

**Economy, Communities and Corporate**

Geoff Hughes - Director

**TO: ALL MEMBERS OF THE COUNCIL**

Our Ref: Council - 20 May 2016

Please ask for: David Penrose

Direct line: (01432) 383690

email: [councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)

12 May 2016

Dear Councillor,

**YOU ARE HEREBY SUMMONED** to attend the meeting of the Herefordshire Council to be held on **Friday 20 May 2016** at the Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX at **10.30 am** at which the business set out in the attached agenda is proposed to be transacted.

Yours sincerely

*C Ward*

**CLAIRE WARD  
SOLICITOR TO THE COUNCIL**



# AGENDA

## Council

Date: **Friday 20 May 2016**

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Time: **10.30 am**

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Place: **Council Chamber, The Shire Hall, St Peter's Square,  
Hereford, HR1 2HX**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Governance Services**

Tel: 01432 260239

Email: [councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)

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# Agenda for the Meeting of the Council

## Membership

**Chairman**

**Vice-Chairman**

**Councillor DB Wilcox**

**Councillor PJ McCaull**

Councillor PA Andrews  
Councillor JM Bartlett  
Councillor TL Bowes  
Councillor CR Butler  
Councillor MJK Cooper  
Councillor PGH Cutter  
Councillor PJ Edwards  
Councillor DW Greenow  
Councillor J Hardwick  
Councillor EPJ Harvey  
Councillor JA Hyde  
Councillor AW Johnson  
Councillor JLV Kenyon  
Councillor MD Lloyd-Hayes  
Councillor RI Matthews  
Councillor MT McEvelly  
Councillor PM Morgan  
Councillor FM Norman  
Councillor RJ Phillips  
Councillor AJW Powers  
Councillor P Rone  
Councillor A Seldon  
Councillor WC Skelton  
Councillor D Summers  
Councillor LC Tawn  
Councillor SD Williams

Councillor BA Baker  
Councillor WLS Bowen  
Councillor H Bramer  
Councillor ACR Chappell  
Councillor PE Crockett  
Councillor BA Durkin  
Councillor CA Gandy  
Councillor KS Guthrie  
Councillor DG Harlow  
Councillor EL Holton  
Councillor TM James  
Councillor JF Johnson  
Councillor JG Lester  
Councillor MN Mansell  
Councillor RL Mayo  
Councillor SM Michael  
Councillor PD Newman OBE  
Councillor CA North  
Councillor GJ Powell  
Councillor PD Price  
Councillor AR Round  
Councillor NE Shaw  
Councillor J Stone  
Councillor EJ Swinglehurst  
Councillor A Warmington

**AGENDA****Pages**

*(The meeting will be preceded by prayers.)*

- |    |   |         |
|----|---|---------|
| 1. | <b>ELECTION OF CHAIRMAN</b><br>To elect the Chairman of the Council.  |         |
| 2. | <b>APPOINTMENT OF VICE-CHAIRMAN</b><br>To appoint the Vice-Chairman of the Council.   |         |
| 3. | <b>APOLOGIES FOR ABSENCE</b><br>To receive apologies for absence.   |         |
| 4. | <b>DECLARATIONS OF INTEREST</b><br>To receive any declarations of interest by Members in respect of items on the Agenda.  |         |
| 5. | <b>MINUTES</b><br>To approve and sign the Minutes of the meeting held on 4 March 2016.  | 9 - 14  |
| 6. | <b>CHAIRMAN'S ANNOUNCEMENTS</b><br>To receive the Chairman's announcements and petitions from members of the public.  | 15 - 16 |
| 7. | <b>ELECTION OF LEADER OF THE COUNCIL</b><br>To elect the Leader of the Council.   |         |
| 8. | <b>APPOINTMENTS TO COUNCIL COMMITTEES AND OUTSIDE BODIES</b><br>To make appointments to the committees of the Council and outside bodies in line with the rules of political proportionality.<br><br><b>Please note that the Council will be asked under this item to approve alternative arrangements to strict political proportionality for appointments to Committees and other bodies in accordance with Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990.</b> | 17 - 22 |
| 9. | <b>CONFIRMATION OF DESIGNATION OF STATUTORY OFFICER (MONITORING OFFICER)</b><br>To designate a post as monitoring officer.  | 23 - 26 |



## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

## **Recording of meetings**

- Anyone is welcome to record public meetings of the council using whatever, non-disruptive, methods you think are suitable. Please note that the meeting chairman has the discretion to halt any recording for a number of reasons including disruption caused by the recording, or the nature of the business being conducted. Recording should end when the meeting ends, if the meeting is adjourned, or if the public and press are excluded in accordance with lawful requirements.
- Anyone filming a meeting is asked to focus only on those actively participating.
- If, as a member of the public, you do not wish to be filmed please make a member of the governance team aware.

## **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.



HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Council held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Friday 4 March 2016 at 10.00 am**

**Present:** Councillor DB Wilcox (Chairman)  
Councillor PJ McCaull (Vice Chairman)

**Councillors:** PA Andrews, BA Baker, JM Bartlett, WLS Bowen, TL Bowes, H Bramer, CR Butler, ACR Chappell, PE Crockett, PGH Cutter, BA Durkin, PJ Edwards, CA Gandy, DW Greenow, KS Guthrie, J Hardwick, DG Harlow, EL Holton, JA Hyde, TM James, AW Johnson, JLV Kenyon, JG Lester, MD Lloyd-Hayes, RI Matthews, RL Mayo, MT McEvelly, SM Michael, PM Morgan, PD Newman OBE, FM Norman, CA North, RJ Phillips, GJ Powell, AJW Powers, PD Price, P Rone, AR Round, A Seldon, NE Shaw, WC Skelton, J Stone, EJ Swinglehurst, A Warmington and SD Williams

**57. APOLOGIES FOR ABSENCE**

Apologies were received from councillors MJK Cooper, LC Tawn, JF Johnson, MN Mansell, L Harvey and D Summers.

The chairman confirmed that he would write to Councillor Summers on behalf of council to express their wishes for a speedy recovery.

**58. DECLARATIONS OF INTEREST**

Councillor RJ Phillips declared a non-pecuniary interest as vice chairman of the Hereford and Worcester Fire and Rescue Service Authority.

**59. MINUTES**

It was noted that revised draft minutes had been published as a supplement to the agenda following comments on matters of accuracy received prior to the meeting from a member.

Another member expressed concern at what he saw were certain discrepancies in the financial amounts contained in the budget report that were presented at the last council meeting.

**RESOLVED:** That the revised draft minutes of the meeting the 5 February 2016 be confirmed as a correct record and signed by the chairman.

**60. CHAIRMAN'S ANNOUNCEMENTS**

Council noted the chairman's announcements as printed in the agenda papers.

The chairman offered congratulations on behalf of the council to Councillor Roger Phillips on his appointment by the Communities Secretary of State Greg Clarke as chairman of the local government pension scheme advisory board.

He also reminded councillors that there were only 10 days remaining to submit nominations for the Herefordshire community awards with full details available on the council's website.

The chairman also reported the receipt of a petition relating to the Hereford to Worcester 420 bus service.

In addition, he announced his intention to require the chief executive to call an extraordinary meeting of the council at 2.00pm on 20 May 2016 and to include the following items on the agenda:

- local transport plan;
- approval of the Weston under Penyard neighbourhood plan and future approval processes of such plans;
- a review of the council's constitution

Councillor AJW Powers requested clarification regarding the approval of neighbourhood plans and whether all neighbourhood plans require approval by the council.

The chairman confirmed that this would be discussed at the council meeting on the afternoon of 20 May 2016.

A member expressed support for the chairman for his sponsored swim of 90 lengths to celebrate the Queen's 90<sup>th</sup> birthday and to raise funds for the Haven.

Councillor J Stone echoed the member's sentiments and noted that the chairman was continuing with a precedent set when as chairman he swam 40 lengths, 10 in each of the Halo pools in support of the Macmillan Renton Unit for Hereford Hospital.

