

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of: Date of Decision:	CORPORATE DIRECTOR, ECONOMY 16th May 2017
SUBJECT:	UPDATED TRANSPORTATION AND HIGHWAYS FUNDING STRATEGY 2017/18 TO 2022/23 PROGRAMME DEFINITION DOCUMENT
Key Decision: Yes	Relevant Forward Plan Ref: 003077/2017
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member(s):	Councillor Stewart Stacey – Cabinet Member for Transport and Roads Councillor Ian Ward – Deputy Leader Councillor Majid Mahmood – Cabinet Member for Value for Money and Efficiency
Relevant O&S Chairman:	Councillor Zafar Iqbal – Economy, Skills, and Transport Councillor Mohammed Aiklaq – Corporate Resources and Governance
Wards affected:	ALL

1. Purpose of report:	
1.1	To seek approval to the Programme Definition Document (PrDD) updating the Transportation and Highways Funding Strategy for the period 2017/18 to 2022/23 at a total estimated cost of £218.835m. The PrDD reflects new resources, revised project costings and programmes, slippage and policy changes that have occurred since approval of the previous strategy in February 2016. Within this update, approval is sought to allocate new Integrated Transport Block capital funding available through the West Midlands Combined Authority devolved transport grant process (£5.170m in 2017/18) to support a range of projects and programmes that contribute towards key Council priorities set out in the West Midlands Strategic Transport Plan, Birmingham Development Plan and Birmingham Connected transport strategy.
1.2	To seek approval to a funding strategy to meet cost pressures, local contribution commitments and opportunities relating to Department for Transport major schemes, Network Rail programmes and Local Growth Fund projects.
1.3	To seek approval to accept Air Quality Grant funding from the Department for Environment, Food and Rural Affairs to support the development of a Clean Air Zone in the city (£0.990m revenue) and from the West Midlands Combined Authority (£1.897m capital) for transportation schemes to be delivered as part of the National Productivity Investment Fund (NPIF).
1.4	To seek approval to release development funding of £2.793m for 2017/18 (£1.628m ITB, £0.990m Air Quality Grant and £0.175m NPIF) to progress individual projects to Project Definition Document or Full Business Case stage in accordance with the Council's Gateway and Related Financial Approval Framework and to the delegations proposed within this report to expedite project delivery and enable a rapid response to be made to emerging grant funding opportunities.

2. Decision(s) recommended:	
	That Cabinet:
2.1	Approves the Programme Definition Document (PrDD) provided as Appendix A (including annexes A to F setting out schemes, programme governance and prioritisation criteria) to this report at a total estimated cost of £218.835m.

2.2	Approves an allocation of £5.170m in 2017/18 of new Integrated Transport Block (ITB) funding provided through the devolved transport grant process and notes that allocations from 2018/19 will become a West Midlands Combined Authority Mayoral budget responsibility.
2.3	Approves acceptance of £0.990m Air Quality Grant (revenue) from the Department for Environment, Food and Rural Affairs (DEFRA) and £1.897m capital grant from the West Midlands Combined Authority (WMCA) as part of the National Productivity Investment Fund (NPIF).
2.4	Approves the release of development funding of £2.793m for 2017/18 (£1.628m ITB, £0.990m Air Quality Grant and £0.175m NPIF) to progress individual projects to Project Definition Document (PDD) and Full Business Case (FBC) stage in accordance with the Council's Gateway and Related Financial Approval Framework (GRFAF) or the delegations set out below in recommendations 2.8, 2.9, 2.10 and 2.11.
2.5	Approves prudential borrowing of £6.0m to meet cost pressures, local contribution commitments and opportunities associated with Local Growth Fund and Network Rail programmes for repayment over a 15 year period from net surplus bus lane enforcement income.
2.6	Notes that prudential borrowing will be formally committed at project Full Business Case stage in accordance with the Council's GRFAF, with new resources and windfalls used to offset the requirement for borrowing wherever possible.
2.7	Notes that a funding strategy will be developed over the next 6 months to establish how local contribution requirements will be met in respect of the A38 (M) Tame Valley Viaduct and A457 Dudley Road Local Growth Fund major projects.
2.8	Delegates approval of all Project Definition Documents and Full Business Cases for named projects and programmes detailed in Appendix A (Annex F) of this report to the Corporate Director, Economy, up to a maximum value of £1.0m.
2.9	Delegates approval of all Project Definition Documents and Full Business Cases for named projects and programmes detailed in Appendix A (Annex F) of this report to the relevant portfolio holders, jointly with the Corporate Director, Economy, up to a maximum value of £10.0m.
2.10	Delegates authority to bid for and accept external capital and revenue resources consistent with the policies and objectives of the West Midlands Strategic Transport Plan, Birmingham Development Plan and Birmingham Connected transport strategy to the Corporate Director, Economy, in conjunction with the Chief Finance Officer, up to a maximum value of £1.0m
2.11	Delegates authority to bid for and accept external capital and revenue resources consistent with the policies and objectives of the West Midlands Strategic Transport Plan, Birmingham Development Plan and Birmingham Connected transport strategy to the relevant portfolio holders, jointly with the Corporate Director, Economy, in conjunction with the Chief Finance Officer, up to a maximum value of £10.0m.
2.12	Notes that budgets will be updated via the quarterly monitoring processes at quarter one to reflect the above recommendations and resourcing set out in Appendix A (Annex F).
2.13	Authorises the City Solicitor to negotiate, execute and complete any necessary legal documentation to give effect to the above recommendations.

