

**Specific responses to A&GC regarding statement of accounts
for special meeting to be held 7 September 2011**

The following items required a more detailed explanation following A&GC on 4 July 2011:

Old Gaol staged payments. Further explanation required about balance sheet note 17 on long-term debtors.

Actual Minute: With regard to the council's long-term debtors in the balance sheet, the committee asked that the final version of the accounts contained a fuller explanation of what this item included. The director agreed to investigate this and advise the committee outside of the meeting.

Response:

In August 2008, negotiations took place with the highest bidder in view of a revised value of the site primarily as a result of the economic downturn and abnormal costs not originally foreseen. The bid was revised to £3.75 million with possible overage if sales exceeded certain level.

In February 2010, the executive received a report that detailed technical problems and highlighted that the developer's bank wished to reduce exposure. It was agreed by the executive to accept an initial payment in the region of £2 million (depending on land value) with the balance of £1.75 million to be paid depending on certain sales levels being reached. Possible overage remained unchanged (as above).

On completion in August 2010 a capital receipt of £2,033,000 was received less the council's costs of sale of £23,105 (from capital). The balance of capital receipt (£3.75m less £2.0335m) was £1.7165m.

In accordance with the Code of Practice on Local Authority Accounting (the Code) the consideration for the disposal is £3.75m and the 'fair value' of the deferred payment has to be included in the accounts for 2010-11.

	£
Sale proceeds	3,750,000
Book value of asset	(3,256,676)
Disposal costs	(23,105)
Gain on disposal – to CI&ES	470,219

In order to account for the later payment the likely timing of deferred receipt was agreed with Matt Prosser as 2 years beginning 2013/14. As per the Code, the fair value at balance sheet date is ascertained by applying discount rate to £1.7165m received 50% in mid 2013-14 and 50% in mid 2014-15. As the council does not borrow to fund its capital programme there is no cost of borrowing to use, therefore the HM Treasury (cost of capital for public sector) discount rate of 3.5% was used – HM Treasury "Green Book" refers.

	£
Balance of receipt	1,716,500
Fair value of part due 2013-14	(771,876)
Fair value of part due 2014-15	(745,774)
Cost of deferred receipt (notional interest) – to CI&E but reversed through Movement in Reserves Statement so no effect	198,849

Position in accounts at balance sheet date:

Cr Capital receipt	Dr Cash	£2,033,500
Cr Deferred capital receipt	Dr Long term debtor	£1,517,651

In 2011-12, 2012-13 and 2013-14 the debtor generates a credit for interest at 3.5% which increases the debtor figure to match the actual receipt of £1,716,500

This is because the deferred receipt is in accounting terms a loan to the contractor of which the interest charges would be £198,849 – being the cost to the council of not receiving all of the receipt in 2010/11. The total cash still to be received is £1,716,500 which equals the debt, but the ‘capital receipt’ element is now £1,517,651 which equals the deferred capital receipt – the balance is credited to the CI&E account as interest received. The Code regards this as a payment received for the granting of a credit period.

Microsoft software licence dispute.

Actual Minute: The committee also asked about an item in the accounts that set aside an amount to defend a legal challenge by a third party. The officers explained that it was good accounting practice to allocate funds in case the council lost the legal challenge. The officers agreed to update the committee at a future meeting.

Response:

The minute is not actually correct in referring to the allocation of funds. The note refers to “contingent liabilities” and is purely a statutorily required note on items of uncertain timing and uncertain value that may or may not materialise. As such we are not required to make a financial provision (ie: allocate or earmark funds for this) in the accounts of the council. However to provide a true and fair view of potential future liabilities to the council we are obliged to disclose any such liabilities in a note to the accounts.

The note to the Statement of Accounts has been amended on the chief financial officer’s instruction and is shown below (subject to District Audit agreement)

Contingent liabilities

At 31 March 2011, the council had the following contingent liabilities:

- Last year the Council was being pursued by a software company regarding non-payment of software licences. At present this matter seems to have been avoided but it is possible that the company may start pursuing the matter more robustly.

Liability has not been established and, if liable, for how much but the exposure of the Council could be in excess of £100,000. It is unlikely to have an impact on the 2010/11 accounts and no provision has been made in these accounts for this item.

- During 2008/09, three operators under the concessionary fares scheme appealed to the Secretary of State against the council's 2009-10 scheme on the grounds that they were "prejudicially affected" or inadequately reimbursed. One holding company that owns two of the three has issued judicial proceedings against the council. The case is similar to several other cases against local authorities that are currently being pursued through the legal system. The indications are that these cases will be settled by consent without significant financial implications for the council but the settlement has not yet been concluded.
- One of the council's leisure services contractors is pursuing the council for a shortfall in pensions paid to OCC of c.£160,000 which came about when the leisure centres were contracted out. The contractor argues that the liability for the shortfall falls on the council as it relates to unforeseen costs. The legal opinion of the council is that the liability falls to the contractor as the current employer, however, there is a possibility that the liability would still fall on the council (as guarantor) if the contractor defaulted on its payments.
- An ex-employee has taken a case to the Pensions Ombudsman; the Ombudsman has found in his favour and has made a charge of liability against the Oxfordshire County Council Pension Fund. The Pension Fund has indicated its belief that the Council is liable for part of the award made against them. Whilst the council does not admit any liability in this case, it is considered prudent to recognise a contingent liability of a compensatory award of not more than £53,590 due in 2012 and a possible future pension cost of £66,666 in 2014.
- The council has agreed a Payment and Performance Mechanism with one of its contractors that would compensate the council should performance targets for council tax, business rates and benefits administration fall below specified standards. Similarly, should performance exceed specified standards then the council would be liable to pay a performance-related bonus.

2010/11 performance has yet to be finalised. Based on provisional data the contractor would be entitled to receive a performance bonus in respect of council tax collection and benefits processing of around £18,000. However, performance against other benefits indicators is subject to audit, the outcome of which may result in a change in the payment due. Provision has not been made for these items as the amount cannot be reliably estimated at this time.

- Compensation Claims for injury and or damage. The majority of claims for compensation are individually immaterial. They relate to personal injuries sustained where the Authority is alleged to be at fault (for example, through a failure to repair a pavement properly). Provision has not been made for such claims as the authority's liability is limited to the individual excess on the policy, which in most cases is £5,000. Until claims are settled by the authority's insurers, the cost of the excess cannot be recognised. It is also considered that collectively the sum of these claims in any one year is immaterial.