

**Deputy Chief Executive's Office**

Dean Taylor

**TO: ALL MEMBERS OF THE COUNCIL**

Your Ref:

Our Ref: CA/SAHC

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08 July 2010

Dear Councillor,

**YOU ARE HEREBY SUMMONED** to attend the meeting of the Herefordshire Council to be held on **Friday 16 July 2010** at The Shirehall, St Peter's Square, Hereford. at 10.30 am at which the business set out in the attached agenda is proposed to be transacted.

Please note that car parking will be available at the Shirehall for elected Members.

Yours sincerely



**C. ADAN**  
**ASSISTANT CHIEF EXECUTIVE (INTERIM), LEGAL AND DEMOCRATIC**



# AGENDA

## Council

Date: **Friday 16 July 2010**

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Time: **10.30 am**

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Place: **The Shirehall, St Peter's Square, Hereford.**

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

For any further information please contact:

**Sally Cole, Committee Manager Executive**

Tel: 01432 260249

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

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If you would like help to understand this document, or would like it in another format or language, please call Sally Cole, Committee Manager Executive on 01432 260249 or e-mail [scole@herefordshire.gov.uk](mailto:scole@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Council

## Membership

**Chairman**

**Councillor J Stone**

**Vice-Chairman**

**Councillor JB Williams**

Councillor PA Andrews  
Councillor LO Barnett  
Councillor DJ Benjamin  
Councillor AJM Blackshaw  
Councillor H Bramer  
Councillor ME Cooper  
Councillor SPA Daniels  
Councillor GFM Dawe  
Councillor PJ Edwards  
Councillor JP French  
Councillor AE Gray  
Councillor KG Grumbley  
Councillor JW Hope MBE  
Councillor B Hunt  
Councillor TW Hunt  
Councillor TM James  
Councillor AW Johnson  
Councillor MD Lloyd-Hayes  
Councillor RI Matthews  
Councillor PM Morgan  
Councillor JE Pemberton  
Councillor GA Powell  
Councillor SJ Robertson  
Councillor RH Smith  
Councillor AP Taylor  
Councillor AM Toon  
Councillor WJ Walling  
Councillor DB Wilcox

Councillor WU Attfield  
Councillor CM Bartrum  
Councillor PL Bettington  
Councillor WLS Bowen  
Councillor ACR Chappell  
Councillor PGH Cutter  
Councillor H Davies  
Councillor BA Durkin  
Councillor MJ Fishley  
Councillor JHR Goodwin  
Councillor DW Greenow  
Councillor KS Guthrie  
Councillor MAF Hubbard  
Councillor RC Hunt  
Councillor JA Hyde  
Councillor JG Jarvis  
Councillor Brig P Jones CBE  
Councillor G Lucas  
Councillor PJ McCaull  
Councillor AT Oliver  
Councillor RJ Phillips  
Councillor PD Price  
Councillor A Seldon  
Councillor RV Stockton  
Councillor DC Taylor  
Councillor NL Vaughan  
Councillor PJ Watts  
Councillor JD Woodward

## **GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS**

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

**AGENDA**

	<b>Pages</b>
<b>1. PRAYERS</b>	
<b>2. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>3. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>4. MINUTES</b> To approve and sign the Minutes of the meeting held on 28 May 2010.	1 - 26
<b>5. CHAIRMAN'S ANNOUNCEMENTS</b> To receive the Chairman's announcements and petitions from members of the public.	
<b>6. QUESTIONS FROM MEMBERS OF THE PUBLIC</b> To receive questions from members of the public.	27 - 44
<b>7. FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS</b> To receive any written questions from Councillors.	
<b>8. NOTICES OF MOTION UNDER STANDING ORDERS</b> No Notices of Motion have been received.	
<b>9. CONSTITUTION REPORT</b> To seek approval on Constitutional amendments.	45 - 74
<b>10. REPORT OF THE LEADER OF THE COUNCIL</b> To receive the report of the Leader of the Council.	75 - 78
<b>11. STANDARDS COMMITTEE</b> To receive the report and to consider any recommendations to Council arising from the meeting held on 2 July 2010.	79 - 84



# 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 the Cabinet, 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, 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.
- A member of the public may, at a meeting of the full Council, ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties or which affects the County as long as a copy of that question is deposited with the Monitoring Officer eight clear working days before the meeting i.e. by 12:00 noon on a Monday in the week preceding a Friday meeting.

## Public Transport Links

- The Shirehall is ten minutes walking distance from both bus stations located in the town centre of Hereford. A map showing the location of the Shirehall is found opposite.



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Whitecross School

- |   |                  |    |                                   |
|---|------------------|----|-----------------------------------|
| 1 | Brockington      | 7  | Kemble House                      |
| 2 | Town Hall        | 8  | Trinity House                     |
| 3 | Shire Hall       | 9  | Thorn Office Centre               |
| 4 | Education Centre | 10 | Herefordshire Commercial Services |
| 5 | Garrick House    | 11 | Merchant House                    |
| 6 | Bath Street      | 12 | Plough Lane                       |



# **FIRE AND EMERGENCY EVACUATION PROCEDURE**

## **IN CASE OF FIRE**

**(no matter how small)**

1. Sound the Alarm
2. Call the Fire Brigade
3. Fire party - attack the fire with appliances available.

## **ON HEARING THE ALARM**

Leave the building by the nearest exit and proceed to assembly area on:

## **GAOL STREET CAR PARK**

**Section Heads will call the roll at the place of assembly.**



HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Council held at The Shirehall, St Peter's Square, Hereford on Friday 28 May 2010 at 10.30 am**

**Present:** Councillor J Stone (Chairman)  
Councillor JB Williams (Vice Chairman)

**Councillors:** PA Andrews, WU Attfield, LO Barnett, CM Bartrum, Bettington, AJM Blackshaw, WLS Bowen, H Bramer, ACR Chappell, ME Cooper, PGH Cutter, GFM Dawe, BA Durkin, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, RC Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, AW Johnson, Brig P Jones CBE, G Lucas, RI Matthews, PJ McCaull, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, A Seldon, RH Smith, RV Stockton, AP Taylor, DC Taylor, AM Toon, NL Vaughan, WJ Walling, PJ Watts, DB Wilcox and JD Woodward

**In attendance:** Councillors

**1. CHAIRMAN**

The Vice Chairman, Councillor JB Williams called for nominations to the office of Chairman. The nomination of Councillor J Stone was proposed and seconded.

**RESOLVED:** That Councillor J Stone, be elected Chairman of the Council until the annual meeting of Council in May 2011.

Councillor J Stone read out and signed the Declaration of Acceptance of Office.

**2. PRAYERS**

The Very Reverend Michael Tavinor, Dean of Hereford, led the Council in prayer.

The Chairman extended a warm welcome to the county's Lord Lieutenant, Lady Darnley, who was in attendance, as were other guests and members of St Martin's School Council. The Council was informed that the Very Reverend Michael Tavinor had agreed to serve as the Chairman's chaplain for the forthcoming year.

**3. APOLOGIES FOR ABSENCE**

Apologies had been received from Councillors DJ Benjamin, SPA Daniels, H Davies, AE Gray and MD Lloyd-Hayes.

**4. DECLARATIONS OF INTEREST**

There were none.

**5. VICE CHAIRMAN**

The Chairman called for nominations to the office of Vice-Chairman. The nomination of Councillor JB Williams was proposed and seconded.

**RESOLVED: That Councillor JB Williams be appointed Vice-Chairman of the Council until the annual meeting in May 2011.**

Councillor JB Williams read out and signed the Declaration of Acceptance of Office.

## **6. MINUTES**

The Chairman stated that Members had received correspondence following the last Council Meeting regarding a response to a question from Councillor ACR Chappell to the Chairman of Regulatory Committee. The response whilst wholly correct in relation to the first part of the question had inadvertently not included the answer to the second part of the question. A full response was sent to all Members clarifying the current position; which would be appended to the Minutes of this Meeting.

Subject to this amendment, the Minutes of the Council Meeting held on 5 March 2010 were approved as a correct record.

## **7. APPOINTMENT OF THE LEADER OF THE COUNCIL**

The nomination of Councillor RJ Phillips as Leader of the Council was proposed and seconded.

**RESOLVED: That Councillor RJ Phillips be appointed Leader of the Council until the annual meeting in May 2011.**

Councillor GFM Dawe requested that his objection to this nomination be formally recorded.

The Leader wished for his thanks to be recorded to all who had supported him during his seven years as Leader of the Council.

Council was advised that the Leader had appointed Councillor JP French as Deputy Leader of the Council and confirmed the names of his other cabinet members, which were unchanged from 2009/10.

## **8. APPOINTMENT OF SEATS TO POLITICAL GROUPS, APPOINTMENT TO COMMITTEES AND OTHER BODIES, APPOINTMENT TO OFFICES RESERVED TO COUNCIL**

Members considered a report on appointments to offices reserved to Council.

A list of those offices to which the Council had powers to appoint, together with nominations had been circulated to political group meetings from 9.00a.m on the morning of the Council Meeting.

The Chairman informed Members that the Council may be asked to confirm or agree alternative arrangements for appointment to committees and other bodies pursuant to Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990.