Lead Contact Officer(s):	Phil Edwards – Head of Growth and Transportation
Telephone No:	0121 303 7409
E-mail address:	Philip.edwards@birmingham.gov.uk

3. Consultation	
	<u>Internal</u>
3.1	Consultation has been undertaken with the Cabinet Member for Clean Streets, Recycling and Environment, Corporate Director Place, Assistant Director Highways and Infrastructure, Assistant Director Planning, Assistant Director Development and the Assistant Director Transportation and Connectivity, who support the proposals contained within this report.
3.2	Officers from City Finance and Legal and Democratic Services have been involved in the preparation of this report.
	<u>External</u>
3.3	Full external consultation will be undertaken as part of individual PDDs and FBCs in accordance with normal practise including residents, emergency services, businesses, WMCA/Transport for West Midlands and the Cycling Forum. Consultation will also be undertaken with Sutton Town Council and Frankley Parish Council where appropriate.
3.4	Consultation has been undertaken with the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) in respect of Local Growth Fund resources.

4. Compliance Issues:	
	<u>Are the recommended decisions consistent with the Council's policies, plans and strategies?</u>
4.1	The Transportation and Highways Funding Strategy (THFS) performs an essential role in supporting a range of projects and programmes that contribute towards achieving the Council's key policies and priorities as set out in the West Midlands Strategic Transport Plan, Birmingham Development Plan and the Birmingham Connected transport strategy.
	<u>Financial Implications (Will decisions be carried out within existing finance and Resources?)</u>
4.2	ITB capital funding of £17.618m is to be provided to the WMCA for 2017/18 as part of a multi-year transport funding settlement agreed as part of the West Midlands Devolution Deal. The WMCA is responsible for acceptance and adherence to conditions associated with this settlement and for reallocating ITB funding to Metropolitan District Councils and Transport for West Midlands. The Council will receive £5.170m of ITB in 2017/18 as approved by the WMCA Board on 9 December 2016.
4.3	ITB funding is significantly supplemented by bidding activities to Government and GBSLEP for funding including Local Growth Fund (LGF), Cycle City Ambition Grant (CCAG), Air Quality Grant, National Productivity Investment Fund (NPIF) and Enterprise Zone (EZ). The total estimated capital cost of all projects and programmes utilising these resources over the 6 year period covered is £218.835m.
4.4	Detailed financial information is provided in Appendix A to this report including a funding strategy to enable the Council to meet opportunities, costs pressures and local funding contribution commitments relating to Department for Transport, Network Rail and GBSLEP programmes. This strategy includes a requirement to prudentially borrow £6.0m from 2018/19 to meet cost pressures and local contribution commitments associated with the Local Growth Fund programme and take advantage of Network Rail's bridge renewal programme in respect of increased inclusive economic growth. Repayments of up to £0.486m per annum will be made over a 15 year period and resourced from net surplus bus lane enforcement income. Further detail is provided in Appendix B to this report. A further funding strategy will be developed over the next 6 months to establish how local contribution requirements will be met in respect of the A38 (M) Tame Valley Viaduct and A457 Dudley Road Local Growth Fund major projects. It should be noted that budgets will be updated at quarter one through the relevant quarterly monitoring processes.
4.5	New capital transport projects by nature attract additional ongoing costs in respect of maintaining new highway assets. For projects approved in 2017/18 an approved annual corporate policy contingency allocation of £0.250m is in place to accommodate inventory growth. All projects and schemes will need to identify revenue maintenance commitments and funding as part of the Project Definition Document (PDD) and Full Business Case (FBC) processes.