## **61. QUESTIONS FROM MEMBERS OF THE PUBLIC**

A copy of the public question and written answer, together with a supplementary question asked at the meeting and the answer is attached to the minutes at appendix one.

## **62. COUNCIL TAX SETTING**

Councillor RJ Phillips declared a non-pecuniary interest as vice chairman of the Hereford and Worcester Fire and Rescue Service Authority. He also requested that the council write to the Hereford and Worcester Fire and Rescue Service chief fire officer Mark Yates, offering the council's congratulations on his retirement.

Council was asked to approve the council tax amounts for each category of dwelling in Herefordshire for 2016/17, including precepts from West Mercia Police, Hereford and Worcester Fire Authority and parishes.

The leader of the council presented the report. He highlighted a typographical error in the recommendations e (iii) and e (iv) where b(i), b(ii) and b(iii) should read e(i), e(ii) and e(iii) and moved the recommendations (as amended to correct the typographical error) which were seconded.

A member asked what the maximum borrowing ceiling for the council was and whether the recession would have any impact on it.

A member raised a concern that if borrowing rates were to increase this might have a negative effect on council budgets.

The director of resources confirmed that the majority of council borrowing was secured on relatively low fixed rates of interest. The ability to repay borrowing was the main consideration rather than the overall level and he did not consider if there was a return to recession a greater level of risk in relation to council borrowing would result.

A member commented that the sparsity grant was welcomed.

A named vote was held.

For (42) Councillors PA Andrews, BA Baker, JM Bartlett, WLS Bowen, TL Bowes, H Bramer, CR Butler, ACR Chappell, PE Crockett, PGH Cutter, BA Durkin, CA Gandy, DW Greenow, KS Guthrie, DG Harlow, EL Holton, JA Hyde, TM James, AW Johnson, JLV Kenyon, JG Lester, RL Mayo, PJ McCaull, MT McEvilly, SM Michael, PM Morgan, PD Newman, FM Norman, CA North, RJ Phillips, GJ Powell, AJW Powers, PD Price, P Rone, A Seldon, NE Shaw, WC Skelton, J Stone, EJ Swinglehurst, A Warmington, DB Wilcox, SD Williams

Against (0)

Abstain (5) Councillors PJ Edwards, J Hardwick, MD Lloyd-Hayes, RI Mathews, AR Round.

## **RESOLVED**

**That:**

- (a) the net budget requirement for 2016/17, excluding parishes, be approved as £147,979,357:**
- (b) the council tax requirement for the council's own purposes for 2016/17 (excluding parishes) be approved as £88,595,357:**
- (c) the precepting authority details incorporated in appendices 1 to 5, relating to parishes, West Mercia Police and Hereford and Worcester Fire Authority be approved in accordance with sections 30(2), 34(3), 36(1) and section 40 of the Local Government Finance Act 1992 (as amended):**
- (d) it be noted that the tax base used for setting the budget requirement for 2016/17 is:**
  - 1) for the whole council area is calculated as 66,873.00 band D equivalent properties.**
  - 2) allocated to band D equivalent dwellings per precept area as shown in appendix 1; and**
- (e) the following amounts be approved for the year 2016/17 in accordance with Section 31 to 36 of the Local Government Finance Act 1992 Regulation 6 (as amended by the Localism Act 2011):**
  - (i) £331,493,602** being the estimated aggregate expenditure of the council in accordance with section 31A (2) of the act, including all precepts issued to it by parish councils;
  - (ii) £239,396,466** being the estimated aggregate income of the council for the items set out in section 31A (3) of the act (including revenue support grant);

<b>(iii) £92,097,136</b>	<b>being the amount by which the aggregate at (e)(i) above exceeds the aggregate at (e)(ii) calculated by the council in accordance with section 31A(4) of the act, as its council tax requirement for the year (including parish precepts);</b>
<b>(iv) £1,377.19</b>	<b>being the amount at e(iii) above divided by the amount of the council tax base calculated by the council, in accordance with section 31B of the act, as the basic amount of its council tax for the year (including parish precepts);</b>
<b>(v) £3,501,779</b>	<b>being the aggregate amount of all special items (parish precepts) referred to in section 34(1) of the act;</b>
<b>(vi) £1,324.83</b>	<b>being the amount at (iv) above less the result given by dividing the amount at (v) above by the amount of the council tax base calculated by the council, in accordance with section 34(2) of the act, as the basic amount of its council tax for the year for dwellings in those parts of its area to which no parish precept relates (Herefordshire Council band D council tax, excluding parishes)</b>

### **63. Leader's Report**

The leader presented his report on the activities of cabinet since the meeting of council in December 2015.

