapted to meet their disability needs.
- 2.2 The implementation of Option 2 for any renewal claims who have received support for 39 weeks within the current financial year.
- 2.2 The paying of 100% of the shortfall for any new claims up to a maximum of 26 weeks or until the end of the current financial year (whichever happens sooner).
- 2.3 The maximum award will be the lesser of (1) the difference between their income and permitted expenditure or (2) the shortfall in benefit entitlement.
- 2.4 The payment of new claims (excluding adapted properties) from 1st April 2016 will be based at 100% of the shortfall for 26 weeks and then a maximum of 50% for 13 weeks. If at the expiry of the 39 week period there are reasonable grounds for granting further support this can be done for a maximum of 13 weeks at 50%.

3. BACKGROUND TO THE REPORT

- 3.1 Discretionary Housing Payments (DHP) provide help to claimants in receipt of Housing Benefit who need further financial assistance with housing costs. This will usually be because there is a shortfall between the amount of benefit they receive and their rent liability.

To qualify claimants need to meet certain conditions.

- Must be receiving Housing Benefit or in receipt of Universal Credit that includes a housing element
- There must be a shortfall between the amount of Housing Benefit (HB)/Housing Element of UC they receive and rent liability
- Must demonstrate that they need extra help to meet their housing costs

The length of time over which an award can be made is not prescribed, however we have to be mindful of the annual funding and not to exceed the budgeted amount. It may be appropriate to make a short term award to give a claimant time to sort out their finances or housing commitment, particular if they are trying to find alternative accommodation or gain employment. Alternatively it is also possible to make a more long term or indefinite award until the claimants circumstances change.

Nationally DHP funding for 2015/16 was £125 million a reduction of £40m from the previous year. It has been recently announced that DHP funding will be £160 million a year over the next five years. It is a relatively small increase which is intended to support those claimants adversely affected by the recent announcements in welfare reform including:

- Working-age benefits to be frozen for four years from April 2016.
- A reduction in the “benefit cap” from £26,000 to £20,000
- Backdating of housing benefit will be restricted to a maximum of four weeks from April 2016.

3.11 Direct Government Funding

	2013/2014	2014/2015	2015/2016
DWP Funding	£93,843	£93,957	£78,129

Any unspent DHP funding will have to be returned to the DWP at the end of the financial year.

3.12 Our current Scheme

- The shortfall in benefit entitlement is met for 52 weeks for those claimants who live in properties that have been adapted to meet their disability needs. At the expiry of the 52 weeks if the circumstances remain the same (i.e. their income has not changed) a further award can be made.
- For all other claimants provided their means are such that a payment is justified we will award for 39 weeks. At the expiry of the 39 weeks a further claim can be submitted which we will consider provided the claimants circumstances have not changed and the claimant has taken reasonable steps to seek alternative housing and/or improve their financial position.
- Support can also be offered in respect of one off payments for example help with removal costs and rent deposits

3.13 Analysis of current spend

Historically DHP awards have been based on the difference between housing benefit entitlement and contractual rent, however from October renewal awards are being calculated by reference to the lesser of (1) the difference between their income and permitted expenditure or (2) the shortfall in benefit entitlement. This will mean that our DHP spend going forward will be reduced *.

For the current financial year approval was sought and granted by the DCLG to support our tenants by using up to £25,000 from the Housing Revenue Account (HRA) to supplement the DHP fund. For the purposes of the analysis the contribution from the HRA has been included

At the 07/10/2015 we had received and processed 161 DHP claims of which 85 were for Council Tenants totalling £25,841 and 76 for Private Tenants totalling £35,685.

In addition we have committed expenditure of £11,450 relating to those awards that go beyond 7th Oct 2015.

