

LOCAL GOVERNMENT PENSION SCHEME – RESPONSE TO CONSULTATION PAPER

The proposals are summarised below:

- a) Change would be effective from 1 April 2008. All those then in the LGPS would transfer into a new Scheme, with an equal value period of membership. Pensioners and deferred benefits would remain as under existing Regulations.
- b) Ministers have expressed their commitment to retaining a defined benefit final salary arrangement which is relevant to the local government workforce provided that it remains both affordable and sustainable.
- c) Normal scheme retirement age would remain at 65.
- d) Any benefits paid before this age would be actuarially reduced, except for ill-health. A premature retirement (outside the employee's control) would be unreduced, provided they are 55+. Access to pension on redundancy would only be possible where a statutory entitlement to a redundancy payment arose.
- e) Work beyond 65 would result in actuarially increased benefits. There would be no limit on the number of years of contributing employment.
- f) Benefits would accrue at 1.6% per annum (as opposed to the current 80ths). After 40 years service, a Scheme member would receive a pension based on 64% of their salary.
- g) Benefit on retirement would not automatically include a lump sum. But, to provide one, part of the pension could be commuted at a rate of £12 for every pound of pension forgone.
- h) Basic salary alone would be "pensionable pay".
- i) Flexibility at career-end would be provided to give a more gradual approach to retirement. An employee could work part-time and draw some pension. Pension would be "fair" when an employee steps down into a less responsible role at careers end. This measure requires change to the Tax Regime - which is being planned.
- j) Ill-health benefits would be two tiered. If other employment was possible, benefit would be less. The non-payment of benefit in these circumstances is discussed in the paper.
- k) Up to 50% of members' pension (after any lump sum commutation) would be payable to widows, widowers, and partners, with 25% to surviving children. Where the partnership is registered (as provided by the Civil Partnership Act 2004) the registered partner of an employee would benefit. The position of "co-habiting partners" is discussed in the paper.
- l) Death in service would increase from two times to three times annual pensionable pay.
- m) Employee contributions would be an average 7%, but would be graduated according to pay level. Currently the level is 6% of gross pensionable pay, but in reality (after tax relief) it varies in actual (net) terms from 6% where £3,000 p.a. is earned, to only 3.6% where the salary exceeds £72,000 p.a. The ODPM proposes ensuring that higher earnings (defined as £144,000 p.a.) contribute 6% in actual terms, with a contribution rate of 10% (assuming tax relief rules are unchanged). Others would make a graduated contribution - all in real terms less than 6% - with contribution rates headlined at 2.5% (where annual salary is up to £5,000 p.a.), 5.5% (up to £7,000), 7% (up to £38,000) and 9% (up to £80,000). The idea that a higher earner would pay a different rate on a proportion of their earnings up to their maximum is dismissed as requiring higher percentages overall.

- n) Short-term\* employees (and possibly casual workers\*\*) would need to proactively opt into the LGPS; the employers' presumption could be that they stay outside. (\*The ODPM thinks "short-term" is under three months. \*\*The ODPM seems to presume case law will eventually compel these into the Scheme, if longer term employed).
- o) Additional contributions could secure additional benefit.
- p) Premature retirees would no longer be treated to the possibility of added years. Alternatives are discussed in the paper.
- q) Estimated costs of a changed Scheme are 21% of payroll (employee 7%, employer 14%).

### **RESPONSE**

*Whatever the outcome of this review, a main concern remains the ability to meet the cost of the pension promise, and the effect of this upon the Authority's financial position in the foreseeable future. Due to falling funding levels of the County Pension Scheme, 2005-06 is seeing further major demands being made upon scarce financial resources. While we welcome a review of the LGPS that will address the issues of underfunding, we are concerned that such a review is proposed to result in additional costs falling upon employers and would not support such a proposition.*

*Nonetheless, Government Ministers' adherence to a final salary pension scheme is welcomed. This is a most valuable resource needed in order to continue to recruit and retain staff.*

#### **Effective date**

*We note the proposal is that the change will be effective from 1 April 2008, and that it will be (as has been the case before) a transfer from old terms into new at that date for all within purview. We wonder whether that is wise; will it not result in a major surge into retirement of those aged 60 before that date, and consequent immediate strain on Pension Funds? Would it not be possible to retain in force the "old" Regulations for those with longer service, thus not discouraging them from continuing at work? Could this not run alongside the new regime for those at an earlier stage of their career? We have to accept that in the current pension environment, we may be losing from longer serving staff their trust in our ability to deliver the pension promise. They may respond by taking certainty in 2005-07, rather than await uncertain change in 2008.*

#### **Normal Retirement age to be 65**

*We welcome and support this. Benefit should normally be payable at this age, but the employee who chooses to retire at the age of 60 should continue to be able to do so on actuarially reduced benefits.*

#### **Benefits at 55+**

*We support the earlier raising of the minimum age for premature benefit to 55. We think the Scheme itself should not be used to provide compensation for those made redundant, separate discretionary powers should be created for this purpose that are not a drain on pension funds.*

#### **Work beyond age 65**

*We support a change to the LGPS which would make this an attractive option.*

#### **Benefits after 40 years = 64% of final salary and no lump sum**

*This proposal, whilst providing greater flexibility, requires a scheme member to*

calculate his/her longevity, and to do that successfully will be a lottery. Many staff look to the lump sum to settle mortgage commitments before retirement. The proposal is therefore one that raises real concerns. If its longer-term benefit can be demonstrated to spread the strain upon pension funds over a longer period, then it would demonstrably help to deliver the pension promise, and this Authority could support it.

#### Basic salary alone would be pensionable pay

This proposal would disadvantage a number of staff who currently have regular allowances and supplements included as pensionable pay. This Authority would prefer the retention of employer flexibility in determining the elements that are counted as pensionable pay.

#### Flexibility at career-end

We welcome the proposal that will enable phased retirements. We note, however, that changes to the Tax Regime are still required before anyone could sensibly invoke the proposed provision. We trust that this is being addressed by H.M. Treasury.

#### Ill-health retirement

We strongly support the provision for a two tier system whereby on retirement, the Occupational Health Physician, supported by a second opinion certifies that the retirement is on permanent ill health for: a) that type of work, or b) all future employment. The former would receive a lump sum payment and deferred pension benefits, the latter would receive an immediate pension with enhanced service. The proposal for future/ongoing reassessment is impractical.