**Council Resolved (nemcon) to**

- (a) **Confirm the number of seats on each committee**
- (b) **note the arrangements for proportionality;**
- (c) **note the notice given in paragraph 9 of the need to partially suspend the rules of proportionality in respect of the Overview and Scrutiny Committee and a resolution be moved to that effect;**
- (d) **allocate the seats to political groups accordingly**
- (e) **appoint the Chairmen & Vice Chairmen of Committees as set out in Appendix 2 (as circulated prior to the start of the meeting)**
- (f) **the existing arrangements for co-option to the scrutiny committees continue in operation for 2010/11.**
- (g) **agree the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution.**

## **9. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman in his announcements:

- Welcomed members of St Martin's School Council to the Annual Council meeting.
- Warmly greeted Councillors PL Bettington and AW Johnson as the new Ward Members for Ledbury and Hope End respectively. Councillor Bettington had succeeded Kay Swinburne who now represents Wales in the European Parliament and Councillor Johnson succeeded Rees Mills who had retired.
- Welcomed Dean Taylor who had recently joined the Council as Deputy Chief Executive.
- Congratulated Councillor AM Toon on her appointment as The Right Worshipful the Mayor of Hereford and Councillor RC Hunt on his appointment as Mayor of Leominster.
- Acknowledged the long service of Councillors DC Taylor and LO Barnett both who had diligently served their communities and the county for over 30 years.
- Emphasised Herefordshire Council's long-standing commitment to the promotion of equality and diversity and informed Members that the "No Prejudice in HEREfordshire" campaign had resulted in the diversity team being nominated for the LGC awards. The campaign received cross party support and continued to challenge prejudice in Herefordshire.
- Congratulated Alan Clarke, Gang Leader for Amey with over 35 years experience of working on the roads, as he had been shortlisted as Frontline Employee of the Year in this year's National Transport Awards which would take place in July.
- Paid tribute to the soldiers from the 3<sup>rd</sup> Battalion The Rifles who marched through Hereford on 1 May after completing a six month tour in Helmand Province in Afghanistan; sadly over 20 of its members were killed during the tour and many seriously injured.

The Chairman informed Council that he had been presented with a petition of 654 signatures on the GP Walk in centre at ASDA from Councillor GA Powell; this petition was in turn presented to the Chief Executive.

**10. QUESTIONS FROM MEMBERS OF THE PUBLIC**

Copies of all public questions received by the deadline, with written answers, were distributed prior to the commencement of the meeting. A supplementary question was asked by Mr Cocks. A copy of the public questions and written answers together with the supplementary question and answer are attached to the minutes as Appendix 2.

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

**Question from Councillor A Seldon to the Cabinet Member Economic Development and Community Services**

1 *At the end of 2008 a review was commissioned into the management of Bromyard Downs. Consultations took place into early 2009 and a report was initially muted for March last Year. To date, no report has been received. The management of Bromyard Downs arouses a great of passion among the residents of the area. When will this report be published?*

**Answer from Councillor AJM Blackshaw Cabinet Member Economic Development and Community Services**

Answer to Question 1

Cabinet expect to receive a report by early Autumn at the latest; earlier consideration has not proved possible because of proceedings elsewhere and the subsequent need to consider the outcome of those proceedings.

**Supplementary question**

Would it not have been appropriate to inform the consultees of the delay together with the reasons and provide subsequent information on the progress?

**Answer from Councillor AJM Blackshaw Cabinet Member Economic Development and Community Services**

Assurance was given that there would be communication with the consultees now that the outcomes of the proceedings had been resolved.

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**Question from Councillor A Seldon to the Cabinet Member Environment and Strategic Housing**

2 *Section 215 of the Town and Country Planning Act 1990 gives a Local Planning Authority (LPA) powers to require landowners and property owners to clean up their buildings or land when the condition of that property or land is adversely affecting the amenity of the surrounding area. I have identified at least three areas in the Bromyard Ward where, using the Best Practice Guidance document from the ODPM (January 2005) I feel the use of S215 would be appropriate. Independent advice has also taken the same view. However, I have encountered some reluctance to use these powers.*

A *How many S215 notices have been served by this authority in the past three years?*

B *Have any of these have been the subject of an appeal?*



## **Answer from Councillor JG Jarvis Cabinet Member Environment and Strategic Housing**

Answer to Question 2

A S215 Notices served  
06/07 - 0  
07/08 - 2  
08/09 - 0  
09/10 - 1

B None were subject of appeal.

Whilst it appears that the formal notice route is used only rarely a large number of the issues raised in this area are resolved through negotiation. There is no reluctance to use the powers.

### **Supplementary question**

Should not the Council review its use of s215 powers to get properties to the relevant standard?

## **Answer from Councillor JG Jarvis Cabinet Member Environment and Strategic Housing**

It was recognised that the use of s215 powers had been very limited and that it was possible that the use of these powers could be increased in the future. Work would be done to look into the relationships between Herefordshire Council and parish councils on this matter. Councillor Seldon would be updated on progress.

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## **Question from Councillor PJ Watts to the Cabinet Member Resources**

Question 3

*Given that Herefordshire Council have dropped their legal claim after some two years regarding the wall between St Katherine's car park and the Feathers hotel, the Council have now accepted liability.*

- (a) How much has been spent on legal fees by Herefordshire council?*
- (b) How much revenue has been lost from the car parking spaces in front of the wall which have been closed for public use during the last two years?*
- (c) As the wall is in a conservation area will it be refurbished/rebuilt by the Council (like for like) and what will be the cost of the project?*
- (d) Does this not set a precedent for the remaining walls surrounding this car park?*

## **Answer from Councillor H Bramer, Cabinet Member Resources**

Answer to question 3

- a) £9,125 legal costs to date.

- b) It is likely that little income has been lost by these 6 spaces being unavailable out of the 130 within the site, as there are few occasions that the car park is full to capacity.
- c) The wall will be replaced to retain as much of the overall appearance as before, however, some re-design is needed to improve the stability. The estimated cost is £20,000.
- d) Each case is treated on its individual merits and therefore it does not set a precedent.

*No supplementary question was asked*

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### **Question from Councillor ACR Chappell to the Chairman of the Regulatory Committee**

#### Question 4

*In his answer to my question at the last meeting of Council, concerning taxi drivers with spent/unspent convictions in Herefordshire, I was informed by the Chairman of the Regulatory Committee, that any taxi driver with a conviction for sexual assault, or battery/actual bodily harm/grievous bodily harm was automatically suspended the moment notification is received by the Council.*

- A *Why then in April 2010 were there three drivers with unspent convictions for battery, three with unspent convictions for GBH, three with unspent convictions for Assault Occasioning Actual Bodily Harm?*
- B *Can the Chairman explain to Council how his committee came to the conclusion that these drivers were fit to deliver a service to the public?*
- C *A former Hereford taxi driver was reported recently in the local press of being convicted on 27 counts of rape, attempted rape, indecent assault and indecency with a child. Can the Chairman tell me if prior to his arrest, this driver had any spent or unspent convictions?*
- D *What assurances can he give me, and more importantly, the public, that the Regulatory Committee review every application for a taxi driver licence with complete thoroughness?*

### **Answer from the Chairman of the Regulatory Committee**

#### Answer to question 4

- A When a taxi driver application is received it is accompanied by an Enhanced CRB. If the CRB reveals relevant spent or unspent convictions (as defined in the licensing policy) then the application goes before the Regulatory Committee. They make the decision whether or not to grant the licence, based on national guidance & best practice for such circumstances.

For drivers who are already licensed, if information becomes available regarding an investigation into certain crimes (again as defined in the licensing policy) then the driver is immediately suspended. Any drivers who have such relevant convictions are brought before the Committee to have their applications

considered in accordance with the licensing policy, based on national guidance & best practice.

- B The Committee works to Department of Transport and Home Office Guidance as well as current legal best practice. It is advised by its Legal Adviser in respect of these.
- C No; public release of such information relating to an individual would be in breach of legislative requirements.
- D Every application follows a robust process that includes the enhanced CRB check. If relevant spent or unspent convictions are highlighted then that application will go before the Committee as outlined above.

#### **Supplementary question**

The response provided to question C could not be accepted as it was believed that Councillors needed to know if the Regulatory Committee had known at the time that the individual in question had any spent or unspent convictions?

#### **Answer from Councillor JW Hope MBE, Chairman of Regulatory Committee**

A written reply would be provided to the Councillor which may contain information not appropriate for release into the public domain.

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#### **Question from Councillor ACR Chappell to the Leader of the Council**

Question 5

- A *With rumours circulating that as the new Conservative/Liberal Democrat 'Coalition' at Westminster is expecting to create over 200 Life Peers that both the Leader of the Council and the Leader of the Liberal Democrats in Herefordshire will shortly be wearing ermine, is there likely to be a similar coalition in Herefordshire?*
- B *What contingency plans does the Leader of the Council have to ensure that Council/PCT services in Herefordshire are not affected by the 'Coalition's' financial cuts to local services?*

#### **Answer from Councillor RJ Phillips, Leader of the Council**

Answer to question 5

A

I am sure that members will share in the disappointment that Cllr Chappell was not himself elevated when the Labour government created new life peerages to secure their majority in the Lords; whilst I cannot speak for Cllr James, I have received no such approach!

Many members will share the view that constitutional reform, as proposed by the coalition government, is to be welcomed. My new political colleagues locally have not made any advances to me.