4.6	<p><u>Legal Implications</u></p> <p>The relevant primary legislation required to implement individual projects contained within the THCFS comprises the Highways Act 1980; Road Traffic Act 1974; Road Traffic Regulation Act 1984; Traffic Management Act 2004; Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004. The Bus Lanes Contraventions Regulations 2005 are also relevant to this report.</p>
	<p><u>Public Sector Equality Duty (see separate guidance note)</u></p>
4.7	<p>An initial screening for an Equality Assessment (EA) has been undertaken for the THFS and has concluded that a full EA is not required at this time, with no adverse impacts on protected groups. This position will be reviewed for each composite project and/or programme at PDD and FBC stage as necessary. The initial screening is provided as Appendix C to this report.</p>

<p>5. Relevant background/chronology of key events:</p>	
5.1	<p>The Transportation and Highways Funding Strategy (THFS) performs an essential role in supporting a range of projects and programmes that contribute towards achieving the Council's key policies and priorities, as set out in the West Midlands Strategic Transport Plan, Birmingham Development Plan and the Birmingham Connected transport strategy. The THFS is also relevant to the Future Council Transformation programme and the requirement to develop a Clean Air Zone (CAZ) to comply with the provisions of the Ambient Air Quality and Cleaner Air for Europe Directive 2008, which sets limiting values for a range of pollutants to protect public health.</p>
5.2	<p>In the context of inclusive economic growth, the THFS has a strong focus on supporting the Council's core mission to be a city of growth where every child, citizen and place matters. In addition, the programme seeks to make a significant contribution towards the key priorities of children, jobs and skills, housing and health by reducing congestion, enabling growth, improving road safety, improving accessibility, improving air quality and encouraging active and sustainable modes of travel.</p>
5.3	<p>The THFS was previously updated and approved by Cabinet on 16 February 2016 for a rolling 6 year period up to 2021/22. This report reflects new resources, priorities, opportunities, revised project costings and programmes, slippage and policy changes that have occurred since this time. Such changes include the Council's requirement to develop a CAZ, work undertaken by the Economy, Skills and Transport Overview and Scrutiny Committee on 'Preventing Damage to Grass Verges', programme alignment opportunities with Network Rail and a need to increase investment in local road safety schemes.</p>
5.4	<p>As part of the West Midlands Devolution Deal, HM Government agreed to devolve a consolidated local transport budget and provide a multi-year transport funding settlement, which will come under the West Midlands Combined Authority (WMCA) Mayor moving forward. Devolved grant resources comprising Integrated Transport Block (ITB), Highways Maintenance Block, Highways Maintenance Incentive Funding and Bus Services Operating Grant (BSOG) have been confirmed until 2020/21, with annual allocations of £35.2m to be paid to the WMCA as the relevant 'accountable body'.</p>
5.5	<p>Funding for highway maintenance is 'passport' directly to District Councils, with the exception of Birmingham, whose allocation is deemed to be included within funding arrangements for the Highways Maintenance and Management Private Finance Initiative (PFI). BSOG will be paid directly to Transport for West Midlands as revenue funding for tendered bus services.</p>