#### Widows/widowers, children's benefits

We support the proposals made, the continuation of the current regime for widows/widowers and children's' benefits, plus the inclusion of parallel benefits to the surviving partner of a registered partnership (as provided by the Civil Partnership Act 2004). We feel that the latter should be post enactment in 2004, but we come to that conclusion on the grounds of (a) reducing strain on the pension funds, and (b) that the Regulations must observe the law, but not necessarily spend public funds unless required. The discussion in the paper around cohabiting partners suggests a potential minefield in looking into relationships, multiple partnerships and identifying periods of cohabitation with consequent entitlements. Since the Civil Partnership Act satisfactory solutions are now provided, and in conforming to its provisions the LGPS will have gone far enough for the foreseeable future.

#### Death in service

We support the proposed increase from two times to three times annual salary. The LGPS life-insurance element can be of great assistance at the time of bereavement in meeting costs. Until recently this Authority offered a life assurance scheme for staff to supplement provisions in the LGPS. This facility was deemed to be unlawful and regrettably had to be withdrawn. This proposal would effectively reinstate this benefit. We do not support the withdrawal of the short term widow/er pension. This is a much valued payment that is made for a period of three months direct to the surviving spouse whereas the life assurance lump sum is paid to the deceased's estate. Its withdrawal would have an insignificant effect on pension funds but a potentially very significant effect on surviving spouses.

#### Employee contribution

The proposal to increase employee contributions is welcomed. However, the proposed methodology is complex and flawed. The LGPS should not be used to overcome anomalies in the taxation system. We would support an across the board simple increase of contribution rate from 6% to 7% - actions to redress Inland Revenue anomalies should be referred to H.M. Treasury to resolve.

### Short term employees

*We need stability in this matter, and firmly writing it into the new Regulations and leaving it unchanged for a period of years would be helpful. We are, however, concerned at the equalities implications. Excluding short-term employees is certainly administratively less burdensome, and avoids the wastage of frequently taking people into and out of the Scheme. A provision that where short-term employment subsequently develops into longer term employment the employee later has a choice as to whether the initial period of employment can become reckonable service may meet the equalities point.*

### Additional contributions could secure additional benefit

*We believe that this is a good idea.*

### Premature retirement

*Under the LGPS there should be retained a provision for a premature retirement in circumstances other than redundancy (currently 'In the interests of the efficiency of the service'). Employers should be given discretionary powers to grant such retirements on similar terms to those that exist currently. This would continue to provide Authorities with much needed flexibility to meet changing staffing requirements. As at present, Authorities should continue to meet the cost of actuarial based strain on the pension fund.*

### The cost to employers

*We reiterate that the chief concern is the cost, and the need to cap the cost of delivering the pension promise. The provision of certainty and stability for a period of years is highly desirable. However, the estimated employer cost quoted in the consultation paper (14% of payroll) represents a 1.5% increase to this Authority on current cost and as such is not supported.*

**APPENDIX B**

**PROPOSALS FOR REVENUE REDUCTIONS 2005/06 – 2006/07.**

(Ref: Minutes of Corporate Management Committee 30 September 2004, page 336, para. 244 and January 2005, page 585, para. 437)

The following table outlines the proposed areas of revenue reductions:

(i)	Restructuring -	£	
	Committee and DAL administration – (1 fte) Annual Personnel Report refers		50,000
	Leisure Division - (1 fte) Annual Personnel Report refers		35,000
	Egham Sports Centre recovery plan		50,000
(ii)	Re-engineering savings –		
	DMS/Workflow related		15,000
	Review of WP resources		15,000
	CMS introduction and IT review		8,000
	Greater use of SurreyJobs info – e recruitment (saving in media adverts)		15,000
	Reduced printing volumes through greater electronic usage		2,000
	Telephone canvas usage for electoral registration and auto distribution		7,000
	Greater electronic distribution – agendas and press cuttings and Information Directory		3,000
	Greater use of direct debit and online payments with closure of cash office		50,000
(iii)	Procurement –		
	Potential <u>minimum</u> savings following new post, etc		50,000
	Consequential additional rental income following depot rationalisation		10,000
	Renegotiation of telephone tariffs		2,000
	Meals – new contract savings		20,000
(iv)	Property Related Betterment –		
	(a) Rental income above that anticipated:		
	Rent reviews (potentially)	25,000	
	Larger Yellow Bus usage at Depot	15,000	
	Literary Institute, Egham – achieve some rental replacement for Bournewood	10,000	
	Station Road, Addlestone – flats	10,000	
	Precinct, High Street, Egham – share in rental uplift secured by long lessee	10,000	
	Other (including existing telecoms masts)	15,000	95,000
	(b) Additional capital receipts:		
	Blays Lane, Englefield Green	)	
	Barrsbrook Farm – site of former buildings only	)	
	Ferndale Avenue, Chertsey	)	circa £6,350,000
	Virginia Water Station	)	
	Covenants and easements	)	
	Electricity sub stations	)	

	Therefore revenue betterment assuming 5.0% investment income	305,000
(v)	Grant Aid –	
	Cash limiting – post 2007/08	10,000
	Reduction in grant to Magna Carta Trust, etc	3,000
(vi)	Miscellaneous items -	
	Delete corporate enforcement provision	10,000
	Reduce specialist consultancy provision for environmental assessments	20,000
	Delete corporate traveller removal expenses (separate provision in Planning budget)	5,000
	Rephasing of land drainage special works	50,000
(vii)	Discretionary fees and charges –	
	Planning – rise in fee scales	20,000
	Car parking:	
	Beomonds/Library extension	15,000
	Precinct Tesco extension, Egham	10,000
	Cemetery and associated charges (above 3% assumptions)	20,000
(viii)	Other Financial Provisions –	
	End of year betterment	250,000
	Medium Term Benefit of Planning Delivery Grant	
	Resulting from meeting particular targets	55,000
	Medium Term Benefit of Recycling Improvement Grant	30,000
	Withdrawal of Post Office subsidy/credit card administration charge	20,000
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	PROVISIONAL TOTAL	£ 1,250,000
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Proposals for Revenue Reductions 2005/06 – 2006/07

**Branch Secretary**  
Claire Pinnock

Runnymede Branch of Unison has had detailed discussions with the Chief Executive Officer in respect of this report in order to gain clarification on a number of the headings listed in the proposals.