B

Although the detail of the national public spending cuts is still emerging the need for them is not a surprise, and it would be a poor administration that has not foreseen this and responded accordingly. We have been planning, together with our health partners, to meet the challenges of the future financial climate for many months now. As well as reviewing priorities to ensure we target our collective resources to best effect, we have developed a range of initiatives such as the shared services programme being pursued jointly by the council, NHS Herefordshire and Hereford Hospitals Trust, ensuring that structures and services are in the best position to be able to deliver the efficiencies and savings needed to retain and improve vital front line health and council services for the people of Herefordshire

**Supplementary comment**

Members will be looking carefully to ensure the appropriate level of service provision to the public of Herefordshire.

Answer from Councillor RJ Phillips, Leader of the Council

The extent of the public sector cuts announced by the coalition government were no surprise. In Herefordshire the shared services programme would be key to delivering savings across the three organisations. The coalition government's first priority is to tackle the country's massive debt; therefore the 7.2% in year cut to local government's collective budget seeks to address this problem. Whilst it was acknowledged that the public recognised the scale of the problem it would be essential to have a dialogue to explain the local impact of the tough times ahead.

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**Question from Councillor B Hunt to Cabinet Member Economic Development and Community Services**

Question 6

*Despite Bromyard and Winslow Town Council breaking time limits on last year's consultation period and submitting a different version this month, I ask the Cabinet Member if he will stick to normal procedures by ;*

A *Continuing to take any reasonable time necessary to amend the Downs constitution*

B *Wait until the Commons Act 2006 and its implementation bulletins [which fell when the election was announced ] re-emerges and its wording can be examined and incorporated into a revised Downs constitution to avoid expensive and time wasting 'calling back in' possibly within months of a first version being introduced in haste,*

**Answer from Councillor A Blackshaw, Cabinet Member Economic Development and Community Services**

Answer to question 6

I will of course adhere to whatever procedures are appropriate in the circumstances, and will progress any review of downs management arrangements in the appropriate timely fashion, taking into account relevant legislative requirements in place at the time.

**Supplementary question**

Would the Cabinet Member underline again that a measured appropriate timetable will be in place to consider the issues?

**Answer from Councillor A Blackshaw, Cabinet Member Economic Development and Community Services**

Yes, any review of constitutional and managerial arrangements will be undertaken in a timely manner subject to legislation.

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**Question from Councillor GFM Dawe to the Cabinet Member Environment and Strategic Housing****7. *Regional Spatial Strategy***

*On 5th February 2010 I asked that if the Conservatives win the next election will Herefordshire abandon its 18,000 housing target set by the Regional Assembly. I received the answer from Cllr Jarvis, "No, the County needs to sustain commitment to growth in order to be a 'sustainable and cohesive community'[sic]'".*

*Since the national election I understand that the Regional Spatial Strategy is indeed 'one step away' from being abolished. The new MP for our neighbouring county has said she is determined that Worcestershire will re-think and reduce its allocated RSS housing after consulting with local people. Is Herefordshire Council going to do the same, or is it going to persist with its growth agenda?*

**Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing**

Answer to question 7

As Cllr Dawe will recall, at its meeting on 13<sup>th</sup> November, Council overwhelmingly resolved that:

*This Council affirms that the sustainable future for our City and County depends on creating more and better paid jobs, significantly increasing the number of homes, particularly affordable, improving leisure and shopping and procuring the supporting infrastructure. This must include another bridge crossing over the Wye and relief roads for Hereford and Leominster.*

Without wishing to repeat that debate the question of the overall quantum of growth (18,000 houses over the period 2006 to 2026) has been examined in detail at the Examination in Public into the Regional Spatial Strategy last year and, even if the Regional Spatial Strategy is downgraded or dispensed with, the evidence of housing need remains, as does the need for growth to ensure the future economic viability and wellbeing of the county and its residents.

Herefordshire welcomes any return to local control of how such growth is delivered to ensure we meet local need; however any comparison with Worcestershire does not bear scrutiny as their circumstances are distinct from our own.

### **Supplementary question**

If Herefordshire Council's policy persists by expanding housing growth against national policy in the current period – should not this, in the light of the LDF, not be delayed until after the local election so that people can have a chance to vote on this policy?

### **Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing**

The council met and agreed the housing growth figures. The Regional Spatial Strategy is yet to be abolished. Herefordshire is in desperate need for housing to help create employment and provide a future for the young people within the county.

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### **Question from Councillor GFM Dawe to the Cabinet Member Environment and Strategic Housing**

8. *Rotherwas Northern Magazine*

A. *Is it true that the ammunition factory at Rotherwas is to be demolished?*

B. *If so, who was consulted and who advised that one of Hereford's most interesting and culturally valuable sites, with huge tourist development potential, should be pulled down?*

### **Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing**

Answer to question 8

No; it is the case that some small buildings, pathways and blast walls have recently been demolished at Rotherwas, but more historically significant buildings have been retained.

Cabinet approved the development of Rotherwas as part of the Rotherwas Futures project. Demolitions have been agreed by the County Archaeologist's team and take account of an independent specialist report that identified significant buildings. English Heritage is currently assessing the retained buildings.

Supplementary question

If the national economic situation persists should we not hang onto culturally valuable sites instead of getting rid of them for no purpose?

### **Answer from Councillor JG Jarvis, Cabinet Member Environment and Strategic Housing**

The limited demolition has not been for no purpose but to provide for development business opportunities. A meeting was held on this matter on 30 April 2010 to which the local member was invited, but did not attend.

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## Question from Councillor MAF Hubbard to the Leader of the Council

### Question 9

- A *With the announcement of some of the biggest cuts in national spending in recent memory, with only a promise of more to come, combined with the Conservative manifesto commitment to abolish Regional Development Agencies, there must now be some considerable doubt as to the future funding of the ESG project. What guarantees can the leader give to those businesses on the line of the link road in my Ward who, after five years, still have no news about their futures?*
- B *What steps is the Leader taking to ameliorate against the inevitable planning blight that this project is now bringing to the city?*

## Answer from Councillor RJ Phillips, Leader of the Council

### Answer to question 9

- A Neither of the coalition government parties included in their manifesto a commitment to the wholesale removal of Regional Development Agencies; however the coalition's commitment to removal of those quango's that do not demonstrate value for money or local accountability is welcomed. We await the report of the National Audit Office, due in the coming week, on the performance and value for money supplied by individual RDA's and in particular how that relates to AWM.

Those businesses directly affected by the city's link road plans are being helped, through dedicated officer support, to relocate to other sites, including new space at Three Elms business park. Discussions with businesses in phase 1 of the link road will continue and we will focus on the best new location to support the long-term plans of all businesses situated in the link road area.

- B We read that Peacocks are planning to open a new store in the former Woolworths site in Hereford. The fast-growing toyshop chain *The Entertainer* will be moving into the Chadds department store. Carphone Warehouse has also invested in bright new premises in the city. I was delighted to read about Ruth Pearson, who has just opened her own maternity and baby boutique in Widemarsh Street. She believes Hereford has a great future as a shopping destination once the city's redevelopment project is complete.

Soon there will be announcements from national brand leaders about their plans for a presence in Hereford.

Certainly we have been through one of the worst recessions for several decades. This has hit high streets the breadth of Britain and many towns in our region have been hit far harder than Hereford in terms of the ratio of empty to occupied shops – and they do not have the benefit of an exciting redevelopment project in their city centres which will bring in extra visitors and shoppers.

There is increasing interest from retailers in opening up shop in Hereford. We need to keep sending out the right signals about our city, signals that inspire retailers to invest with us. Now is the time to talk up Hereford, not talk Hereford down.

### **Supplementary question**

There are rumours that Phases 2 and 3 are not currently funded. Small independent local businesses in Phase 2 or 3 could have been waiting a decade for these phases to be completed. Can any assurances be given about the immanency of these phases?

### **Answer from Councillor RJ Phillips, Leader of the Council**

A dedicated officer has been appointed to provide communication and liaise with businesses directly; this support will continue. It is recognised that different size businesses have varied needs. The Livestock Market will continue. Communication was an important element of the process in order that the business and public were made aware of changes.

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### **Question from Councillor WLS Bowen to the Cabinet Member Resources**

Question 10

*Are you aware that some Councils now publish information on all posts that carry a salary of over £50,000 per annum? Do you agree that, in the interest of openness and clarity, that Herefordshire Council should do the same?*

### **Answer from Councillor H Bramer, Cabinet Member Resources**

Answer to question 10

The Accounts and Audit Regulations have been amended to introduce a new legal requirement to increase transparency and accountability in Local Government for reporting remuneration of senior employees. The new provision came into force on 31 March 2010 requiring local authorities to include remuneration information of senior employees in the notes to the 2009/10 statement of accounts, which will be published on our website when finalised. We will, of course be complying with the regulations.

### **Supplementary Question**

When?

### **Answer from Councillor H Bramer, Cabinet Member Resources**

During the financial year.

### **Question from Councillor WLS Bowen to the Cabinet Member Corporate and Customer Services and Human Resources**

Question 11

*Is it correct that Herefordshire will become part of the region that receives a solely digital TV signal in April, 2011? If so, what steps are being taken to advise, warn, assist and inform the citizens of Herefordshire and organisations working in Herefordshire as to the consequences of the changeover and any steps that can be taken to cope with this major change?*

### **Answer from Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources**

Answer to question 11



I understand that Digital UK, the body responsible for the switch over and which has responsibility, as well as funding, for the promotion of it have announced that Herefordshire will, as part of the Central TV region, switch over to digital TV in 2011, at which point the whole region will get Freeview. Digital UK will be writing to everyone in the county and the region before the signal switches to digital to keep householders posted. The Ridge Hill transmitter, which serves Herefordshire, north Gloucestershire and south Shropshire, begins switchover 6 April 2011 and completes 20 April 2011. The communications unit will, of course, be happy to assist Digital UK to promote the switchover through Herefordshire Matters, which is delivered to every household

No supplementary question asked.