If we assume that the renewal claims to be made in January 2016 are awarded at 100% of the total spend for the year will be as follows:

Spend April to 7 th October	£61,527
Spend October to March (based on two thirds of the spend to October *)	£41,018
Committed Expenditure	£11,450
Total Spend	£113,993
Government Contribution	£78,129
Contribution from HRA Account	£25,000
Total Budget	£103,129
Potential Overspend	£10,864

3.14 Forecasting future spend is difficult because of the unpredictability of future demand therefore we have looked at our previous spend to model the following options:

3.15 Option 1

The option obviously does exist to do nothing and utilise the full contribution from the HRA and a contribution from the general fund, however given the current budgetary constraints, and our desire to reduce dependency on DHPs, which are meant to be short term, this is not a viable option.

3.16 Option 2

We have determined that our likely spend for the final six months of the current financial year is £41,018, if we reduce the DHP contribution to 50% for those renewals starting in January 2016 then our potential overspend is £612

Spend April to October	£61,527
Spend October to December (based on 100%)	£20,509
Spend January to March 2016 (based on 50%)	£10,255
Committed Expenditure	£11,450
Total Spend	£103,741
Government Contribution	£78,129
Contribution from HRA Account	£25,000
Total Budget	£103,129
Potential Overspend	£612

3.17 Option 3

If we reduce the DHP contribution to 25% for the last quarter of the financial year there is a potential underspend of £4,515 which will be returned to the HRA

Spend April to October	£61,527
Spend October to December (based on 100%)	£20,509
Spend January to March 2016 (based on 25%)	£5,128
Committed Expenditure	£11,450
Total Spend	£98,614
Government Contribution	£78,129
Contribution from HRA Account	£25,000
Total Budget	£103,129
Potential Underspend	£4,515

3.18 Summary of Options

Option	Scheme Change (January 2016)	Expenditure	Budget (Inc HRA)	Anticipated over/(underspend)
1	Do nothing	£113,993	£103,129	£10,864
2	Pay 50% for final 13 weeks	£103,741	£103,129	£612
3	Pay 25% for final 13 weeks	£98,614	£103,129	(£4,515)

3.19 Claimant Analysis

Prior to the renewal date (7/10/15) there were 161 households in receipt of a DHP

- Reasons for award (%)

Reason for claiming	Percentage of cases
Social Size Criteria	64.04%
Other	10.21%
LHA Reforms	8.06%
Rent Restrictions	5.91%
Rent in advance	2.68%
Non dependants	2.15%
Baby Due	2.15%
Income Tapers	1.61%
Benefit Cap	1.07%
Disability	0.53%
Legislation change	0.53%
Increase in rent	0.53%
Removal Costs	0.53%

- Age Profile - all of our claimants are of working age.
- Employment Status - nine are in remunerative work and the others are in receipt of benefits.

It is incumbent upon all claimants who are making a repeat claim to demonstrate what they have done to improve their financial situation to remove them from DHP dependency.

3.2 IMPACT OF PROPOSALS

- 3.2.1 52% of claimants currently in receipt of DHP are council tenants and a consequence of the proposals is likely to be an increase in rent arrears, if these tenants are unable to make up the shortfall in rent. The reason for the payment of DHP to council tenants is due to the under-occupancy charge. Work has taken place with these tenants to discuss options with them, but those options are limited, particularly with regard to moving to smaller accommodation. There may be some scope to work with tenants to assist them to move into work and therefore off benefits, although a number of the tenants concerned are near to pensionable age. Discussions are taking place with JCP with regard to this support and a proposal for a project to provide help into work being drawn up.

3.2.2 For those tenants in receipt of DHP in the private sector, if they are unable to make up the shortfall in rent there would be an increase in rent arrears which could result in these tenants being given notice to leave their accommodation. If alternative accommodation could not be found the council could experience an increase in homelessness approaches and acceptances.