Unison appreciates the context in which the proposals are being put forward, and the constraints placed upon the Council in terms of the options it has for Revenue Reductions. It is understood that some of the areas of spend in the authority are Government led, for example e-government, the stock options appraisal and recommendations made under CPA, and consequently there is little scope for manoeuvre in these areas, however frustrating that is for staff who are constantly under pressure from new initiatives, changes in legislation and new ways of working.

The majority of Council expenditure is on discretionary services, and Unison would not like to see reductions in these areas where there are sound reasons for continuing them.

Where there are areas of specific concern, for example the proposed closure of the Cash Office, and reductions in WP resources across the Council, these have been discussed with the Chief Executive and Unison will continue to do all it can to assist its members who may be concerned about job security.

Unison is pleased to have been assured that, where appropriate, the Technology Agreement, which protects otherwise vulnerable posts from compulsory redundancy, will be applied, and that where staff reductions are a definite possibility, the consultation protocol will be followed.

In all cases, Unison will continue to press for no compulsory redundancies being made, and that where gaps are left in the organisation, they are promptly addressed to ensure the well being of staff who are left to maintain the service at a high standard.

It has been agreed that Personnel will issue a newsletter to staff setting out the background and what the proposals mean for staff and the service which will be followed by informal section based discussions between staff and the Chief Executive. Unison welcomes these initiatives and hopes that staff will engage in the process in order to gain a better understanding of the Revenue Reduction process and use the opportunity to discuss issues of concern.

Runnymede Unison Branch Committee  
February 2005.

## **Overarching Framework for Sharing Information about Children and Young People in Surrey**

This Framework commits the agencies that sign it to share information lawfully and effectively at all levels of their organisation in order that we work within the best interests of children and young people

## **1. INTRODUCTION**

- 1.1 This overarching framework sets out the legal obligations of staff across all agencies working with children and young people to:
- Share or disclose information about children and young people 'in need' or at risk of social or educational exclusion (See Appendix 1)
  - Maintain confidentiality
- 1.2 This framework does not impose any new obligations, it simply clarifies existing legislation and principles including:
- The Children Act 1989
  - Caldicott Principles
  - Data Protection Act 1998
  - Human Rights Act 1998
  - Freedom of Information Act 2000

Understanding these principles and legislation will facilitate the lawful and effective sharing of information within and between agencies that work with children and young people.

- 1.3 This framework provides a commitment for sharing information in order to comply with the statutory duty of Local Authorities and other agencies to work together. Individual organisations and specific areas e.g. looked after children, may have or will need to agree local or specific arrangements (See Appendix 2A and 2B). These arrangements will detail the specific purposes for sharing, how sharing can happen, the consent processes involved and the process for review.
- 1.4 Individual organisations are under no obligation to disclose information unless satisfied that the principles of data protection are upheld. Relevant statutes may provide the power to disclose information but may not impose a duty to disclose; thus, control over the disclosure of information remains with the agency that owns the data. Disclosure relies on existing conditions that justify the disclosure of information and on good relations and mutual trust, and the effectiveness of these information sharing arrangements is a reflection of the effectiveness of partnership working as a whole.
- 1.5 The public rightly expect, and the Data Protection Act 1998 requires, that personal information held by statutory agencies will be properly protected. However there is also a public expectation that there will be appropriate sharing of information within partnerships for specific purposes, covered by statutory obligations.

## **2. PURPOSE FOR SHARING**

- 2.1 Sharing information will enable agencies to identify children considered to be 'in need' of additional support, either from a single targeted service or a multi-agency service in order to promote their health and well-being. (See Appendix 1 for a more detailed description of a 'child in need' as defined by The Children Act 1989).
- 2.2 The summary legislation listed below provides a legal obligation (see Appendix 3 Schedule 2 Condition of the Data Protection Act) to share information about children and young people in Surrey. (See Appendix 4 for a full list of statutory provision relevant to information sharing).

The purpose of sharing information between the designated agencies is to:

- (i) Ensure the provision of appropriate services for children 'in need', or at risk or likely to be at risk of suffering significant harm or who otherwise are considered to be at risk of social or educational exclusion. (Sections 17 (10) and 47 (1) of the Children Act 1989). Please note that this category covers children considered to be 'in need' under Section 17 i.e. it has a much wider application than only children considered to be 'at risk of significant harm.'
- (ii) Obtain assistance for the Local Authority from other authorities to enable it to perform its functions of providing services to children and families, (under Part III, Section 27, of the Children Act 1989).
- (iii) Promote or improve the economic, social or environmental well being of children and families in need within Surrey. This will include provision of improvements to health and/or educational opportunity as well as the reduction or elimination of risk factors for children within the county. (Section 2, Local Government Act 2000).
- (iv) Prevent or reduce crime and identify and apprehend offenders or suspected offenders. (Section 115, Crime and Disorder Act 1998).

Relevant legislation:

- Children Act 1989 (Sections 17, 27 and 47)
- Local Government Act 2000 (Section 2)
- Crime and Disorder Act 1998 (Section 115)
- Data Protection Act 1998 (Part IV).

## **3. INDIVIDUAL RIGHTS AND RESPONSIBILITIES**

- 3.1 In respect of the rights and responsibilities of children, young people and their families, this framework accords with the legal guidance issued by the Information Commissioner, i.e.:

- A person of 12 years or more shall be presumed to be of sufficient age and maturity, and thus have a general understanding, to be able to exercise any right under the Data Protection Act 1998.
- For a person under 12 years of age someone with parental responsibility, or a guardian, may exercise those rights on behalf of the child.
- If it is viewed that a person who is aged 12 years or more is not capable of exercising their rights then a legal guardian may exercise those rights on their behalf.

3.2 The United Nations Convention on the Rights of the Child, to which the UK is party, makes clear that children have a right to express their views and have them taken into account when decisions are made about what should happen to them. They have a right to see the information held about them if it is not damaging to them or others to see it.