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**Question from Councillor AT Oliver to the Cabinet Member Corporate and Customer Services and Human Resources**

Question 12

A *What was the total cost of salaries paid by the Council in the year to 31 March 2010 and what was the total number of employees at that date (non school and schools)? Please break down the information between each of the Council's Directorates.*

B *How many employees were paid:*

- (1) *£150,000 and over per annum*
- (2) *£100,000 to £150,000*
- (3) *£75,000 to £100,000*
- (4) *£15,000 and under*

Question 13

*What is the total cost in legal fees to the Council, since 1 May 2007, of defending legal cases brought against the Council, and how many cases does this cover?*

Question 14

*Does the Council pay a separate fee to the Chief Executive for acting as Returning Officer? If not, could the Council confirm the remuneration arrangements for this role?*

**Answer from Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources**

Answer to Question 12 A

Total payroll costs are detailed below. Councillor Oliver will wish to note that a number of posts are either jointly or wholly funded by partnership arrangements or through securing of external funding and therefore the actual costs to the Council will be lower than shown.

DirectorateDesc	<b>Payroll costs 2009-10</b>		
	School	Non	Total
ADULT SOCIAL CARE	£0.00	£8,543,887.06	£8,543,887.06
CHIEF EXECUTIVE	£0.00	£377,627.22	£377,627.22
CHILDREN & YOUNG PEOPLE	£78,675,761.46	£15,556,870.36	£94,232,631.82
CX-DEPUTY CHIEF EXEC	£0.00	£7,220,492.44	£7,220,492.44
DCE-ASST CHIEF EXEC-HR	£0.00	£1,483,523.02	£1,483,523.02
DCE-ASST CHIEF EXEC-LEGAL	£0.00	£2,039,238.67	£2,039,238.67
ENVIRONMENT & CULTURE	£0.00	£8,635,605.54	£8,635,605.54
INTERGRATED COMMISSIONING	£0.00	£772,603.69	£772,603.69
REGENERATION	£0.00	£8,425,762.38	£8,425,762.38
RESOURCES	£0.00	£6,752,660.72	£6,752,660.72
	<b>£78,675,761.46</b>	<b>£59,808,271.10</b>	<b>£138,484,032.56</b>

DirectorateDesc	<b>Employee (including part time) nos @ 31.3.10</b>		
	School	Non	Total
ADULT SOCIAL CARE	0	400	400
CHIEF EXECUTIVE	0	6	6
CHILDREN & YOUNG PEOPLE	3,965	745	4,710
CX-DEPUTY CHIEF EXEC	0	258	258
DCE-ASST CHIEF EXEC-HR	0	67	67
DCE-ASST CHIEF EXEC-LEGAL	0	115	115
ENVIRONMENT & CULTURE	0	330	330
INTERGRATED COMMISSIONING	0	21	21
REGENERATION	0	327	327
RESOURCES	0	267	267
	<b>3,965</b>	<b>2,536</b>	<b>6,501</b>

#### Answer to Question 12 B

I would again refer Councillor Oliver to my answer to question 12A and reiterate that the figures below do not reflect the true cost to the council as some posts will be jointly or wholly funded from other sources. Additionally I would draw attention to the fact that a number of those in the lower salary range will be part time employees and therefore receiving a pro rata salary, or only have been employed for part of the financial year.

#### Range

From	To	School	Non	Total
£150,000	+	0	1	1
£100,000	£150,000	0	4	4
£75,000	£100,000	5	5	10
£0	£15,000	2,975	1,230	4,205
		2,980	1,240	4,220

#### Answer to Question 13

The legal team's work is captured within its time recording system and can be analysed in a number of different ways. For management purposes, that analysis currently focuses on the workloads and productivity of individuals and ensuring that all costs are properly allocated to the relevant department for budget purposes. The time recording information is not currently analysed by case type as requested e.g. defendant litigation. I am exploring with the Assistant Chief Executive – Legal and Democratic, whether analysis by case type can be made available. I am confident that I will be able to provide further information and will do so as soon as possible.

#### Answer to Question 14

The Council pays no additional fee to the Returning Officer in respect of the general election. The Ministry of Justice is responsible for funding the cost of general elections. Any supplementary questions or further details should be addressed, in writing, to the Returning Officer.

#### **Question from Councillor AT Oliver to the Cabinet Member Economic Development and Community Services**

##### Question 15

- A *Following the public consultation over the proposed refurbishment of the Butter Market is there an agreed timetable for the refurbishment to go ahead?*
- B *Does the Council have the resources to complete this project? And can the Cabinet Member reassure the public that the building is safe and is not in need of any urgent structural repairs?*

#### **Answer from Councillor AJM Blackshaw Cabinet Member Economic Development and Community Services**

##### Answer to question 15

- A The Architectural competition is due to be completed by August 2010. The timetable for the refurbishment will be dependent on the nature of the winning design.
- B The council is actively exploring funding opportunities in relation to this project.
- Yes the building is safe and there is nothing in our condition reports to indicate that the public safety may be compromised by the structural condition of the building.

#### **Supplementary question**

Could the Cabinet Member confirm that he was confident of getting grants for the Butter Market refurbishment?

#### **Answer from Councillor AJM Blackshaw Cabinet Member Economic Development and Community Services**

All was currently in hand. At least four different forms of funding opportunities would be explored.

## **12. NOTICES OF MOTION UNDER STANDING ORDERS**

There were none.

## **13. DUTY TO RESPOND TO PETITIONS**

The Cabinet Member Corporate and Customer Services and Human Resources presented the report which had been considered by the Constitutional Review Working Group, which had cross party membership. The duty to respond to petitions would come into force on 15 June 2010 and to ensure compliance the Petitions Scheme was required to be adopted by Council.

A request was made by a Member in attendance that the second bulleted point in paragraph 5 of the draft Petitions Scheme be amended to read, '*the name, identifiable address, and signature of any person supporting the petition*'.

A Member in attendance sought clarification on the thresholds for the number of signatures to trigger various actions.

The Cabinet Member Corporate and Customer Services and Human Resources stated that both points raised would be considered by the Constitutional Review Working Group and the outcome communicated with Members.

### **RESOLVED that:**

- (a) the Council approves the draft Petitions Scheme and request that that the Constitutional Review Working Group consider points raised in relation to identifiable address and clarification of thresholds.**
- (b) the scheme be reviewed after 12 months**
- (c) the Monitoring Officer be instructed to make any appropriate changes to the constitution to give effect to recommendations (a) and (b) above, and publish the amendment.**

## **14. COUNCIL CONSTITUTION**

The Cabinet Member Corporate and Customer Services and Human Resources presented the report on changes to the Council Constitution. Thanks were expressed to all Members involved in work relating to the constitution, together with Mr Robert Rogers who had also provided constructive input into the ongoing development of the constitution.

### **RESOLVED that Council :**

- a) Approves the following changes to the Constitution:**
  - i. That the Deputy Chief Executive be designated as statutory Scrutiny Officer**
  - ii. That responses to Health Scrutiny Committee recommendations and those relating to Crime and Disorder Scrutiny are provided by Cabinet within 28 days (Part 4, Section 5 (4.5.13.3))**

- iii. That a position of Vice Chairman of the Standards Committee is created and delegate this appointment to the Standards Committee
  - iv. That Standards Committee sub-committees be established through the selection of 3 members of the Committee (including one independent and one parish member (for parish matters) to undertake reviews of decisions of the assessment sub-committee, consideration of investigation reports and hearings
  - v. That the Council receive formal reports from the Standards Committee at all its meetings (as appropriate)
  - vi. That the wording of the Schedule of Articles – Description of Executive arrangements be clarified at Part 2 (2.14.1)
  - vii. That the Council rules and Cabinet rules (Part 4) relating to the requirements of the Leader’s reports are amended to ensure consistency
  - viii. That the function of appointing Representatives to Outside Bodies be made consistent with delegations provided to the Chief Executive
  - ix. The wider distribution of decisions to all Councillors be reflected appropriately in Part 4, Section 5 (4.5.16.7(b))
  - x. That formal reference be made within the constitution to preclude the recording or filming of meetings without the express prior consent of the Chairman and informing all in attendance
- b) Instructs the Monitoring Officer to incorporate the agreed recommendations in the Council’s Constitution and make consequential amendments; and
- c) Notes the work undertaken by the Constitutional Review Working Group which continues to assist with such further constitutional review work as it determines.

## **15. ANNUAL REPORT FROM THE LEADER OF THE COUNCIL**

The Leader of the Council, Councillor RJ Phillips presented his annual report and made the following points:

- He would work with Herefordshire’s Members of Parliament to the benefit of the public e.g to seek improvement to Herefordshire settlement grant which was currently badly funded.
- All were aware of the national financial position which would have an impact on both in-year and future revenue budgets.
- As the outcome of the Census in April 2011 would be used by the government to fund public expenditure, it was vital that Herefordshire’s population be properly reflected.
- The potential swine flu pandemic demanded much time, resources and energy of senior officers, and whilst the pandemic did not occur it was recognised that the

work undertaken was essential and that lessons had been learnt. However it was also acknowledged that a focus on the pandemic prevented the time and resources being spent on other matters.