A member questioned why after 15 months of attempting to arrive at a new policy regarding open spaces there was still no policy in place to support community groups in managing open spaces.

The cabinet member for infrastructure confirmed that conversations are ongoing with the planning department in bringing forward a proposal as a way forward.

A member asked for confirmation that sufficient resources regarding training were available to train staff in the implementation of Frameworki which is a social care management system serving both adult social care and children's services.

The cabinet member for economy and corporate services confirmed that work had been approved regarding the latest version called 'mosaic' and there was inbuilt provision for the roll out of required training. A written report would be provided.

A member noted the value of litter campaigns and the detrimental effect that litter can have on tourism. The cabinet member for transport and roads encouraged members to

organise litter picks and confirmed that litter bags were available through Balfour Beatty, who will also organise the collection and disposal of litter bags. He also explained that busy roads can require the arrangement of traffic management measures to protect the safety of council operatives when litter picking is being carried out.

A member stated that although he was not querying decisions taken, it would be helpful if future reports from the leader could include more information to increase public transparency.

The leader confirmed that information relating to all decisions was published on the council's website and therefore is in the public domain.

The cabinet member for contracts and assets confirmed the structured disposal of the council's small holding estate was progressing as planned. In addition, the libraries consultation deadline initially set as the end of February had been extended to the end of March.

A member commented on the progress being made regarding 1 Ledbury Road following the recent task and finish review.

A member requested an update regarding the remedial work required in Shire Hall.

A written answer will be provided.

A member requested that the council write to Litter Action noting that most of the laybys on the Hereford/Shropshire border were heavily littered and that Balfour Beatty should concentrate any available resources to cleaning laybys in preparation for the 'Clean for the queen campaign to clean up Britain in preparation for Her Majesty the Queen's 90<sup>th</sup> birthday.

The cabinet member for economy and corporate services thanked all members who have organised litter picks in their respective wards and in particular the Great Western Way.

**RESOLVED: That the report be noted.**

**64. FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS**

A copy of the member questions and written answers, together with supplementary questions asked at the meeting and their answers, is attached to the minutes at appendix two.

The meeting ended at 11.08 am

**CHAIRMAN**



## **Chairman's Announcements – Annual Meeting – 20<sup>th</sup> May 2016**

### **Events attended by the Chairman/Vice-Chairman of Herefordshire Council since the last Council meeting on 4<sup>th</sup> March 2016**

Anne Frank Exhibition - Aylestone Business & Enterprise College – Thursday 10<sup>th</sup> March 2016

Annual Lord Lieutenant's Cadets' Awards Ceremony 2016 – Thursday 10<sup>th</sup> March 2016

Citizenship Ceremony – Monday 14<sup>th</sup> March 2016

The Mayor of Ross-on Wye's Charity Ball 2016 – Saturday 19<sup>th</sup> March 2016

Bromyard Festival of Speed - Sunday 3<sup>rd</sup> April 2016

Incoming High Sheriff Ceremony – Thursday 7<sup>th</sup> April 2016

Launch of Kington Household Recycling Centre - Friday 8<sup>th</sup> April 2016

Civic Heads Dinner - Powys County Council - Friday 8<sup>th</sup> April 2016

Citizenship Ceremony – Monday 11<sup>th</sup> April 2016

SSAFA AGM - Thursday 21 April 2016

City of Hereford Mayor's Thanksgiving Service – St. Peter's Church - Sunday 24 April 2016

Red Cross - The Great Spring Garden Event – Wednesday 27<sup>th</sup> April 2016

Hereford Community Champions Award Ceremony - Friday 29<sup>th</sup> April 2016

Shropshire County Council's Civic Service - St Mary's Church Ellesmere - Sun 1<sup>st</sup> May 2016

