Commentary on Exceptional Risk Items

This section sets out some of the exceptional risks facing the Council and hence the purposes and parameters for use of the exceptional risk reserve.

Bath Spa Claims Management Costs

Claims management costs have to be met from the revenue budget in the first instance. However where a claim is successful the costs associated with that claim may be offset against the receipts from the claim. This can only be done when the outcome is known, it cannot be anticipated. All claims management costs are therefore apportioned to the 'heads of claim', but have to be met from the revenue budget in the mean time.

The costs of defending and/or pursuing claims is difficult to estimate as it depends as much on the actions of third parties as well as the Council. Previous council decisions to fund the claims team have now put the Council into a position of having managed and significantly reduced the risks to the Council of a hostile litigation but should that occur we would be able to respond effectively to that challenge. We have improved our ability to defend against claims, and will more able to justify counter claims.

Therefore it is now proposed that:

- The currently anticipated claims management costs for 2007/08 be met from the council's exceptional risk reserve, up to a total of £2.2M, with drawdown to be authorised by the Strategic Director of Support Services, in consultation with the Executive Member for Resources and the Administration Group Leaders

- Any draw down on reserves for Spa Claims Management Cost in excess of the above amounts be repaid to reserves over 3 years beginning in the year after drawdown and that this is added to savings targets for services in future years.

- The level of revenue reserves continue to be increased at every opportunity. For instance if any Business Growth Incentive grant is received by this Council, then this should be used to top up balances.

- The Council make no further calls on the revenue reserves except to fund major risks identified in the revenue and capital budgets where these cannot be dealt with through management or policy actions.

The net outcome of the claims by or against the Council cannot be anticipated. The recommendations of the Support Services Director on the level of capital contingency reflects this and other risks.

£10M of further Capital Receipts Reducing Unsupported Borrowing in 2007-08

The revenue budget reflects the following achievement of capital receipts:

- £5.135m p.a. between 2006/07 to 2008/09 of general receipts and £1m of Housing Receipts as per the financial plan agreed in February 2006
- a further £10m of exceptional receipts before 31 March 2007. This comprises £2m to fund the capitalisation required to create the exceptional risk reserve, a further £3.75M to replace the receipts assumed in 2006/07 in relation to Education, but not now expected until 2007/08 and a further £4.5M to reduce unsupported borrowing and so enable the council to fund service revenue budgets above the original financial plan targets.

The Council needs to be aware that:

- Full achievement of these targets represents a major risk. If the target is not achieved the revenue impact in 2007/08 will need to be met from the exceptional risk reserve / general reserves.

Single Status

The financial plan agreed in February 2006 made no additional provision for the ongoing cost of implementing the single status agreement. Any additional costs over and above offsetting savings agreed with the trade unions will therefore have to be by reductions in the council's staffing costs, while minimising the impact on front-line service delivery. At the time of writing it is expected that there will be a collective agreement (subject to the outcome of a ballot) under which the ongoing non-schools net additional cost of £1M p/a, will be partly funded by agreed changes in overtime and enhancement arrangements (£400k p/a), but that the remaining £600k will remain unfunded within the agreement and therefore needs to be part of the council's efficiency savings target. These figures are all the best estimates at the time of writing, and are therefore subject to change (e.g. further clarification in relation to casual staff, trading units, and/or appeals against evaluations). These cost have been included as part of the single status costs in table 1 above. Costs in relation to schools will fall to be met by schools under the DSG arrangements.

The cost of single status back pay and protection will also not be known until negotiations with the trade unions (and any ballot) are completed. It is proposed that any Local Public Service Agreement (LPSA) revenue reward grant is earmarked to contribute to any costs. It is also proposed that any excess is covered by the exceptional risk reserve and / or general reserves, with in the case of the latter, a commitment to repay those reserves over 3 years. This will be in addition to financial plan targets and any requirement to recover reserves in the light of other risks. This will put even more pressure on the revenue budget in 2007/08 and future years, and will have to be made primarily through reductions in the council's staffing costs, while minimising the impact on front-line service delivery. At the time of writing it is expected that there will be a collective agreement (subject to the outcome of a ballot) under which the non-schools costs of backpay and protection (beyond the funding identified above) when spread over 3 years will amount to c£360k p/a. This has been included as part of the single status costs in table 1 above. In addition, there may be further one off implementation costs (e.g. evaluations), which might need to be met from the exceptional risk reserve, to the extent they are not covered in table 1 above. Costs in relation to schools will fall to be met by schools under the DSG arrangements.

The DCLG are consulting on potential changes to accounting arrangements in respect of single status. Firstly they are considering the possibility of allowing some capitalisation of back pay. This would enable the cost to be spread over a longer period, but the indications are that the level of applications in relation to the total available is such that the amount of capitalisation that would be allowed may be a very small element. DCLG will not announce any allocation until early February. Secondly DCLG are consulting on a proposal to allow the costs of back pay to be charged to the financial year in which it is paid rather than when it is due (2006/07). If phased payments were made (e.g. April 07, April 08 and April 09) this would be a way of achieving the spreading of the cost over the next 3 financial years without having to reduce reserves in the mean time. Given the council's other financial risks this would provide a more secure basis for service and financial planning over the period.

The creation of a service transformation team

The report sets out elsewhere how most Directors have been unable to meet the current financial plan targets, in the context of current and future expected pressures. Given the exceptional risks outlined above and the worsening financial context, we are proposing to create a service and efficiency transformation team. The objective will be to identify savings opportunities both cross service and within services, where not otherwise identified. Implementation will be a matter for service management supported by corporate resources, if required.

The success of this initiative will be critical in meeting 2007/08 budget targets, and will play a key role in addressing the exceptional risks set out above, not least any shortfall in offsetting savings identified as part of single status. However, given the timing of this initiative, the ability of the savings identified in 2007/08 to be fully implemented within the year, is itself an exceptional risk. However as the direction of travel of future funding is clear, any full year effect of part year 2007/08 savings will be assisting what is likely to be an even more difficult budget round in 2008/09. In view of this risk we are asking for the Strategic Directors Group report back to the Executive in March 2007 on more detailed proposals for how the further efficiency savings will be achieved in 2007/08. The team will need to be resourced, and it is our intention that this be in the first instance vas a first call on any carry forward of any underspends in 2006/07, and thereafter / or as a first call on the planned savings, in year.

The exceptional items above represent a heightened risk within the Council's budgets and on the Council's reserves. These exceptional risks (over and above the normal service risks), if they all crystallise may mean calls on reserves which <u>could</u> reduce the Council's reserves to NIL by March 2007. This is both an unacceptable position and will call into serious question the Council's financial standing.

The Executive therefore supports strongly the Support Services Director's recommendations on the Reserves Strategy and the careful management of these issues by Members and officers during 2007-08 and future years. This also recognises that, if all these exceptional risks materialise, it will require significant service reductions as well as efficiency savings to retain the Council's financial standing.