- The 2010/11 budget for road expenditure had been increased by 10% to £18million. The infrastructure of Herefordshire's roads was very important and main roads needed to be maintained to a high standard, however it was acknowledged that the challenge would be in relation to minor roads.
- Clear documentary evidence of service improvements across many areas had been collated during the year which included improvements in the quality of services delivered with health partners and the number of recipients of those services.
- Herefordshire Partnership remained important as it was vital to pool resources and collaborate appropriately to ensure best use of public monies. Whilst formula funding was in place, any moves to decrease the Area Based Grant would be challenged.
- A further challenge included the growing maturing population.
- Continued cross sector working would be vital to delivering services and spend in the county; the work to date with the PCT has been innovative and surprise was expressed that the civil service had not been more interested in the outcomes of this partnership.
- Concern was expressed regarding the statistics for earnings, the challenge being how communities could be supported to improve future opportunities and to stabilise and improve upon current earnings. Other contributing factors would include the need for the private sector to be encouraged to deliver both more and higher paid jobs, improved infrastructure (including broadband), greater number of affordable housing, as well as specific issues regarding the infrastructure around Herefordshire City and Leominster. It was stated robustly that the Council could not oversee a further drop in earnings.
- The West Midlands Leaders' Board had published a statement of intent which outlined areas of priority and joint working. As 32 of the 33 local authority leaders were from either the Conservative or Liberal Democrat group it was essential that such relationships were used to support the West Midlands objectives.
- Sub regional partnerships had also been formed; Herefordshire Council would have no issues in forming partnerships and alliances which would benefit the county. The importance of a strong relationship with Wales was also acknowledged and the need to protect the viability of services by ensuring their availability to cross border communities.
- Supporting Herefordshire's vulnerable citizens of all ages was of key importance. Child Protection Plans had risen by 149% in the two years to November 2009.
- The F40 group of local authorities would continue to lobby for more money to support education and to secure fairer funding from government.
- The Hearts of Herefordshire pilot initiative had been held in four areas and had facilitated positive changes in communities. The initiative sought to build on the strength of local communities and included a cross sector of partners including town and parish councils.
- The wheelie bin collection had led to a dramatic increase in the amount of recycled goods. It was confirmed that the weekly black bag collection would continue.
- The Shaping Our Place and Local Development Framework consultation had been successful. The housing growth target of delivering 18,000 properties over 15 years would equate to a smaller rate of growth than had been delivered over the previous 15 years. It was acknowledged that the debate regarding where the growth would take place needed to be held. It was however stated that there was a need to recognise that there was a growing demand for; affordable housing, appropriate business developments, robust infrastructure etc. An additional bridge crossing and better road infrastructure would be required for the

city, as otherwise the current restrictions would freeze levels of growth and housing; the consequences of these not being built would need to be fully understood and acknowledged.

- The Ross flood alleviation scheme was supported and delivered in time.
- Herefordshire became the first in the UK to provide IT systems and support across the Council, PCT, hospital trust and other bodies and organisations.
- The challenge in the year ahead would be to achieve more, for more people with fewer resources. The cross sector working achieved to date had been advantageous and would need to continue to deliver positive outcomes together with other activities.
- Thanks were expressed to all Members, including Overview and Scrutiny Members for their contributions to help inform policy development, and specifically to the Cabinet and wider group for their dedicated work.

Responding to questions from Members in attendance the Leader stated that:

- Maintaining the road infrastructure in the county was key to ensuring the important tourism economy, however whilst motorists contributed significantly to taxes there was no correlation with the subsequent reallocation of public finance from HM Treasury. There would be little to gain by lobbying the Department of Transport for additional finance due to the prominence of HM Treasury.
- Businesses, at times, regarded local government in a negative light due to issues of bureaucracy and regulatory matters. There was a need to demonstrate that the Council was also an enabler; the LDF was clear about the need to support and strengthen businesses, both new and established.
- He acknowledged the supportive comments which commended the work of dedicated school staff despite the low funding; the work of the F40 was also commended. Following the change of government further details were awaited on issues relating to standards in education and delivery of funding. Such issues would continue to be a challenge in the immediate period and it was important to keep a watching brief on standards in schools.
- An invitation had been sent to the Leader of the Welsh Assembly for a meeting with both Leaders of Herefordshire Council and Shropshire Council. A key message to be emphasised to the Welsh government was that both Herefordshire and Shropshire could help in satisfying needs of Welsh communities and should be considered when developing policies for the Welsh Assembly in relation to health, transport links, retail, education and other matters. It was a regret that congestion on the A49 had detrimentally affected the transport links encouraged by the Welsh Assembly.

The Cabinet Member Corporate and Customer Services and Human Resources, in responding to a question relating to smallholdings stated that Council had agreed to invest £1.5million in the smallholdings portfolio over a three year period. Whilst there had been some disposal of assets, this had been as outlined in the smallholdings review. A progress report on the smallholdings review would be considered by Cabinet and Overview and Scrutiny Committee in September 2010. It was important to ensure that the smallholding properties complied with the decent homes standards. The only land which would be disposed of would be by the provision of a garden for any property sold, as stated in the review. The Cabinet Member was pleased to inform Council of the buoyant tenants' forum.

The Cabinet Member Adult Social Care, Health and Wellbeing stated that whilst the issues around the national debt needed to be resolved, the most vulnerable in society must be protected. In responding to questions the Cabinet Member;

- Requested that any concerns about service inefficiencies be directed to the Chief Executive for action, though the Cabinet Member took exception to a comment which stated that the service provided was not adequate and

commended the hard work of front line workers. Any faults with the service which could be demonstrated would be dealt with.

- Requested Members who had concerns about individual cases (examples provided at the meeting included mental health provision and the lack of a seamless provision between Children's Services and Adult Social Care, and costs of respite care) to approach the Cabinet Member to provide details on these cases to ensure that the matters were investigated.
- Together with the Cabinet Member for Children's Services shared concerns regarding the mental health issues of young people and across all communities. The provision of mental health services in rural areas was by definition more resource intensive than those managed in urban areas, however it was recognised that this issue was of great importance both now and in the future.

The Cabinet Member Children's Services advised Council that drugs, alcohol and mental health had a high level of correlation. The Children's Trust Shadow Board in considering its priority areas would initially be focussing on issues around alcohol.

The Leader additionally stated that:

- As the provision of services would be rolled out via locality teams, this approach should support closer working between service teams. Members were advised that funding of social care was a national problem and that a big debate needed to be held around the approach to its funding.
- A public health seminar for Members will be held in June to which all Members were encouraged to attend
- The building of the Rotherwas Road had protected local jobs. The business park development had maintained jobs, whilst some firms had increased the number of employees. Businesses which exported goods appreciated the infrastructure provided by the road and commended its potential. The Rotherwas Road was important for the local economy and assisted the manufacturing industry, which should be ignored at our peril.

**RESOLVED: That the Leader's annual report be received.**

## **16. ANNUAL REPORT OF THE PLANNING COMMITTEE**

Councillor TW Hunt presented the annual report of the Planning Committee.

Councillor MAF Hubbard asked the following question to Councillor TW Hunt and requested it be formally attributed 'Given the quasi-judicial role of planning Committee, does the Chairman of planning think it appropriate that he continue as Chair of this Committee in the light of the recent Standards Boards ruling against him?'

The Chairman invited Councillor TW Hunt to respond, which he declined.

**RESOLVED: That the annual report of the Planning Committee be received.**

## **17. ANNUAL REPORT OF THE STANDARDS COMMITTEE**

Mr Robert Rogers presented the annual report to Council of the Standards Committee.

In responding to questions from Members in attendance, Mr Rogers; stated that the Standards Committee processes were rigorous and exacting and that improvements continued to be made; paid tribute to all those involved and for giving their time so generously to support the work of the Committee; advised Council of the advantage local Committees had in being aware of local circumstances and approaching issues in an



open, fair and proportionate matter, thus being able to address any complaints of a vexatious or frivolous nature appropriately.

The Chairman additionally expressed his thanks to all who served on the Standards Committee.

**RESOLVED: That the annual report to Council of the Standards Committee be received.**

**18. ANNUAL REPORT OF THE OVERVIEW AND SCRUTINY COMMITTEE**

Councillor PJ Edwards James presented the annual report to Council of the Overview and Scrutiny Committee.

**RESOLVED: That the annual report of the Overview and Scrutiny Committee be received.**

**19. ANNUAL REPORT OF THE REGULATORY COMMITTEE**

Councillor JW Hope MBE presented the report of the meeting of the Regulatory Committee which covered the period December 2009 to May 2010.

**RESOLVED: That the report of the Regulatory Committee covering the period December 2009 to May 2010 be received.**

**20. ANNUAL REPORT OF THE AUDIT AND GOVERNANCE COMMITTEE**

Councillor ACR Chappell presented the annual report to Council of the Audit and Governance Committee.

The Committee had additionally considered an audit report on property services, which was ongoing.

Responding to comments around the review of the procurement rules, the Cabinet Member Corporate and Customer Services and Human Resources stated that this would be considered at a future meeting of the Constitutional Review Working Group.

**RESOLVED: That the annual report of the Audit and Governance Committee be received.**

**21. WEST MERCIA POLICE AUTHORITY**

Councillor B Hunt presented the report of the West Mercia Police Authority held on 16 February 2010.