Citizenship Ceremony – Monday 9<sup>th</sup> May 2016

Inauguration of His Honour Toby Hooper QC as a Freeman of the City –Saturday 14<sup>th</sup> May 2016

Leominster Town Council's Mayor Making Ceremony –Saturday 14<sup>th</sup> May 2016

Hereford City Council's Mayor Making – Monday 16<sup>th</sup> May 2016

## **Information**

On 11<sup>th</sup> June, there will be a special Cathedral Service of Celebration for the Queen's 90<sup>th</sup> Birthday to which the Lord Lieutenant, High Sheriff, civic heads, councillors, nonagenarians and other dignitaries are invited, followed by refreshments kindly prepared by the Friends of the Cathedral.

On the previous afternoon, as one of the events to celebrate the Queen's 90<sup>th</sup> birthday, I will be undertaking a sponsored swim of 90 lengths at Wye Leisure raising funds for my chosen charity, *The Haven*.

Ian Peake, Principal of Herefordshire & Ludlow College, Richard Heatly, former Principal of Hereford College of Arts, and Frankie Devereux, Herefordshire Fundraising Manager at The Haven, are also joining me with the sponsored swim.

All donations are welcome and can be made using the form in the Governance Office or online at: <https://www.thehaven.org.uk/fundraisers/brianwilcox>





<b>Meeting:</b>	<b>Council</b>
<b>Meeting date:</b>	<b>20 May 2016</b>
<b>Title of report:</b>	<b>Appointments to council committees and other bodies</b>
<b>Report by:</b>	<b>Solicitor to the council</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

County-wide

## Purpose

To exercise those powers reserved to Council at its annual meeting:

- (a) To confirm its committees and the number of seats on each, including terms of reference and functions of those committees;
- (b) To approve the allocation of seats to political groups for the coming year;
- (c) To make appointments to the positions of chairmen and vice-chairmen of committees; and
- (d) To make arrangements for such appointments to committees and other bodies as may be necessary, including co-optees.

## Recommendations

THAT:

- (a) **the list of ordinary committees listed at paragraph 8 be confirmed with their current terms of reference;**
- (b) **the number of seats on each committee and the allocation of those seats to political groups as set out at paragraph 9 be approved;**
- (c) **the allocation of seats on outside bodies to political groups as**

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Further information on the subject of this report is available from Annie Brookes, head of corporate governance on Tel (01432) 260605

set out at paragraph 10 be approved;

- (d) it be noted that all other representation on outside bodies be decided by the chief executive, following consultation with the group leaders, in accordance with the provisions of the constitution;
- (e) the appointment of five co-opted members of general overview & scrutiny committee be approved as follows:
  - one representative as nominated by the diocese of Hereford
  - one representative as nominated by the archdiocese of Cardiff
  - one parent governor as elected from the primary school sector
  - one parent governor as elected by the secondary school sector
  - one parent governor as elected by the special school sector;
- (f) Mr Richard Stow be appointed as independent person for a term of four years;
- (g) the suspension of the rules of proportionality in respect of the regulatory sub-committee, the River Lugg Internal Drainage Board, the Wye Valley AONB Joint Advisory Committee be approved; and
- (h) the appointment of committee chairmen and vice chairmen of the committees listed at paragraph 8 be approved.

## Alternative options

- 1 To draw up a different set of committees of a different size and composition with different terms of reference; this is not recommended in advance of completion of the ongoing review of the council's constitution.

## Reasons for recommendations

- 2 Council is required to review its political composition and how this is applied to appointments to committees and sub-committees of the council at each annual meeting of Council. Similarly, the constitution requires Council to review its ordinary committees at the annual meeting and make appointments to them.
- 3 The constitution requires the annual appointment of members to outside bodies.

## Key considerations

- 4 The membership of the respective political groups is shown in the table below.