4. FINANCIAL IMPLICATIONS [FMC]

4.1 The financial implications are set out for the table in section 3.18 and have been validated by finance.

5. LEGAL IMPLICATIONS [MR]

5.1 The Discretionary Financial Assistance Regulations 2001 as amended empower the Borough Council to award discretionary housing payments when it considers that a claimant requires further financial assistance towards housing costs

5.2 Although the Regulations give local authorities a broad discretion, government guidance advises that local authorities must act fairly reasonably and consistently and each case must be considered on its own merits

5.3 No further discretionary housing payments can be made once the Council's overall cash limit has been met and an award over this limit would be unlawful

5.4 Any underspent discretionary housing payments funding must be returned to the DWP at the end of the financial year

6. CORPORATE PLAN IMPLICATIONS

6.1 This report supports the Corporate Plan objective of supporting individuals

7. CONSULTATION

7.1 Not applicable

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Risk Description	Mitigating actions	Owner
Option two could result in an increase in rent arrears for council tenants and an increase in homelessness should applicants in private tenancies lose their accommodation.	Tenancy support is available to tenants to assist with rent issues and work has taken place with tenants affected by under-occupancy charge. A proposal to support tenants, with JCP, into work is being worked up and will be reported on separately.	Sharon Stacey

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 Support from the Discretionary Housing Payments fund is available to those residents of the Borough who are in receipt of housing benefit and struggling to pay their rent. Therefore any reduction in funding may impact upon vulnerable groups in the Borough, however this report aims to protect those residents who have had adaptations made to their property and will encourage those claimants, who are able to, to seek remunerative employment.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has, where appropriate, taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: None

Contact Officer: Storme Coop, Ext 5706
Executive Member: Councillor M J Surtees



EXECUTIVE - 16 DECEMBER 2015

CHARITY SHOPS AND BUSINESS RATES REPORT OF CHIEF EXECUTIVE

WARDS AFFECTED: HINCKLEY WARDS

1. PURPOSE OF REPORT

- 1.1 To seek agreement on the local application of Discretionary Business Rates Relief on Hinckley Town Centre.

2. RECOMMENDATION

2.1 The Executive agrees:

- i) to continue the existing designated area in Hinckley Town Centre (Castle Street) where the 20% Discretionary Business Rate Relief is not applied.
- ii) to extend that designated area to include: Upper Castle Street, Regent Street, Market Square and Station Road.
- iii) that appropriate officers undertake regular formal/recorded inspections of charity shops in the town, to identify if they meet and continue to meet the criteria for Mandatory (80%) Business Rate Relief, using the percentage of floor space utilised as the qualifying criteria for 'wholly or mainly' (i.e. 'more than half').
- iv) the arrangements for addressing any challenges from the Chamber of Trade to the inspections as to the registration with the Charity Commission, as set out in paragraph 3.3 c) iii) of this report.
- v) that a 'landlord incentive period' beyond three months' exemption for empty properties be considered on a case by case basis, if properties remain empty after two months (see 3.3 c) v) in the report).
- vi) to consider whether further brief consultation be undertaken with charity shops trading in the proposed extended designated area, before implementing any actions agreed from this report.

3. BACKGROUND TO THE REPORT

- 3.1 There has been concern raised by the Chamber of Trade and by the Town Centre Partnership regarding the number of Charity Shops in the town centre - both on the grounds of perceived affect on potential investment (perceived to be 'downmarket') from national stores/facilities and the sense of 'unfair competition', arising from the business rate reliefs available.

- 3.2 The Chamber of Trade had issued a questionnaire to its Membership, the responses to which formed the basis of the submission to the Council and to the Town Centre Partnership. A further questionnaire, to seek the views of shoppers, has been circulated in the recent edition of the Borough Bulletin. The responses to both are consistent in stating the view that there are too many charity shops in the town centre, albeit a high percentage of respondents to the Borough Council survey do use charity shops in Hinckley.

3.3 Legislative Bases

- a) There is a difference in the legal position regarding Charity Shops and Premises used for charitable purposes - even though to qualify for any relief, registration with the Charity Commission is a pre-requisite.
- b) There is no provision for the specific control of Charity Shop locations under Planning legislation.