Councillor B Hunt in responding to comments regarding:

- the use of specialist terms of phrases stated that together with Councillor RH Smith, they disapproved of certain terms used and encouraged the use of clear understandable and plain English.
- educating drivers to reduce road casualties stated that together with enforcement, certain initiatives were in place, although it was acknowledged that educating drivers was an ongoing issue for the force and authority.
- The coalition Government's policy of making police directly accountable to locally elected representatives, responded that it would be difficult to envisage how the structure would work,

The Leader in acknowledging the five year collaboration Strategy on operational and strategic issues expressed the view that there was a need at a local level to hold true to the principles of Total Place to ensure that the public pound was used in the most effective way. Councillor B Hunt acknowledged the need for the public sector to work closer together.

**RESOLVED: That the report of the meeting of the West Mercia Police Authority held on 16 February 2010 be received.**

## **22. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY**

Councillor Brig. P Jones presented the report of the meeting of the Hereford & Worcester Fire and Rescue Authority held on 3 March 2010.

Responding to a question from a Member in attendance regarding combined control centres, Councillor Brig. P Jones stated that there were a number of control centres in England, however these may not now be considered to be essential. Work was continuing on this matter.

**RESOLVED: That the report of the meeting of the Hereford & Worcester Fire and Rescue Authority held on 3 March 2010 be received.**

## **23. DATES OF FUTURE COUNCIL MEETINGS**

The dates of future Council meetings for 2010/11 were agreed as:

16 July 2010  
19 November 2010  
4 February 2011  
4 March 2011  
29 April (Last Council meeting prior to May elections)  
27 May 2011 (Annual)

All meetings would be held at 10.30 at the Shirehall, Hereford unless otherwise advised.

The meeting ended at 12.30 pm

**CHAIRMAN**

**Environment and Culture Directorate**

Director: Michael Hainge

Your Ref:

Our Ref: pn/LIC

Please ask for: Paul Nicholas

Direct Line / Extension: 01432 260543

Fax: 01432 261982

E-mail: pnicholas@herefordshire.gov.uk

22 March 2010

Dear Councillor

At the last full council meeting (5 March 2010) in a response to a question from Councillor Chris Chappell, the Chair of the Regulatory Committee, Councillor Brigadier Peter Jones, gave reassurances that no licensed taxi drivers had convictions, spent or unspent, for sex offences.

The response, whilst wholly correct, had inadvertently not included the answer to the second part of the question that asked about numbers of drivers with convictions, spent or unspent, for violent crime.

This omission was spotted shortly after the Council meeting and the figures on violent crime convictions have now been supplied to Councillor Chappell. I would like to apologise to members for not providing a complete answer to the question and am providing, below, the full response to all members to clarify the current position on taxi driver convictions.

There are no drivers with convictions, spent or unspent, for sex offences. There are currently 18 drivers with unspent convictions for violent offences, and 11 with spent convictions licensed to drive taxis in the county. The council's regulatory committee granted the licences only after applicants were questioned at a full hearing, to ensure there was no risk to the travelling public, and full Criminal Records Bureau (CRB) checks were carried out. Strict guidelines inform each decision, and in 2009 ten applications for a taxi licence were refused due to previous convictions.

You may also wish to be aware that we are currently reviewing many of the council's policies and procedures relating to taxi drivers, together with a wide range of other licensing issues, to ensure our licensing function remains in line with best practice. The council is also running training programmes for the members of the council's regulatory committee, which decides licence applications.

Yours sincerely

**PAUL NICHOLAS**  
**ASSISTANT DIRECTOR (ENVIRONMENT & CULTURE)**



Certificate No. 4392

Working in partnership for the people of Herefordshire

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NHS Herefordshire

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**PUBLIC QUESTIONS TO COUNCIL – 28 MAY 2010****Question from Mr P McKay, Leominster**

- 1 *Having asked a number of questions I have learned that Herefordshire has 339 unsurfaced county roads totalling 164 km in length, yet does not know if they are passable by equestrians even though they are inspected annually, on foot if need be, since these inspections only record hazards. A 1999 inspection recorded passability, signage, obstruction, etc, information that is required due to British Horse Society undertaking an Emagin project to record all equestrian routes, and I ask if Council would review the inspection criteria for its unsurfaced county roads to include passability, signage, condition of gates, long term obstructions, ploughing etc. In a similar way to inspections of public rights of way, being I suggest reasonable public expectations of highway inspections, and thereby obtain better value for money for the cost of these inspections?*

**Answer from Councillor DB Wilcox, Cabinet Member Highways and Transportation**

Answer to Question 1

Current inspection criteria, which include obstructions and defects, as detailed in the Council's Highway Maintenance Plan (HMP) are published on the Council's website.

The plan was developed in accordance with the National Code of Practice for Highway Maintenance Management published by the UK Roads Board, and is subject to periodic review to take account of changes in the code of practice and most importantly changes in the demands placed on our county's extensive highway network, ensuring continued delivery of an efficient and effective highway maintenance service. The next review is scheduled for later this year, and Mr McKay's comments will be considered as part of that review.

*No supplementary question was asked*

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**Question from Mr N Jones**

- 2 *A front page article in the Hereford Times earlier this month reported that the newly-elected MP for Hereford & South Herefordshire intends to seek a meeting with ESG's senior management team to discuss the possibility of 'an overhaul' of the scheme's retail element. As an ESG Board member, will the Council Leader give an undertaking that the founder of the It's Our City campaign (Cllr Hubbard) will be invited to attend these talks?*

**Answer from Councillor RJ Phillips, Leader of the Council**

Answer to Question 2

I understand this meeting has already taken place.

*No supplementary question was asked*

**PUBLIC QUESTIONS TO COUNCIL – 28 MAY 2010**

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**Question from Mr P Cocks, Lower Bullingham, Hereford**

- 3 *In the last fiscal year how many agency senior staff and how many agency junior staff were employed by the council and what was the cost to the taxpayer of these staff?*

**Answer from Councillor JP French, Cabinet Member Corporate and Customer Services and Human Resources**

Answer to Question 3

Total spend on agency staff during the financial year 2009/10: £5,817,347. We employ agency staff through a contract that went through a tendering process to provide value for money. Agency staff are used to fill posts that can be hard to recruit to on a permanent basis and also posts we keep open pending any future changes to the organisation, thereby ensuring the council minimises its liability in relation to potential termination costs. Actions are in place to ensure that agency spend is kept to a minimum, and used in a way which delivers value for money, and it should be borne in mind that on occasions what appears to be higher agency spend may be investing to save.

Number of Senior staff, which we have included as Directors, Assistant Directors and Heads of Service totals four.

We are unfortunately unable to provide an overall figure for junior posts for the entire year as we employ agency staff for such varied periods of time from one day to several months. Since August 2009 HR have kept substantial records an average would be approximately 127 per month taking the gross monthly figures across the eight month period. The figures prior to August are held by the contracted vendor.

**Supplementary Question**

The assertion in the response is that there is a need to invest to save. What are the additional costs to Herefordshire Council of short term termination proof contracts?

**Answer from Councillor JP French, Cabinet member Corporate and Customer Services and Human Resources**

Must agree to disagree. The Council was currently undergoing a huge transformational programme and shared services initiative across three organisations which would join together back office functions. As such programmes required long lead in times, it was prudent not to fill vacancies with permanent staff and therefore not incur redundancy costs.

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<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>16 JULY 2010</b>
<b>TITLE OF REPORT:</b>	<b>QUESTIONS FROM MEMBERS OF THE PUBLIC</b>
<b>REPORT BY:</b>	<b>ASSISTANT CHIEF EXECUTIVE LEGAL AND DEMOCRATIC</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To receive any questions from members of the public deposited more than eight clear working days before the meeting of Council.

### **Introduction and Background**

- 1 Members of the public may ask a question of a Cabinet Member or Committee or other Chairmen. Written answers will be circulated to Members, the press and public prior to the start of the Council meeting. Questions subject to a Freedom of Information request will be dealt with under that separate process.
- 2 Standing Order 4.1.14.4 of the Constitution states that: a question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday eight clear working days before the day of the meeting (ie the Monday of the week preceding the Council meeting where that meeting is on a Friday). Each question must give the name and address of the questioner and must name the person to whom it is to be put.
- 3 A questioner who has submitted a written question may also put **one** brief supplementary question without notice to the person (if s/he is present at the meeting) who has replied to his or her original question. A supplementary question must arise directly out of the original request or reply. The Chairman may reject a supplementary question on any of the grounds for rejecting written questions set out in these Council rules or if the question is too lengthy, is in multiple parts or takes the form of a speech. In any event, any person asking a supplementary question will be permitted only **1 minute** to do so.
- 4 The Monitoring Officer may reject a question or a supplemental question if it:
  - Is not about a matter for which the Council has a responsibility or which affects the County or a part of it;
  - Is illegal, scurrilous, defamatory, frivolous or offensive or otherwise out of order;

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Further information on the subject of this report is available from  
Sally Cole, Committee Manager Executive on (01432) 260249

- Is substantially the same as or similar to a question which has been put at a meeting of the Council in the past six months or relates to the same subject matter or the answer to the question will be substantially the same as the previous answer;
- Requires the disclosure of confidential or exempt information;
- Relates to a planning or licensing application;
- Relates to an employment matter that should more properly be dealt with through the Council's Human Resources processes.

5 There will be a time limit of a maximum of 30 minutes for public questions and of 30 minutes for Members' questions. If either public or Member questions are concluded in less than 30 minutes, then the Chairman may allow more time for either public or Member questions within an overall time limit of one hour for all questions and supplementary questions. There will normally be no extension of time beyond one hour, unless the Chairman decides that there are reasonable grounds to allow such an extension, and questions not dealt with in this time will be dealt with by written response. The Chairman will decide the time allocated to each question.