#### **4. GOOD PRACTICE PRINCIPLES FOR INFORMATION SHARING**

4.1 The best interests of the child or young person must be considered before personal information is shared and used.

4.2 In accordance with the Caldicott Recommendations:

- Every proposal to share client identifiable information (personal data, see section 5.2) between organisations must have a defined and justifiable purpose.
- Client identifiable information (personal data) must only be used where it is absolutely necessary. (If at all possible use anonymised data rather than personal data)
- Only the minimum necessary client identifiable information should be used.
- Access to client identifiable information should be on a strict 'need to know basis.'
- It is the responsibility of individual organisations to ensure that everyone with access to client identifiable information is aware of their responsibilities in relation to it.
- Users of client identifiable information must understand and comply with the law.

#### **5. DATA PROTECTION ACT 1998**

5.1 The Data Protection Act 1998 does not apply to de-personalized data, for example where data is used for statistical purposes.

5.2 Please note that there are two types of data that identifies an individual:

- Personal data is any data relating to a living person with which that person can be identified. Personal data also includes expression of opinion and of data controller's intentions on relation to the data subject.
- Sensitive personal data is personal data that contains information relating to an individual's racial or ethnic origin, political opinions, trade union membership, physical/mental health, sexual life or the commission or alleged commission of offences.

5.3 Organisations which share personal or sensitive data about children and young people must ensure that they are properly registered to exchange information as required under the Data Protection Act 1998.

5.4 The eight Data Protection principles require that personal data is:

1. Processed fairly and lawfully

(Processing includes the obtaining, holding, recording, retrieval, organisation and disclosure of data)

2. Processed only for specified, lawful, and compatible purposes.

3. Adequate, relevant and **not excessive**

4. Accurate and up-to-date

5. Kept for no longer than is necessary

6. Processed in accordance with rights of data subjects

7. Kept secure

8. If the personal data is transferred outside the European Economic Area there must be adequate protection in that country

5.5 In addition to the eight Data Protection principles outlined above, Personal Data can only be processed (principle 1) if at least **one** Schedule 2 condition is met (See Appendix 3a).

5.6 In order to process Personal Sensitive Data each organisation must ensure that at least one condition from both Schedule 2 **and** Schedule 3 are met (See Appendix 3b).

5.7 The Data Protection Principles must be adhered to by all participants of this Information Sharing Framework.

5.8 The extent of any personal information disclosed will be limited to that which is relevant to the purpose or purposes for which the information was requested.

5.9 In addition to the Data Protection Act, both the Human Rights Act and Common Law duty of Confidence must also be considered before sharing information about children and young people in Surrey.

## **6. HUMAN RIGHTS ACT**

6.1 The Human Rights Act 1998 states in Article 8.1 that 'everyone has the right to respect for his private and family life'. However, Article 8.2 qualifies this with a statement that public authorities can infringe this right when carrying out their duties in respect of national safety, public safety, economic well-being of the country, prevention of crime and disorder and the protection of health, rights and freedoms of others.

6.2 It is important that when information is shared it is done so with a sense of proportionality – balancing the need for shared information with the consequences of infringing Article 8.1 of the Human Rights Act.

## **7. COMMON LAW DUTY OF CONFIDENCE**

7.1 The common law duty of confidence applies to much of the information obtained about children and young people. As a general principle the duty arises when a person receives information in circumstances where he knows or can be taken to know that the information is treated as confidential. For example NHS information is nearly always under a common law duty of confidence.

7.2 Where a clear duty of confidence arises, the information cannot be disclosed to 'third parties', without either consent or the requirement of an overriding public interest. It will also be overridden by an express statutory duty, such as is found in s.47 of the Children Act or s.115 of the Crime and Disorder Act.

7.3 Overriding public interests include:

- The protection of health and morals
- Public safety
- The prevention of crime and disorder
- The protection of the rights and freedoms of others

7.4 There will be a clear public interest in disclosing the data where there is a risk to the life of a child or that they will be seriously injured. It will be less clear when considering other established 'public interest' criteria, such as the protection of health and morals or the rights and freedoms of others. The Children and Young People Unit- CYPU (now known as the Children and Young People Directorate- CYPD)<sup>1</sup> guidance advises that in deciding whether or not disclosure of information given in confidence is justified practitioners should weigh the harm that would result from breach of confidence, against the harm that might result from a failure to disclose. Any disclosure **MUST** always be proportionate and the minimum necessary to achieve the public safety objective.

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<sup>1</sup> The CYPU Legal Guidance can be found at: <http://www.cypu.gov.uk/corporate/publications.cfm>

7.5 Further information on both the Human Rights Act and the Common Law Duty Of Confidence can be found in Appendix 3C and 3D

## **8. DESIGNATED OFFICER**

- 8.1 In order to ensure compliance with the Data Protection Act, the participants to this Framework shall nominate a designated officer e.g. Caldicott Guardian, Data Protection Officer. The designated officer will have the responsibility for ensuring that their organisation complies with legal and other appropriate requirements in relation to information sharing.
- 8.2 The participants to this Framework will ensure that all personnel involved in information sharing activity have appropriate guidelines and induction/training.
- 8.3 Agency personnel must maintain records of the information shared, in the form of a file note/ copy letter etc.
- 8.4 Information discovered to be inaccurate or inadequate for the purpose will be notified to the data owner who will be responsible for correcting the data. The data owner will then notify all other recipients of that data, who must ensure that the correction is applied.
- 8.5 Records should be kept in such a way that they could be subject to audit.
- 8.6 Decisions on disclosures reached at meetings, should be minuted.
- 8.7 The designated officer will ensure that appropriate security arrangements are in place within their respective organisations to prevent unauthorised access to and disclosure of personal data.
- 8.8 A list of designated officers who assume responsibility for data protection, security and confidentiality issues, and compliance with legislation within their respective agencies, will be made available to partner agencies as a matter of routine.

## **9. DISCLOSURES**

- 9.1 When disclosing personal information, many of the data protection issues surrounding disclosure can be avoided if the consent of the individual concerned has been sought and obtained.
- 9.2 Each organisation has a duty to ensure that all clients are aware of their rights in relation to their information and what information is being shared about them. This is most simply achieved through an Information Sharing Guidance Booklet.
- 9.3 The agency which originally discloses personal information to another party to this Framework always retains ownership of the data. Each agency must therefore decide the propriety of any particular disclosure for themselves. The identity of the data owner must, therefore, always be recorded against that data.