- c) i) Common Provisions

In both cases, shops/premises can receive Mandatory Relief (80%) and Discretionary Relief (20%). In the case of the latter, the Borough Council has determined that Discretionary Relief is not payable to charity shops/premises operating in Castle Street, as this is deemed to be the town centre. This policy was introduced by the Council's Cabinet on 2 March 2004.

- ii) Charity Shops

Under S47 (paragraph 10) of the Local Government Finance Act 1988, charity shops must 'be wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity'.

The phrase 'wholly or mainly' has been taken to mean in practical terms 'more than half'. There are a variety of bases for that level being determined:

- * percentage of floor space occupied by donated goods
- * percentage of turnover and profit represented by the sale of donated goods
- * percentage of individual items sold which are donated goods

For practical purposes, it would seem appropriate and reasonable for the percentage of floor space to be the criteria used for defining 'wholly or mainly (more than half)'.

- iii) Inspections and Challenges

Borough Council officers do have powers to inspect and identify if the 'wholly or mainly' criteria are met. If they are, there is no reason to challenge the 80% mandatory relief. However, if at any point the position becomes challengeable, the Council does have the power to withdraw the mandatory relief.

Inspections have been undertaken informally with Charity Shops and there is currently no reason to challenge the Mandatory Relief at any of the nine shops currently operating in Castle Street.

It is suggested that relevant Council officers undertake regular formal/recorded visits to these premises. If the Chamber of Trade wishes to challenge any finding, they should do so to the Council in writing, which will trigger a joint inspection visit.

Should the Chamber of Trade (or, indeed, the Council) have any concerns about the legitimacy of the charitable registration of any operation, this should be raised by the Council with the Charity Commission.

- iv) It should be noted that no other District Council in Leicestershire grants the 20% Discretionary Rate Relief in the relevant town centre(s); none has withdrawn the Mandatory Relief for shops selling 'new' goods; and there have been no moves to downsize the number of charity shops.
- v) It has been put to the Council that landlords are under severe pressure to let empty properties, as they are liable for Business Rates and need the income to cover that outlay. It is for this reason, it is argued, that lettings are made to charity shops, rather than other retailers. The current position is that Business Rates are not payable for up to three months on empty properties (but then payable at 100%), which should allow sufficient time to negotiate a lease with a suitable tenant. However, to combat the perception put forward by the Chamber of Trade, it is suggested that each case be treated on its merits and that the Council consider requests for an extension of the exemption period on application by the landlord once the property has been vacant for two months. The Council can then judge how much effort has been put into an appropriate letting at that point.

4. FINANCIAL IMPLICATIONS [AW]

- 4.1 There will be a potential on-going reduction in reliefs given, which should increase the income available for retention by the council for the properties affected.

5. LEGAL IMPLICATIONS [JB]

- 5.1 The legal implications are contained in the report.

6. CORPORATE PLAN IMPLICATIONS

- 6.1 Creating a vibrant place to work and live.

7. CONSULTATION

- 7.1 The Chamber of Trade conducted a consultation of its membership and the Council has undertaken a consultation with the wider public via the Borough Bulletin. Members may wish to undertake consultation with charity shops operating in the proposed extended area, before implementing the actions agreed.

8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 8.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Not responding to responses to consultation by Chamber of Trade and the Council's own survey would expose the Council to the perception that is not listening to public concern.	Adopting the recommendations in this report.	Chief Executive
Potential negative publicity regarding treatment of the charity sector.	Ensuring that the recommendations are implemented in a fair manner (ref recommendation iii)	Chief Executive

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

The proposals in this report relate solely to Hinckley Town Centre. They aim to ensure that there is fair treatment between commercial and charitable operations; allowing both to co-exist, for their own benefit and for shoppers in Hinckley and the surrounding area.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: None

Contact Officer: Steve Atkinson, Chief Executive, Ext 5606

Executive Member: Cllr Chris Ladkin

By virtue of paragraph(s) 3, 10 of Part 1 of Schedule 12A of the Local Government Act 1972.

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