- 5.6 The WMCA have allocated ITB funding to Birmingham and the other Metropolitan District Councils to be used for 'small transport improvement projects' on a per capita basis. This is in accord with the intention of Government that funding is used by transport authorities to help stimulate local economies by reducing congestion, improving road safety, improving accessibility and supporting the use of active and sustainable modes of travel. Further to WMCA Board approval on 9 December 2016, a total of £5.170m of new ITB capital funding has been allocated to Birmingham for integrated transport projects in 2017/18.
- 5.7 It should be recognised that ITB funding is significantly supplemented by bidding activities to Government, Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) and the WMCA for resources including Local Growth Fund (LGF), Cycle City Ambition Grant (CCAG), Air Quality Grants, National Productivity Investment Fund (NPIF) and Enterprise Zone (EZ) funding.
- 5.8 For 2017/18 new supplementary resources have been secured by the Council to support the development of a CAZ in the city to comply with the provisions of the Ambient Air Quality and Cleaner Air for Europe Directive 2008. In consultation with the relevant portfolio holders £0.990m of revenue Air Quality Grant has been provided by DEFRA to take forward feasibility, traffic modelling, communications and programme management activities associated with the CAZ. It is proposed that Cabinet accepts and approves expenditure of this grant ahead of the national air quality plan being published by Government on the 31 July 2017. A breakdown of resources is provided in Appendix A.
- 5.9 A further £1.897m of NPIF capital grant has been secured from the WMCA in consultation with the relevant portfolio holder to complete improvement works at Holloway Circus (£0.7m), undertake interim improvements to Bromford Gyratory (£0.569m), carry out traffic signal improvements across the city (£0.530m) and develop a further tranche of bus lane enforcement activity (£0.98m). These projects were selected on the basis of WMCA eligibility criteria as explained in greater detail in Appendix A. It is proposed that Cabinet accepts these supplementary resources and agrees for NPIF projects to proceed straight to FBC stage given that funding must be spent in 2017/18 and that an options appraisal has effectively been undertaken by the WMCA in allocating funding. It should be noted that the Holloway Circus project already has FBC approval and is proposed to be delivered within its original funding envelope, albeit with amended resourcing.
- 5.10 The structure of the THFS comprises the following programmes as described in Appendix A: Major Schemes; Inclusive and Sustainable Growth; Walking and Cycling; Road Safety; Safer Routes to Schools; Ward Minor Transport Measures; Grass Verge Protection Pilot; and Infrastructure Development. A summary of ITB allocations is provided below.

ITB Programme Allocations	Confirmed	Provisional		Forecast		
	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
	£000's	£000's	£000's	£000's	£000's	£000's
Major Schemes	1,059	663	60	1,152	0	0
Inclusive and Sustainable Growth	618	93	225	875	1,575	1,575
Walking and Cycling	662	1,939	2,400	1,000	1,500	1,000
Road Safety	525	525	525	525	525	525
Safer Routes to Schools	300	300	300	300	300	300
Ward Minor Measures	500	500	500	500	500	500
Grass Verge Protection Pilot	500	250	250	0	0	0
Infrastructure Development	1,006	900	910	818	770	1,270
Total	5,170	5,170	5,170	5,170	5,170	5,170

The above allocations have been determined on the basis of previously agreed commitments, particularly in relation to the Major Schemes, Inclusive and Sustainable Growth and Walking and Cycling programmes. Other allocations reflect rolling programmes in respect of Road Safety and Safer Routes to Schools, albeit with increased resources for local safety schemes in response to more locations citywide meeting the intervention criteria set out in the Council's Road Safety Strategy. It should be noted that the Infrastructure Development programmes holds contingency sums for in year allocation as required.