- 9.4 A recipient of personal information must obtain the consent of the data owner before making a secondary disclosure to another party to this Framework. For the purpose of this requirement each Local Authority department will be treated as a separate agency.
- 9.5 Personal information can only be released without the consent of the person concerned where there is an overriding public interest or justification e.g. a legal obligation, or duty, for doing so. (See Section 2; Purpose for Sharing, See also Appendix 3A-3D).

## **10. SUBJECT ACCESS**

- 10.1 Under Data Protection Legislation and the Freedom of Information Act 2000 (which comes into effect from 1<sup>st</sup> January 2005), individuals have the right to access any information held about themselves. This right may be denied in certain limited circumstances, which include instances where access would prejudice the prevention and detection of crime.
- 10.2 Where a party to this Framework receives a request for information about an individual and personal information which it holds is identified as belonging to another agency, it will be the responsibility of the receiving agency, through the designated officer, to contact the agency that owns the data to determine whether the latter wishes to claim an exemption under the provisions of the Data Protection Act.

## **11. GUIDANCE NOTES**

- 11.1 Each of the parties to this Framework will be responsible for issuing specific guidance and training to its staff to ensure compliance with this Framework.
- 11.2 Legal advice on this Framework should be sought in any case of doubt.
- 11.3 Each party to this Framework will introduce their own arrangements to test that this Framework, its associated information sharing arrangement, working practices and legal requirements are being adhered to.
- 11.4 Appendix 3A to 3D provide flow charts and check lists for the sharing of information about children and young people.

## **12. COMPLAINTS**

- 12.1 Complaints about the disclosure of information under this Framework, or breaches of the Framework, should be dealt with under established procedures.

## **13. INDEMNITY**

- 13.1 Where a disclosing agency provides information to a requesting agency which is inaccurate, and the requesting agency incurs liability, cost or expense as a result of its reliance upon the information provided, the disclosing agency shall indemnify the requesting agency against any such liability, cost or expense reasonably incurred, provided that this indemnity shall not apply:

- Where the disclosing agency did not know, and acting reasonably, had no reason to know, that the information provided was inaccurate;
- Unless the requesting agency notifies the disclosing agency as soon as practicable of any action, claim or demand to which it considers this indemnity may apply, permits the disclosing agency to deal with the action, claim or demand by settlement or otherwise and renders all reasonable assistance in so doing.

#### **14. AGREEMENT**

- 14.1 By signing this framework agencies accept that the procedures laid down will provide a secure framework for sharing information about children and young people, in a manner compliant with their statutory and professional responsibilities
- 14.2 This framework will be subjected to formal review by all parties on an annual basis
- 14.3 The Framework is a working document and therefore the contents may be reviewed and altered at any time to reflect changing circumstances. Such changes would be with the agreement of all parties.
- 14.4 This Framework will be signed by senior executives of the respective organisations on behalf of their organisations. Its adoption should be minuted and any subsequent variation should also be minuted and other partners notified as soon as practicable.

<b>Signature</b>	<b>Agency</b>
1.	
2.	
3.	
4.	
5.	
6.	
7.	

**NATIONAL NON-DOMESTIC RATE  
DISCRETIONARY RELIEF FOR CHARITIES AND OTHER NON-PROFIT MAKING BODIES**

POLICY GUIDELINES ON THE DETERMINATION OF RELIEF

Background

1. Under the provisions of the Local Government Finance Act 1988 Act there are three ways in which charities and other non-profit making bodies can be protected from the effects of the National Non-Domestic Rate (NNDR):
  - (i) Exemption: Although these organisations are not exempt in their own right, the premises they occupy may be exempt because of the purpose for which they are used. Examples of properties that may be exempt include places of religious worship and premises used wholly for the provision of training, welfare or sheltered employment services for the disabled. Since 1 April 1990 such properties have not been included in the local Rating List, compiled by the District Valuer and Valuation Officer of the Inland Revenue, and therefore no liability arises.
  - (ii) Mandatory Relief: Section 43(5) of the 1988 Act provides that if a property is occupied by a charity, or the trustees of a charity, and it is used wholly or mainly for charitable purposes, then its liability to the rate is restricted to 20% of the rate that would be payable if the premises were occupied by someone other than a charity. Similar provisions exist in S45(5) for empty premises that will be used wholly or mainly for charitable purposes when next occupied.
  - (iii) Discretionary Relief: Under Section 47 of the 1988 Act, the local authority may exercise its discretion to grant relief from the rate. It is this category of relief at which these guidelines are directed.
2. The decision to grant discretionary relief is left to the billing authority in which the premises are located. The authority may grant relief for all or part of the rate.

In cases of charitable occupation, the authority may grant additional top-up relief from all or part of the balance of the rate for which the charity would otherwise be liable (ie up to 20% of the full rate).

There are limitations over the backdating of relief. Paragraph 23 of Schedule 3 to the Local Government and Rating Act 1997 amended Section 47(7) of the 1988 Act to provide that, from 1 April 1997, local authorities may reach a decision to grant discretionary rate relief for a financial year for up to six months after the end of that year. This is a change from the previous provisions under which authorities had to decide within the financial year concerned. Backdating is therefore limited to a maximum of 18 months.

3. The cost of relief under these provisions is borne as follows:

	<u>NNDR Pool</u>	<u>Local Council Taxpayers</u>
Mandatory only	100%	Nil
Discretionary top-up	25%	75% *
Discretionary only	75%	25%

\* ie if the discretionary top-up is for the full remainder of the rate then the NNDR pool will pay for all of the mandatory element (80%) plus one quarter of the balance (5%). The local council taxpayers will fund the rest (15%).

4. Each case must be considered on its own merits. The Office of the Deputy Prime Minister considers that blanket decisions by the authority may be *ultra vires* and advises authorities to draw up readily understood policies for granting rate relief.

5. Guidelines

- 1) Organisations eligible for mandatory rate relief (80%) will not normally be considered for any discretionary relief with the following exceptions:
  - (a) Official Scout and Guide Organisations shall be granted discretionary rate relief from the remaining rate liability (20%); provided they can demonstrate that their premises are used solely or mainly by them, or by them and other non-profit making services, for the benefit of the Community. This would be subject to certification at each renewal of the relief or upon request by the Council's authorised officers, whichever shall be the sooner.
  - (b) Community Associations;
  - (c) Village Halls; and
  - (d) Day Centres for the elderly and other groups (together with their administrative offices where remote from the operational centre).