<b>Group</b>	<b>Number</b>
Conservative group	29
Green group	2
Herefordshire Independents	8
It's Our County	11
Liberal Democrats	2
Not aligned	1
<i>Total</i>	<i>53</i>

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- 5 Council is under a duty to ensure membership of those committees and outside bodies covered by the relevant rules reflects the political composition of the council, as far as practicable, by allocating seats on the committees to the political groups in proportion to their numerical strength on the council, whilst also maintaining a similar proportional balance of overall seat numbers. Once Council has approved the allocation of seats to political groups, it is a matter for the relevant political group leaders to confirm which of their members will take up any seats allocated to their group. Cabinet (as the executive) and the health and wellbeing board (with a membership set out by statute) are both exempt from the requirements of political proportionality. Any member who is not aligned is not entitled to an allocation of seats within these rules.
- 6 These rules of political proportionality should also be applied when allocating seats on outside bodies to which the council makes three or more appointments.
- 7 It is open to Council to suspend the rules of political proportionality in relation to allocation of seats on any particular body. To do so requires approval by Council with no member voting against the proposal; this is known as a *nem con* vote. Abstentions do not invalidate such a vote.
- 8 Council has previously agreed to establish committees of council as listed in the table below. The terms of reference for these committees are set out within the functions scheme of the constitution (available on the website at: <http://councillors.herefordshire.gov.uk/documents/s50025395/Contents%20Updated%202022-Apr-15.pdf>). There are no proposals at this stage to amend the terms of reference.

<b>Committee</b>	<b>Seats</b>
Audit and governance	9
Employment panel	5
General overview and scrutiny	13
Health and social care overview and scrutiny	13
Planning	17
Regulatory	11
<i>Total seats</i>	<i>68</i>

- 9 The following table details the allocation of seats on the above committees based on the political proportionality of the council as set out in paragraph 4 above.

	<b>Conservative</b>	<b>Green</b>	<b>Herefordshire Independents</b>	<b>Its Our County</b>	<b>Liberal Democrats</b>	<b>Total committee seats</b>
Audit and governance	5	1	1	2	0	9
Employment panel	3	0	1	1	0	5
General overview and scrutiny	7	1	2	3	0	13
Health and social care overview and scrutiny	7	0	2	3	1	13
Planning	9	1	2	4	1	17
Regulatory	6	0	2	2	1	11
<i>Total</i>	<i>37</i>	<i>3</i>	<i>10</i>	<i>15</i>	<i>3</i>	<i>68</i>

Further information on the subject of this report is available from Annie Brookes, head of corporate governance on Tel (01432) 260605

- 10 Those outside bodies to which three or more appointments are currently made on a politically proportionate basis are detailed in the table below, with the allocation of seats based on the political proportionality of the council as set out in paragraph 4 above.

	Conservative	Green	Herefordshire Independents	Its Our County	Liberal Democrats	Total seats on body
Fire authority	4	0	1	1	0	6
Standing advisory council for religious education	2	0	0	1	0	3
<i>Total</i>	6	0	1	2	0	9

- 11 The council is required to appoint certain education representatives onto the scrutiny committee at which educational matters are considered; in Herefordshire's case this is the General Overview & Scrutiny Committee. Specifically the council must co-opt representatives from parent governors and relevant diocesan representatives (Church of England and Roman Catholic). There is a statutory election process by which the parent governor representatives are selected, with one representative being sought from each of the primary, secondary and special school sectors. Each relevant diocese has been asked to nominate their diocesan representative.
- 12 In line with previous practice, it is proposed to suspend the rules of political proportionality in relation to a small number of specified bodies. These are detailed in the table below together with the reason for seeking the suspension.

<b>Body</b>	<b>Seats</b>	<b>Reason for exemption</b>
Regulatory sub committee	3	This sub-committee is formed on an ad hoc basis as and when needed; its membership is drawn from the membership of the regulatory committee which is itself politically proportionate.
River Lugg Internal Drainage Board	7	This is a geographically focused body therefore it is appropriate to nominate members from relevant wards.
Wye Valley AONB Joint Advisory Committee	4	This is a geographically focused body therefore it is appropriate to nominate members from relevant wards.