5.11	<p>As set out in paragraph 5.3, the process of updating the THFS provides an opportunity to reflect new resources, priorities, opportunities, revised project costings and programmes, slippage and policy changes. In this context it is proposed to introduce a new three year pilot programme to prevent damage to grass verges following work by the Economy, Skills and Transport Overview and Scrutiny Committee. This programme will provide £1.0m of ITB funding to introduce prevention, regulation and accommodation measures over the next three financial years, with specific projects to be determined by Ward Councillors and implemented by the Local Engineering service. Further detail in respect of this programme is provided in Appendix A.</p>
5.12	<p>The Council continues to be highly successful in securing external grant resources to support and expand the THFS. In the competitive context of external bidding rounds the Council has committed to a significant level of 'local funding contribution', particularly relating to the LGF and Birmingham Cycle Revolution (BCR) programmes approved by Cabinet in March 2015. Given the short timescales and limited scheme detail available at the time of bid submissions (and Project Definition Document stage), detailed work has been undertaken to refine scheme detail and costs during 2015/16 and 2016/17. This has been a lengthy and complex process, which has also had to consider general cost increases within the construction and engineering industries following Brexit and the impacts of HS2 on the market in respect of resources.</p>
5.13	<p>Further to the above exercise, the following pressures have been identified totalling an estimated £10.488m over the next 4 financial years: Battery Way Extension £2.0m; Iron Lane/Flaxley Road/Station Road £6.038m; Longbridge Connectivity (Highway Works) £1.0m; and Selly Oak New Road Phase 1B £1.450m. In addition, an opportunity to align with Network Rail's bridge replacement programme has arisen to improve access to the Tyseley employment area by enhancing the Wharfdale Road bridge. This enhancement is a 'one off' opportunity that requires a £2.5m Council contribution to match a £8-9m investment by Network Rail. While a scheme specific PDD and FBC will be prepared for this project accordingly, early financial commitment from the Council is required.</p>
5.14	<p>In the above context, a range of funding options have been considered in discussion with funding partners as follows:</p> <ul style="list-style-type: none"> • Further allocation and direct use of net bus lane enforcement surplus – balance at 31 March 2017 - £4.862m; • Extension of programmes to profile local contribution commitments over a longer period; • Further applications for additional LGF resources from GBSLEP; • Short term loans from the GBSLEP Revolving Investment Fund (RIF); • Expressions of interest for GBSLEP Local Growth Fund 3 resources; • Prudential Borrowing; and • Reduced local programme ITB allocations for road safety, safer routes to schools and ward measures, with ITB reallocated to meet cost pressures on LGF projects.
5.15	<p>Having evaluated the above options with funding partners, potential solutions involving the GBSLEP were discounted on the basis of highly restricted resource availability (for both additional funding and LGF3) and the three year repayment term for RIF loans, which would divert substantial future allocations of ITB away from key projects and programmes. Similarly, reducing local programme ITB allocations for road safety measures and locally determined improvements was rejected in the context of the Council's localism and devolution agendas.</p>
5.16	<p>As such, the following project and programme funding strategies are proposed in this report:</p> <ul style="list-style-type: none"> • Battery Way Extension: up to £2.0m prudential borrowing; • Iron Lane/Flaxley Road/Station Road: £6.038m additional direct allocation of net bus lane enforcement surplus; • Longbridge Connectivity (Highway Works): up to £0.5m prudential borrowing and additional direct allocation of £0.5m net bus lane enforcement surplus; • Selly Oak New Road Phase 1B: up to £1.0m prudential borrowing and additional direct allocation of £0.450m of net bus lane enforcement surplus; and • Wharfdale Road Bridge: up to £2.5m prudential borrowing.