## **Questions**

6 Eight questions have been received by the deadline and are attached at Appendix 1.



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Ms P Mitchell, Cycle Hereford

- 1 *When will the Council introduce 20mph speed limits on all roads not wide enough to accommodate both two-way motor traffic and full-width cycle lanes and when will it introduce full-width cycle lanes in both directions on roads in the City of Hereford where the speed limit is higher than 20mph?*

#### Summary

- *The Council departs from national guidance and good practice in its treatment of cyclists.*
- *The safety of cyclists is a prerequisite to increasing levels of cycling in Hereford.*
- *Traffic speed is both the most important and most readily managed aspect of road safety.*
- *When the Council's management of the road network fails to take the safety of cyclists and pedestrians fully and systematically into account, it discriminates against these road users.*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mr M Harding, Chairman Ledbury Town Council Planning and Economic Development Committee

- 2 *Is there a set criteria for ward members to follow in the Herefordshire constitution and how can a ward member agree to delegate a planning application when they do not know the location or details of the plan?*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mr D Packman, Withington

*In recent months, when following up matters of interest to each of us as individuals rather than of joint interest, my wife and I have become increasingly concerned at the length of time it has taken to obtain acknowledgement of our emails, still less to be provided with answers to the questions we have raised. This observation applies not only to our attempts to contact Herefordshire Council officers but also to requests for information from the staff of the Herefordshire Partnership and of Amey Herefordshire. In view of this, and following discussions with a number of Herefordshire Councillors, we ask that the following written questions be put on the agenda for the next Council meeting.*

- 3 *What is the target period within which members of the Council's staff are required to respond to electronic correspondence; is it enforced; can automated acknowledgements be sent and what arrangements are in place to acknowledge incoming messages when staff are away from the work place?*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mr C Grover, Much Birch, Hereford

- 4 *During the last two years three gates or swinging bars have been erected on Bromyard Downs. The digging of six holes, inserting six, six by six inch five foot high wooden posts, concrete and fitting swinging bars would for most people's interpretation be regarded as "works" as described in the Commons Act 2006 Section 38. Why have the public been denied the consultation required under this law despite the fact that all persons in authority in Hereford Council and the Parish Council concerned with the administration and management of the Downs have been aware of the works?*





## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mr R Steeds, Bringsty

- 5 *Many folk have written numerous letters to Herefordshire Council staff concerning Bromyard Downs Management; planning applications for Olivers Field, Clatter Park and Slipstone Workshop; and breaches of the code of conduct associated with SCO916 few have been acknowledged and none that I am aware of has received a considered response.*

*Is this acceptable for an organisation whose leader is paid more than the Prime Minister and what is the Herefordshire Council policy on responding to correspondence?*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mrs M White, Bringsty

#### 6 Completion of Malvern Road Drainage

*I am 75 years old and registered blind. My home was flooded in July 2007 and under repair until May 2008. The flood was due to the negligence of Herefordshire Council's agents the Brockhampton Group Parish Council whose Chairman's "unlawful" decision (See SCO916) has left a serious local hazard. This is the third formal request to Herefordshire Council for the work to be completed urgently to our satisfaction and that of the Land Agent, Mr Thompson. When can we expect completion?*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Mr P McKay

- 7 *Legislation provides that legitimate limitations and conditions, such as structures across paths and ways, i.e., gates and stiles, be recorded on the definitive map written statements, with procedures for correcting errors and omissions, so I am somewhat concerned when enquiring why gates and gaps have been replaced with stiles (or other structures such as kissing gates and narrow pedestrian gates) to be told that they are suitable for the status of the route, a reply that ignores a) whether or not they are legitimate, b) ignores the disability discrimination act, and c) ignores the fact that the status of the route is without prejudice to higher rights over it, refer Council web page. So may I ask in this time of cutbacks, with structures of questionable legitimacy having been installed, and Council's accounts having previously been endorsed by auditor due to unlawful expenditure on structures such as these, just which section of Highway Act gives you the power to restrict the highway in this way, and if expenditure on maintenance, other than removal of the structure, could be curtailed to those structures that may be verified by audit to be legitimate, my objecting to my money being used to hinder access to the countryside?*



## PUBLIC QUESTIONS TO COUNCIL – 16 JULY 2010

### Question from Ms K Rock, Bromyard

- 8 *In addition to general overgrowth of paths, Mr Barnes' gate, Mr Lane's hedge and shed and numerous "earthworks" which have been put up illegally on Bromyard Downs, we now have single bar gates erected. These are not only unlawful but extremely dangerous for horse riders due to the design, height, type of fastening (which has been fitted on some) which are hazardous for both rider and animal. They also very effectively block disabled access onto the Downs at the bottom of the Racecourse (where access was previously possible). There have also been large stones placed on the track by Foxglove Cottage which again are hazardous to horses and completely block wheelchair access.*

*Given all relevant authorities are aware of the various impediments currently on Bromyard Downs, when will the Council take action to remove these gates and other impediments to access?*





<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>16 JULY 2010</b>
<b>TITLE OF REPORT:</b>	<b>COUNCIL CONSTITUTION</b>
<b>REPORT BY:</b>	<b>CABINET MEMBER FOR CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES</b>

**CLASSIFICATION:** Open

### **Purpose**

To seek approval for and present matters relating to the Council Constitution.

### **Recommendation(s)**

**THAT Council :**

- a) **Approves the following changes to the Constitution:**
  - i. **The Contracts Procedure Rules**
  - ii. **The designation of Monitoring Officer to the successor post of Assistant Director Law and Governance following the cessation of the current interim arrangements**
- b) **Notes that a technical redraft of the constitution has been undertaken**
- c) **Receives and adopts the refreshed constitution to take effect from 1 August 2010**
- d) **Notes the work undertaken by the Constitutional Review Working Group which will continue to assist with such further constitutional review work as it determines.**

### **Key Points Summary**

- Council at its meeting on 13 November 2009 agreed to adopt a new Constitution to take effect on 1 January 2010. This completed Phase 1 of the constitutional review.
- Members of the Constitutional Review Working Group (CRWG) have been progressing further phases of the constitutional and governance review and made a number of recommendations to the Annual Council Meeting on 28 May, which were approved.
- This report outlines a number of issues relating to the constitution for consideration by the Council Meeting which includes:

- (i) the Contracts Procedure Rules
- (ii) designation of Monitoring Officer
- (iii) the submission of a fully revised constitution for adoption by Council

## **Alternative Options**

- 1 The alternative options in each of the issues outlined have been discussed at either the Constitutional Review Working Group or other bodies where applicable.
- 2 Council now has the following options:
  - a. To accept the amendments as outlined in the report
  - b. To reject the amendments as outlined in the report

## **Reasons for Recommendations**

- 3 The Council is being asked to make two substantive amendments to the Constitution; namely, to adopt new Contract Procedure Rules and to change the arrangements for designation of the Monitoring Officer. The Council is also being asked to adopt the Constitution which has been the subject of technical amendments by the Monitoring Officer with the assistance of the Constitutional Review Working Group. The technical redraft is intended to address drafting issues and the matters explained in this report. With the exception of the formal inclusion of the Code of Corporate Governance and the 10 principles of public life in a preamble to the Constitution, the technical redraft of the constitution as presented does not include any additional substantive changes.

## **Introduction and Background**

- 4 At its meeting on 13 November, the Council tasked the Monitoring Officer to undertake further work on the constitution under the direction of the Constitutional Review Working Group. A further substantive report was considered by the Council at its Annual Meeting on 28 May 2010. This report seeks approval of work which has been undertaken during Phase 3 of the constitutional and governance review and which requires either the Constitution to be amended or technical drafting changes to be included within the constitution. Additionally, Council is asked to receive and formally adopt the re-drafted constitution to take effect from 1 August 2010.

## **Key Considerations**

### **Contracts Procedure Rules**

- 5 .In accordance with the action required by CRWG, a Project Team was established to review and propose any necessary amendments to the Contract Procedure Rules. The team included members of Procurement and Legal Services, with Councillor M Cooper as the Lead Member on behalf of the CRWG and the Director of Resources as the Lead Director.
- 6 The Project Team considered the Rules in depth and consulted Audit and Governance Committee informally, the Joint Management Team and CRWG.
- 7 The main areas of key changes or adjustments are as follows:
  - i) Clearer and more rigorous rules have been set around the use of Approved Suppliers, promoting more regular assessment of suitability and competitiveness;

- ii) Allowing Legal Services more flexibility to ensure procedures are efficient in the use of Officer's time, while maintaining sufficient scrutiny, including allowing the option of electronic processing of tenders;
- iii) Promoting increasing collaboration with NHSH, and other potential partners, where this can improve value for money;
- iv) Job titles have been updated or made more generic, so amendments will not need to be made as frequently, as structures and titles change;
- v) Various unclear and anomalous wordings have been improved.

8 While there are a number of revised paragraphs, it should be pointed out that the majority relate to the latter two issues, so the overall impact is not one of radical change. The new Procedure Rules are at Appendix 1.