Organisations in (b), (c) or (d) shall be granted discretionary rate relief from the remaining rate liability (20%).

In all instances the cost of granting this relief is borne 25% nationally and 75% by local Council Taxpayers.

Relief so allowed is to be taken into account in any revenue grant aid made by the Council.

- 2) Non-profit making leisure and sporting organisations that have registered with the Inland Revenue as Community Amateur Sports Clubs (CASCs) are entitled to receive mandatory rate relief of 80% and will not normally be considered for any discretionary rate relief. Non-profit making leisure and sporting organisations that are not eligible as CASCs whose activities:
  - (i) Enhance or supplement the Council's own services; and
  - (ii) Mainly serve the local area

will be considered, on their own merits, for discretionary relief of up to 50%.

Relief so allowed is to be taken into account in any revenue grant aid made by the Council.

6. Authority to determine relief

- Determinations for the granting of relief in cases that fall within the scope of Guideline 1 (topping-up) shall be made by the Director of Finance.
- Determinations for the granting of relief in cases that fall within the scope of Guideline 2, and other applications not specified, shall be brought before the Policy and Resources Committee for consideration and determination on each occasion.
- The Director of Finance may, at his discretion, make a determination to revoke the relief in accordance with Section 47(6) of the 1988 Act if, during a period for which an organisation is in receipt of relief:
  - (i) there is a material change in an organisation's circumstances; or
  - (ii) there is a material change in the use of the premises; or
  - (iii) the organisation fails to provide relevant information regarding its current status.

In respect of those cases that fall within the scope of Guideline 2, the Director of Finance shall inform the Committee of any revocation in a report to the next available meeting.

- Aggrieved claimants shall have the right of appeal to the Council.

## Non Domestic Rates - Mandatory and Discretionary Relief Granted in 2004/05

Organisation	Rate Payable		Mandatory Relief		Discretionary Relief		Details of application for 2005/06
	£	%	£	%	£	%	
<b>Non-Profit Making Sporting and Leisure Organisations</b>							
Addlestone Canoe Club	706.80	-	-	-	353.40	25%	Application received - no change
Chertsey Cricket Club	435.13	-	-	25%	108.78	25%	Status changed to CASC from July 2004 (see below)
Chertsey Football Club	3,192.00	-	-	50%	1,596.00	25%	Application received - no change
Egham Bowls Club	16,872.00	-	-	25%	4,218.00	25%	Application received - no change
Egham Cricket Club	2,827.20	-	-	25%	706.80	25%	Not yet applied
Egham Rugby Football Club	1,687.20	-	-	25%	421.80	25%	Application received - no change
Egham Town Football Club	7,487.56	-	-	50%	3,743.78	25%	Not yet applied
Englefield Green Cricket Club	729.60	-	-	25%	182.40	25%	Application received - no change
Laleham Sailing Club	592.80	-	-	25%	148.20	25%	Application received - no change
Ottershaw Cricket Club	433.20	-	-	25%	108.30	25%	Application received - no change
Staines Boat Club	1,824.00	-	-	25%	456.00	25%	Application received - no change
<b>Total for Sporting and Leisure Organisations</b>					<b>12,043.46</b>		<b>3,010.87</b>
<b>Community Amateur Sports Club</b>							
Chertsey Cricket Club	1,525.66	80%	1,220.53				Application received - no change
Staines Sailing Club	1,778.40	80%	1,422.72				Application received - no change
Virginia Water FC	2,052.00	80%	1,641.60				Application received - no change
Weybridge Rowing Club	1,185.60	80%	948.48				Application received - no change
Wraybury Skiff & Punt Club	1,007.61	80%	806.09				Application received - no change
<b>Total for Community Amateur Sports Club</b>			<b>6,039.42</b>		<b>0.00</b>		
<b>Scout and Guide Groups</b>							
1st/2nd Addlestone Guides	410.40	80%	328.32		149.11	75%	Not applied - ceased using this building
1st Chertsey Scout Group	745.53	80%	596.42		63.84	75%	Application received - no change
1st Egham (St Johns) Scout Group	319.20	80%	255.36		50.38	75%	Application received - no change
1st Egham Hythe Scout Group	251.88	80%	201.50		44.33	75%	Application received - no change
1st Englefield Green Scout Group	221.65	80%	177.32		182.40	75%	Application received - no change
1st New Haw (All Saints) Scout Group	912.00	80%	729.60		200.64	75%	Application received - no change
1st Ottershaw Scout & Guide Group	1,003.20	80%	802.56		410.40	75%	Application received - no change
1st/4th Addlestone (St Pauls) Scout Group	2,052.00	80%	1,641.60		127.68	75%	Application received - no change
2nd New Haw Scout Group	638.40	80%	510.72		72.54	75%	Application received - no change
3rd Addlestone Scout Group	362.68	80%	290.14				Application received - no change
<b>Total for Scout and Guide Groups</b>			<b>5,533.55</b>		<b>1,301.31</b>		<b>975.98</b>