- 5.17 In respect of prudential borrowing, it is proposed that annual repayments of up to £0.486m are resourced from net surplus bus lane enforcement (BLE) income from both current and planned BLE schemes over a 15 year period. It should be noted that the exact quantum of prudential borrowing will be confirmed and fully agreed at FBC stage for each relevant project, with further detail around cost variances handled at a project level in accordance with the Council's GRFAF. In addition, it should be further noted that prudential borrowing requirements will be minimised wherever possible through the wider ongoing management of the THFS and the offsetting of borrowing with new or windfall resources as they become available. Further information on prudential borrowing is provided as Appendix B to this report.
- 5.18 In addition to the LGF projects discussed above, the Council also has two major projects within its LGF programme, which comprise critical strengthening works to the A38 (M) Tame Valley Viaduct and major transportation improvements to the A457 Dudley Road. Final approval of these projects is retained by the Department for Transport (DfT), with approval based upon the submission of green book compliant major scheme business cases. On the basis of current estimates, the Council will be required to provide a local funding contribution of £20.566m towards these projects, split £13.522m (Tame Valley Viaduct) and £7.044m (Dudley Road). This contribution is within the range expected by the DfT for major schemes (between 10% and 20% of overall project costs) and will be required in 2021/22 and 2022/23 to lever a total of £94.450m from the LGF Growth Deal One programme.
- 5.19 To enable funding bids to be submitted to the DfT (which will be subject to specific PDD reports covering all relevant detail to Cabinet) it is now necessary to establish a funding strategy in respect of the local contribution. This strategy will be developed over the next 6 months. It should be noted that no bid submissions will be made unless a 'high value for money' case can be demonstrated to the DfT, with a minimum benefit to cost ratio of two to one. In addition, both schemes must clearly demonstrate affordability and deliverability in respect of funding, scheme benefits, alignment with the policies of the BDP, traffic management and construction.
- 5.20 In the context of emerging future operating models, there is clear rationale to streamline project development and delivery processes associated with the THFS to maximise delivery, enhance the Council's reputation, minimise costs and offset reduced officer resources in relevant departments. In addition, there is a need to respond more expediently to external funding opportunities that become available (Air Quality and NPIF as examples in this report), often at short notice, and enable more effective budget and resource management within the confines of an agreed 6 year investment programme. As such, the following delegations are proposed as reflected in recommendations 2.8, 2.9, 2.10, and 2.11 of this report:
- Bidding and Grant Acceptance:**
Delegation to the Corporate Director, Economy, in conjunction with the Chief Finance Officer, to bid for and accept grant resources up to £1.0m; and the relevant portfolio holders jointly with the Corporate Director, Economy, in conjunction with the Chief Finance Officer to bid for and accept grant resources up to £10.0m for projects that align with the approved policies and objectives of the Council.
- Project Approvals:**
Delegation to the Corporate Director, Economy to approve PDDs and FBCs up to the value of £1.0m; and the relevant portfolio holders jointly with the Corporate Director, Economy, up to £10.0m for projects and programmes included within Appendix A (Annex F) of this report.

5.21	There are no direct procurement implications contained within this report, however, it should be noted that schemes will be delivered by the Council and works will be procured through approved frameworks or competitive tenders utilising either in house resources or partner's procurement arrangements, in accordance with Standing Orders and the Procurement Governance Arrangements. Procurement implications will be reported in individual PDD and FBC reports as per normal practise, with value for money and compliance with the Birmingham Business Charter for Social Responsibility clearly set out.
5.22	Key risks are outlined in Appendix A (annex E). It should be noted that a significant shortage of consultant and contractor resource in the marketplace could impact upon programme delivery and further increase project costs. Such risks will be managed by senior Transportation and Highways officers in conjunction with the relevant portfolio holders.

6. Evaluation of alternative option(s):

6.1	Alternative options have been explored as part of the PrDD provided as Appendix A to this report, with the proposed option selected on the basis of best achieving the Council's key policies and priorities, whilst maximising delivery and minimising risks.
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7. Reasons for Decision(s):

7.1	To approve the Council's Transportation and Highways Funding Strategy for the period 2017/18 to 2022/23 to best achieve the Council's key policies and priorities, whilst facilitating streamlined and expeditious delivery in the context of emerging future operating models.
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Signatures	<u>Date</u>
Cllr Stewart Stacey – Cabinet Member for Transport and Roads
Cllr Ian Ward – Deputy Leader
Cllr Majid Mahmood – Cabinet Member for Value for Money and Efficiency
Waheed Nazir Corporate Director, Economy

List of Background Documents used to compile this Report:

1	Council Financial Plan 2017+
2	West Midlands Strategic Transport Plan
3	Birmingham Connected Transport Strategy
4	Birmingham Development Plan
5	Greater Birmingham and Solihull LEP Strategic Economic Plan
6	West Midlands Devolution Deal
7	Devolved Transport Grant - WMCA Board Report 9 December 2016
8	Updated Transportation and Highways Capital Funding Strategy (2015/16 to 2020/21) Programme Definition Document – Report of the Strategic Director for Economy to Cabinet – 16 February 2016

List of Appendices accompanying this Report (if any):

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| 1. | Programme Definition Document – Appendix A (including annexes A to F) |
| 2. | Usage and Forecasts of Net Surplus Bus Lane Enforcement Income – Appendix B |
| 3. | Equalities Assessment Initial Screening – Appendix C |

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) tackle prejudice, and(b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none">(a) Marriage & civil partnership(b) Age(c) Disability(d) Gender reassignment(e) Pregnancy and maternity(f) Race(g) Religion or belief(h) Sex(i) Sexual orientation