- 13 Council is required to appoint the chairmen and vice chairmen of committees listed at paragraph 8 above. The chairman will call for nominations to each post in turn and in the event of there being more than one nominee for any one post a vote will be held in accordance with council procedure rules.
- 14 The Localism Act 2011 requires that the council must appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct that it has decided to investigate. Their view may also be sought in dealing with allegations which have not been investigated and may be available for subject members who are the subject of an allegation.
- 15 In May 2012 Council authorised the monitoring officer to undertake recruitment of up to three independent persons. The council last appointed two independent persons in July 2013 and currently has one independent person, Mr John Sharman.

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Further information on the subject of this report is available from Annie Brookes, head of corporate governance on Tel (01432) 260605

- 16 Following a recruitment exercise and interview process audit and governance committee recommend the appointment of Mr Richard Stow. Mr Stow is currently a partner in a horticultural business in Rowlestone in south-west Herefordshire. He has previously been an elected member of Crucorney Community Council in Monmouthshire, including two years as Chairman. He was also previously a Welsh Government member of the Brecon Beacons National Park Authority, where he chaired the Audit & Scrutiny Committee and sat on the Planning Committee. He has an appreciation of standards matters from the perspective of the public and as an elected member, and has a keen interest in increasing public confidence in local democracy.
- 17 The recruitment of Mr Stow will ensure good governance of the standards process and avoid any potential conflicts of interest, which can arise when only one independent person is available.

## **Community impact**

- 18 There are no implications.

## **Equality duty**

- 19 There are no implications.

## **Financial implications**

- 20 Budgets are in place to cover allowances for any appointments made.

## **Legal implications**

- 21 The council is required to ensure that the allocation of seats to committees is compliant with relevant rules contained in the Local Government and Housing Act 1989 and regulations made under that act.
- 22 In summary these regulations require that in determining the allocation of seats the council must apply the following four principles as far as reasonably practicable:
- a. that not all the seats on the body are allocated to the same political group;
  - b. that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
  - c. subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
  - d. subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
- 23 The proposals in this report comply with these requirements.
- 24 Alternative arrangements not complying with these requirements may be made so long as no member of the council votes against it.

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Further information on the subject of this report is available from  
Annie Brookes, head of corporate governance on Tel (01432) 260605

- 25 The appointment of Richard Stow will ensure that the council is able to meet the requirements of the Localism Act 2011.

## **Risk management**

- 26 Failure to appoint to committees and outside bodies could render them inquorate or unlawful; failure to obey the rules of political proportionality could similarly render a committee or body unlawful. The recommendations in this report mitigate these risks.

## **Consultees**

- 27 Audit and governance committee considered the appointment of an independent person and recommended the appointment of Mr Stow.

## **Appendices**

None

## **Background papers**

None identified.



<b>Meeting:</b>	<b>Council</b>
<b>Decision date:</b>	<b>20 May 2016</b>
<b>Title of report:</b>	<b>Confirmation of designation of statutory officer (monitoring officer)</b>
<b>Report by:</b>	<b>Chairman: employment panel</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

County-wide.

## Purpose

To designate a post as monitoring officer.

## Recommendations

**THAT:**

- (a) the post of solicitor to the council be designated as monitoring officer for Herefordshire Council.**

## Alternative options

- 1 There were two alternative options identified in the course of the review to consider the council's requirement for monitoring officer:
  - a. that an external appointment process takes place to recruit from outside of the council.
  - b. that the function of monitoring officer is shared with another council.
- 2 Neither of these options are recommended as the majority of consultees favoured the option of making permanent the interim arrangements put in place in September 2015 and there is no outweighing benefit of not doing so.

## Reasons for recommendations

- 3 The functions of the monitoring officer are a statutory requirement.
- 4 It is a matter for full Council to designate a post as monitoring officer.

## Key considerations

- 5 On the 25 September 2015 full Council agreed that “the post of deputy solicitor to the council people and regulatory be designated monitoring officer for an interim period of up to nine months from the date of approval”.
- 6 The employment panel has considered options for the permanent arrangements for the monitoring officer designation as outlined below.
- 7 Option 1: make the temporary arrangements permanent with the solicitor to the council (previously the deputy solicitor to the council people and regulatory) being designated monitoring officer. Though there is no requirement for the monitoring officer to be legally qualified, given the legal context in practice the tendency is to appoint a senior lawyer in the council. As part of this option the solicitor to the council would continue with the mentoring over the next year.