## Non Domestic Rates - Mandatory and Discretionary Relief Granted in 2004/05

Organisation	Rate Payable		Mandatory Relief		Discretionary Relief		RBC Contribution		Details of application for 2005/06
	£	%	£	%	£	%	£	%	
<b>Community Associations</b>									
Addlestone Community Association	8,892.00	80%	7,113.60	20%	1,778.40	75%	1,333.80	75%	Application received - no change
Age Concern Offices	2,097.60	80%	1,678.08	20%	419.52	75%	314.64	75%	Application received - no change
Chertsey Artists Ltd	2,337.00	-	-	50%	1,168.50	25%	292.13	25%	Application received - no change
Egham & Staines Model Railway Society	332.45	-	-	50%	166.23	25%	41.56	25%	Application received - no change
Englefield Green Youth Centre	1,265.76	-	-	100%	1,265.76	25%	316.44	25%	No longer applicable - SCC are assuming responsibility
Lyne Village Hall	2,139.02	80%	1,711.22	20%	427.80	75%	320.85	75%	Application received - no change
New Haw Community Association	6,862.80	80%	5,490.24	20%	1,372.56	75%	1,029.42	75%	Application received - no change
Ottershaw Players	558.60	-	-	50%	279.30	25%	69.83	25%	Application received - no change
Penton Park Community Social Club	2,986.80	80%	2,389.44	20%	597.36	75%	448.02	75%	Application received - no change
RAOB GLIE Lodges HQ	3,442.80	-	-	25%	860.70	75%	645.53	75%	Application received - no change
St Judes Players Social Hall Committee	2,348.40	80%	1,878.72	20%	469.68	75%	352.26	75%	Application received - no change
Thorpe Youth Association	332.45	80%	265.96	20%	66.49	75%	49.87	75%	Application received - no change
Virginia Water Community Association	2,053.34	80%	1,642.67	20%	410.67	75%	308.00	75%	Application received - no change
<b>Total for Community Associations</b>			<b>22,169.93</b>		<b>9,282.97</b>		<b>5,522.33</b>		
<b>Charity Shops</b>									
Cancer Research	3,338.04	80%	2,670.43	80%	-	-	-	-	Application also made for discretionary relief
Dr Barnados - 101 Guildford Street	4,104.00	80%	3,283.20	80%	-	-	-	-	Application received - no change
Fara Enterprises Ltd - 72 Station Road	3,983.57	80%	3,186.86	80%	-	-	-	-	Application received - no change
Fara Enterprises Ltd - 122 Guildford St	4,674.00	80%	3,739.20	80%	-	-	-	-	Application received - no change
Help The Aged - 2 Station Parade	4,058.40	80%	3,246.72	80%	-	-	-	-	Application also made for discretionary relief
Help The Aged - 76 High Street	2,827.20	80%	2,261.76	80%	-	-	-	-	Application also made for discretionary relief
Help The Aged - 88 Station Road	5,212.26	80%	4,169.81	80%	-	-	-	-	Application also made for discretionary relief
Oxfam - 168c High Street	6,384.00	80%	5,107.20	80%	-	-	-	-	Application also made for discretionary relief
Oxfam - 80 Station Road	4,452.75	80%	3,562.20	80%	-	-	-	-	Application received - no change
Princess Alice Hospice	3,556.80	80%	2,845.44	80%	-	-	-	-	Application received - no change
Salvation Army - 118 Church Road	1,732.80	80%	1,386.24	80%	-	-	-	-	Application received - no change
Shaw Trust Ltd - 54 High Street, Egham	5,244.00	80%	4,195.20	80%	-	-	-	-	Application also made for discretionary relief
Woking Hospice Trust	3,055.20	80%	2,444.16	20%	611.04	75%	458.28	75%	Application received - no change
Y M C A - 7 The Sainsbury Centre	3,898.80	80%	3,119.04	80%	-	-	-	-	Application also made for discretionary relief
<b>Total for Charity Shops</b>			<b>45,217.46</b>		<b>611.04</b>		<b>458.28</b>		

## Non Domestic Rates - Mandatory and Discretionary Relief Granted in 2004/05

Organisation	Rate Payable		Mandatory Relief		Discretionary Relief		RBC Contribution		Details of application for 2005/06
	£	%	£	%	£	%	£	%	
<b>Other Charities</b>									
Battersea Dogs Home - Priest Hill	17,957.62	80%	14,366.10						Application received - no change
British Red Cross - 58 Runnymede Road	706.80	80%	565.44						<b>Application also made for discretionary relief</b>
C A B - 50 High Street, Egham	1,642.67	80%	1,314.14	20%	328.53	75%	246.40		Application received - no change
C A B - Civic Offices, Addlestone	2,599.20	80%	2,079.36	20%	519.84	75%	389.88		Application received - no change
Coopers Hill Recreational Trust Ltd	5,130.00	80%	4,104.00	20%	1,026.00	75%	769.50		Application received - no change
Construction Health & Safety Group	15,526.80	80%	12,421.44						Application received - no change
Crusaders Union Ltd - 2 Station Approach	957.60	80%	766.08	20%	191.52	75%	143.64		Application received - no change
Duke Of Edinburgh Award - 10 Station Rd	12,768.00	80%	10,214.40	20%	2,553.60	75%	1,915.20		Application received - no change
Dyslexia Institute Ltd - Park Hse, Wick Rd	36,138.00	80%	28,910.40	20%	7,227.60	75%	5,420.70		Application received - no change
Egham Museum Trust	877.80	80%	702.24						Application received - no change
Fountain Of Wisdom Ministries	2,929.80	80%	2,343.84						Application received - no change
Home Evangelism	9,006.00	80%	7,204.80						Application received - no change
National Trust - Cafe, Windsor Road	1,833.60	80%	1,466.88						<b>Application also made for discretionary relief</b>
National Trust - Car Park, Windsor Road	1,596.00	80%	1,276.80						<b>Application also made for discretionary relief</b>
New Haw Club And Institute	4,263.60	80%	3,410.88						<b>Application also made for discretionary relief</b>
Olive Matthews Collection Trustees	706.80	80%	565.44						Application received - no change
Runnymede Ass'n of Voluntary Services	7,296.00	80%	5,836.80	20%	1,459.20	75%	1,094.40		Application received - no change
Runnymede Drama Group	947.04	80%	757.63						Application received - no change
Salvation Army - Adj 37 Heathervale Rd	443.29	80%	354.63						Application received - no change
Samaritans	2,085.48	80%	1,668.38						Application received - no change
St Johns Ambulance - Brigade Centre	1,208.40	80%	966.72	20%	241.68	75%	181.26		Application received - no change
Surrey Army Cadet Force - Drill Hall Road	7,204.80	80%	5,763.84						<b>Application also made for discretionary relief</b>
Surrey Army Cadet Force - School Lane	957.60	80%	766.08						<b>Application also made for discretionary relief</b>
Surrey Islamic Trust	7,524.00	80%	6,019.20						Application received - no change
Surrey Womens Aid	5,586.00	80%	4,468.80	20%	1,117.20	75%	837.90		Application received - no change
Swan Sanctuary - Field Lane, Egham	706.80	80%	565.44						Application received - no change
Welmede Housing Assoc	37,620.00	80%	30,096.00						Application received - no change
Woman's League of Health - 52 London St	407.71	80%	326.17						Application received - no change
<b>Total for Miscellaneous Charities</b>			<b>149,301.93</b>		<b>14,665.17</b>		<b>10,998.88</b>		

## Non Domestic Rates - Mandatory and Discretionary Relief Granted in 2004/05

Organisation	Rate Payable		Mandatory Relief		Discretionary Relief		RBC Contribution		Details of application for 2005/06
	£	%	£	%	£	%	£	%	
<b>Educational Establishments</b>									
Addlestone Playgroup	684.00	80%	547.20		-				Application received - no change
Bishopsgate School	35,796.00	80%	28,636.80		-				Application received - no change
Brunel University	80,940.00	80%	64,752.00		-				Application received - no change
Brunel University - The Boat House	1,026.00	80%	820.80		-				Application received - no change
Christchurch School (SCC)	5,038.80	80%	4,031.04		-				Application received - no change
Fullbrook School - Playing Field	1,140.00	80%	912.00		-				Application received - no change
Fullbrook School - School	99,867.00	80%	79,893.60		-				Application received - no change
Holy Family Primary (SCC)	8,869.20	80%	7,095.36		-				Application received - no change
IMI Bakeham Lane	102,843.64	80%	82,274.91		-				Application received - no change
Jubilee High School	59,052.00	80%	47,241.60		-				Application received - no change
Little Echoes Nursery	1,938.00	80%	1,550.40		-				Application received - no change
Lyne & Longcross CoE School (SCC)	2,850.00	80%	2,280.00		-				Application received - no change
Manorcrofts Nursery School	1,642.67	80%	1,314.14		-				Application received - no change
R.H.B.N.C - College	756,504.00	80%	605,203.20		-				Application received - no change
R.H.B.N.C - Unit 1 Huntersdale Laboratory	16,416.00	80%	13,132.80		-				Application received - no change
R.H.B.N.C - Unit 2 Huntersdale Laboratory	7,752.00	80%	6,201.60		-				Application received - no change
Salesian School - Annex	61,446.00	80%	49,156.80		-				Application received - no change
Salesian School - School	29,047.20	80%	23,237.76		-				Application received - no change
Sayes Court Junior School	10,886.22	80%	8,708.98		-				Application received - no change
Sir William Perkins School	105,336.00	80%	84,268.80		-				Application received - no change
St Ann's RC Primary (SCC)	32,102.40	80%	25,681.92		-				Application received - no change
St Cuthberts (SCC)	7,615.20	80%	6,092.16		-				Application received - no change
St Georges College	178,752.00	80%	143,001.60		-				Application received - no change
St Johns RC School	46,284.00	80%	37,027.20		-				Application received - no change
St Judes CoE School (SCC)	16,803.60	80%	13,442.88		-				Application received - no change
Strode's College - Adj Tims Boatyard	3,784.80	80%	3,027.84		-				Application received - no change
Strodes College - College	71,820.00	80%	57,456.00		-				Application received - no change
Thorpe CoE School (SCC)	5,016.00	80%	4,012.80		-				Application received - no change
University of London	47,652.00	80%	38,121.60		-				Application received - no change
<b>Total for Educational Establishments</b>			<b>1,439,123.78</b>						
<b>GRAND TOTALS</b>			<b>1,667,386.06</b>		<b>37,903.95</b>			<b>20,966.34</b>	

Notes from Local Government Member Working Group meeting – January 18<sup>th</sup> 2005

Andrew Pearson, Tim Williams, Cllr Chris Norman, Cllr Linda Gillham, Cllr Geoffrey Woodger, Cllr John Edwards, Cllr Niall Thewlis, Cllr Paul Greenwood, Cllr Paul Tuley, Cllr Robert Ray, Cllr Roger Habgood,

## **CPA 2005**

The first CPA came from the Government White Paper and was all about driving continual improvement.

- Two issues of concern:
  - The external inspectors forming a judgement on ‘shared priorities’. Priorities should be weighted towards local priorities. Central priorities and local priorities conflict and Councils will be marked down for ‘reacting to local concerns’ instead of focussing on central priorities that aren’t necessarily relevant to the local community. Planning was highlighted as an example - freedom is reduced by Councils due to restrictions imposed by the Government.
  - What exactly will happen in relation to District Councils? The section on District Councils is far from clear on the assessment criteria and how this is tailored to District Councils. It is not clear what is applicable to District Councils.
- There is difficulty in tracking the differences and improvements between the original CPA and the Second Generation CPA. There is no framework for judgement on District services and discretionary services. This is a concern as District Councils provide a variety of services – for example, some councils don’t provide housing services.
- Concern was expressed about the increased use of performance indicators for service judgements – indicators have been manipulated by other authorities and scores will be based on inaccurate information. There is going to be more reliance on data and the assessment will be approached on a rules based process and will be more like an audit exercise.
- What do Direction of Travel statements mean? How can this be measured if the goal posts are being continually moved and it is being radically altered? Is this an overall reflection or does it focus on individual services? Weightings need to be consistent and transparent across the county.

- Value for money - the Council is already very strong in this area and is already providing a 5 year business plan and 'priority Performance Indicators'.
- CPA 2005 is clearly a unitary model and unitary authorities are the only councils being taken seriously – there is an argument that these Las need the most improvement
- Response section on shared priorities – example will be changed from housing to crime.

It was agreed to discuss the papers at the Corporate Management Committee.

#### Constitution:

##### Article 4: The Full Council

There have been discussions over the years on 'asking questions' at full council and if there should be debates in Council meetings.

##### Article 6: Review Board

Call-In is biased towards the majority groups and there is no debate on the processes. A Call-in is a genuine investigative role and can be obstructive – do the three areas of a call-in represent the right ground?

#### Consultation: Taking note of public holidays

Standings Orders: There is not a good enough understanding. There should be training for Chair persons.

Opportunities for members of the public to speak at other Committees – When members of the public don't speak the truth – they cannot be corrected – is that a modest risk worth taking? Should it be extended to all Committees for a trial period – more discussion on issue at Corporate Management Committee.

Broadcasting of meetings – look at best practise.

Code of Conduct – IT – lap-tops means more opportunity for abuse.

#### Liaison Arrangements with Surrey County Council

Reminding Members of the report. This is a political decision for Members and is a radical review of policy and productivity. It was agreed to review arrangements after the Elections in May as the County Council may change.

#### Reporting Arrangements

Members want periodical reporting to Corporate Management Committee –  
formal scrutiny – twice a year.