### Advantages

- Relationships already formed with key stakeholders
- Key skills and requirements of the monitoring officer within the authority
- Career development opportunity
- Reasonable cost, including no cost for recruitment

### Disadvantages

- Element of “learn on the job”
- Could create a pressure within the legal services
- Does not test the market of potential of other applicants

- 8 Option 2: To share a monitoring officer with another council providing expert knowledge. Expertise can be shared, though dedicated support would need to be assigned to Herefordshire Council.

### Advantages

- High level of experience and track record
- Potential to share costs
- Sharing of best practice
- May strengthen cross county relationships (e.g. existing cross county working LEP, broadband, waste)

### Disadvantages

- May be difficult to secure an appointment with the right skills, ability to commit, travel and availability
- Potential of conflicting demands (e.g. key meetings on the same date)
- May take longer to develop effective member relationships
- Timescale and resource for procurement process
- Risk of conflict of interest and one authority seen to be taking priority over another may cause reputational issues with members
- There have been eight monitoring officers since 2005 so further change may be de-stabilising

- 9 Option 3: recruiting a lawyer which has existing monitoring officer skills. This would mean they have the skills and experience already in place and would not need additional mentoring support, there might also be an opportunity in the longer term to “sell-on” expertise to other authorities. To cover the costs within budget this would mean displacement of existing staff.



#### Advantage

- Appoint someone with experience and track record
- Could bring experience/innovation/best practice
- Depending on other skills, may strengthen under resourced other areas (e.g. elections/legal)

#### Disadvantages

- Cost including redundancy
- Potential struggle to recruit
- Does not foster local skills development
- Time taken to develop relationships
- Further change may be de-stabilising.

### **Community impact**

- 10 The functions of the monitoring officer support the maintenance and enhancement of robust governance across the council. This creates community benefit in creating a sound and correct authority. The monitoring officer has the specific duty to ensure that the council, its officers and its elected members maintain the highest standards of conduct in all they do.

### **Equality duty**

- 11 The functions of the monitoring officer need to be mindful of the authority's requirement to meet the laws governing local government. This includes the Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

### **Financial implications**

- 12 The post of solicitor to the council, and the additional responsibilities associated with the role of monitoring officer have been job evaluated in accordance with the council's pay policies.
- 13 The costs of this post are included within existing law and governance budgets.

### **Legal implications**

- 14 Section 5 of the Local Government and Housing Act 1989 imposes a duty on the council to designate one of its officers as monitoring officer; this may not be the head of paid service or the director of resources (section 151 officer).

### **Risk management**

- 15 Challenge of recruitment – that complaint is made that proper recruitment has not taken place giving other external candidates the opportunity to apply. Mitigation – the monitoring officer is not a post but a set of functions that can be attributed to an existing role, usually a senior lawyer within the authority.
- 16 Pressure of resources in the legal team – pressure on conducting legal duties. Mitigation – the recent redesign of legal and governance service identified new resource for legal team to address key initiatives and programme that need legal support.

- 17 Skills knowledge – that the solicitor to the council needs to build up skills and knowledge to be able to fully incorporate the role. Mitigation – that mentoring support continues for another year.

## **Consultees**

- 18 In the course of preparing the options consultation was carried out with representatives from the senior management team, group leaders, scrutiny chairs and cabinet. An external mentor's views were also sought.
- 19 In addition, a survey was sent to other local authorities via the County Council Network to assess views of sharing the post of monitoring officer. There were three replies (that indicates the level of interest). Of those replies none operate or intend to operate a shared monitoring officer though did not rule out the opportunity of sharing resources in the future. A key concern was that a joint post could have the strong risk of creating conflict of interest.
- 20 The outcome of this consultation informed the recommendation from the employment panel.

## **Appendices**

None.

## **Background papers**

None.