9 The Council is requested to consider and adopt the Contract Procedure Rules as appended.

### **Designation of Monitoring Officer**

10 Following the cessation of the current interim arrangements for Assistant Chief Executive Legal and Democratic, the organisation is seeking to replace this post with a permanent position. The Council is asked to designate whatever post is created in replacement as the Council's Monitoring Officer and to authorise the Monitoring Officer under delegations to make the relevant changes to the Constitution. Those changes will be limited to replacing any reference in the Council's Constitution to the Assistant Chief Executive – Legal and Democratic if the new post has a new title. Members are also advised that the constitution will make reference as appropriate to the Monitoring Officer as opposed to a post title to minimise the disruption to the constitution of any successor post titles.

### **Revised Constitution**

11 The Council was advised on 28 May that, as part of the ongoing review of the constitution, that Members, Officers and interested individuals had provided helpful comments on the contents of the constitution in relation to possible anomalies, inconsistencies and duplications as well as highlighting the need to address presentational issues in respect of typographical corrections, grammar and formatting. All comments on the constitution were welcomed and considered.

12 Members were advised that the constitution would be undergoing a full technical redraft with many of the comments being dealt with as part of this process. This has been undertaken by the Monitoring Officer in line with the delegated authority provided by the Council. The CRWG has been fully engaged in the process.

13 With the exception of the formal inclusion of the Code of Corporate Governance and the 10 principles of public life in a preamble to the Constitution, the technical redraft of the constitution as presented does not include any additional substantive changes. The technical redraft has ensured that the constitutional issues agreed and adopted by Council since the 1 January 2010 have been appropriately captured. Additionally the technical redrafting process has:

- consolidated various parts of the existing constitution which has reduced duplication and removed superfluous wording
- clarified terms

- updated the glossary of terms
- Included a contents page
- captured and corrected typographical and grammatical errors
- updated post title references and other bodies (e.g First Tier Tribunal)

14 A fully tracked changed version of the constitution has been retained by the Assistant Chief Executive Legal and Democratic and is available to be viewed by Members.

15 To enable Members to formally adopt the redraft of their constitution, their personal copy will be replaced. This will be distributed to Members shortly together with a table setting out the main technical changes. The table will additionally set out some proposed amendments received from Members which have not been incorporated in the Constitution.

16 The constitution as presented is recommended to Council by the Monitoring Officer and Council is requested to approve the updated constitution to formally take effect from 1 August 2010.

17 Members are advised that further work is progressing in relation to the constitution and a further report will be submitted to Council for consideration in November 2010.

## **Community Impact**

18 These amendments to the Constitution seek to clarify elements of the constitution thus enable the public to understand more clearly what the Council and its partners are trying to achieve and how they work together to do that.

## **Financial Implications**

19 There are none

## **Legal Implications**

20 The Constitution reflects the statutory requirements and guidance.

## **Risk Management**

21 There are no risk management issues other than the need to ensure legal compliance.

## **Consultees**

22 The Constitutional Review Working Group has met frequently and been consulted on all proposals in this report.

## **Appendices**

23 Appendix 1 – Contracts Procedure Rules

## **Background Papers**

There are none

## Section 6 - Contracts Procedure Rules

### 4.6.1 Introduction

- 4.6.1.1 The primary objective of the Council's Contract Procedure Rules is to ensure that all contracts for works, goods and services are entered into in a manner that secures value for money and is demonstrably free from impropriety.
- 4.6.1.2 The Council's Contract Procedure Rules also ensure that:
- a Contract selection and award procedures are conducted fairly, in a properly regularised manner and in accordance with relevant legal requirements
  - b Strategic service delivery and supply partners are used wherever possible to ensure value for money is obtained and the cost to procure is minimised
  - c Local firms are employed whenever they offer as good value for money as other firms and their selection is in accordance with the Council's legal obligations, for example in relation to European procurement rules
  - d The Council's strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment
  - e Alternative methods of procurement compatible with the objectives of the Contract Procedure Rules have been considered
  - f Procurement procedures are kept under review in order to ensure continuous improvements to services and provide best value to the community of Herefordshire
  - g Procurement of ICT equipment is achieved using the Council's on-line procurement system.
- 4.6.1.3 The Deputy Chief Executive has overall responsibility for the preparation of the Council's Contract Procedure Rules. The senior Procurement Officer appointed by the Deputy Chief Executive has delegated responsibility for implementing the Council's Contract Procedure Rules.
- 4.6.1.4 The senior Procurement Officer works very closely with the Monitoring Officer due to the significant legal issues involved in contracting and procurement activity.
- 4.6.1.5 It should be noted that the Council's Contract Procedure Rules should be read in conjunction with the Functions Scheme (Part 3), Budget & Policy Framework Rules (Part 4 section 3) and Financial Procedure Rules (Part 4 section 7) in the Constitution.
- 4.6.1.6 Wherever it is mutually advantageous to do so, the Council should seek tenders in collaboration with other public bodies, for example either or both of our partners in Herefordshire Public Services (HPS) – NHS Herefordshire and The Herefordshire Hospital Trust. In the case of HPS it

must be noted that each Partner will need to comply with their own Contract Rules, which have key differences to the Council Rules – not least due to the European Procurement Directive governing Health Authorities having different thresholds to those applicable to Local Authorities. In the event that Contracts are to be established applicable to two or more partners the Contract Rules of each partner must be adhered to, and it is likely that separate contractual documents will have to be established for each Partner as they are separate legal entities. Officers must ensure the Rules and Governance procedures of each partner are followed throughout the procurement process. Where costs are to be shared between collaborating authorities it is advised that a formal agreement detailing such arrangements is drawn up between the Partners. Legal Services can provide assistance.

- 4.6.1.7 It should also be noted that failure to observe the Council's Contract Procedure Rules could lead to disciplinary action.
- 4.6.1.8 All financial limits outlined in this document exclude Value Added Tax (VAT).

## **STANDARDS OF CONDUCT**

### **4.6.2 Declarations of Interest**

- 4.6.2.1 Members and Officers must ensure that they comply with the provisions of the relevant Code of Conduct including on the Declaration and Registration of Interests and the Disclosure of Financial Interest requirements in Part 5 (sections 1 and 13) of the Constitution.

### **4.6.3 Gifts and Hospitality**

- 4.6.3.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the Council must be treated with extreme caution.
- 4.6.3.2 Any such offers must be noted on the appropriate form and reported to the Monitoring Officer who shall maintain and make available to the Council's internal and external auditors a register of such matters.
- 4.6.3.3 Acceptance of gifts and hospitality must be in accordance with the Council's Code on such matters (part 5 section 9).

### **4.6.4 Honesty**

- 4.6.4.1 All Members must follow the Members' Code of Conduct (Part 5 section 1).
- 4.6.4.2 All employees must follow the Employee Code of Conduct (Part 5 section 13).
- 4.6.4.3 All officers must make sure that employees involved in an in-house tender for a contract do not take part in the preparation of tender documentation or the decision on the award of such a contract.

## **OFFICER RESPONSIBILITIES**

### **4.6.5 Chief Executive's Responsibilities**

- 4.6.5.1 The Chief Executive is responsible for resolving issues concerning the operation of the Council's Contract Procedure Rules, seeking advice as necessary from the Deputy Chief Executive **and** the Monitoring Officer.

### **4.6.6 Directors' Responsibilities**

- 4.6.6.1 All Directors are responsible for:
- a Monitoring compliance with the Council's Contract Procedure Rules in relation to contracts funded by their Directorate budget.
  - b Appointing Contract Monitoring Officers (paragraph 4.6.8) and ensuring they support them in their role and obtain regular briefings from them.
  - c Appointing a senior member of staff to the Corporate Procurement Group (paragraph 4.6.9).

- d Establishing, maintaining and utilising Approved Contractors Registers for their Directorate in accordance with section 4.6.11 of the Council's Contract Procedure Rules.
- e Bringing the provisions of the Council's Contract Procedure Rules to the attention of their staff.
- f Ensuring that the contracts within their Directorate are legal, comply with Contract Procedure Rules and Financial Procedure Rules (Part 4 section 7) and protect the Council's interests fully.
- g Ensuring that the Council's Criminal Records Bureau policies and procedures are followed.

4.6.6.2 The Deputy Chief Executive has overall responsibility for the preparation and review of the Council's Contract Procedure Rules but must do so in agreement with the Monitoring Officer.

#### **4.6.7 Monitoring Officer Responsibilities**

4.6.7.1 The Monitoring Officer is responsible for:

- a Providing legal advice and guidance to Members and officers on the operation of the Council's Contract Procedure Rules and all contracting and procurement activity.
- b Working with the Deputy Chief Executive on the preparation and review of the Contract Procedure Rules.
- c Assisting the Chief Executive with the resolution of questions regarding the interpretation of the Council's Contract Procedure Rules.
- d Advising on the preparation of contract documentation.
- e Maintaining a Central Procedures Exemption Register.
- f Informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the Council.

4.6.7.2 The senior officer responsible for the Corporate Procurement function provides the professional lead on all the non-legal aspects of contracting and procurement relating to works, goods and services. This officer is also responsible for supervising the Corporate Procurement Group's activities (paragraph 4.6.9) and maintaining a Contracts Register, which will be published on the Council website for public viewing.

4.6.7.3 All Heads of Service are responsible for providing Corporate Procurement with the information required to maintain a Contracts Register. The Contracts Register will include all contracts for purchases in total valued £10,001 and above and the name of the Contract Monitoring Officer or responsible officer.



#### **4.6.8 Contract Monitoring Officers' Responsibilities**

- 4.6.8.1 Directors shall appoint one or more Contract Monitoring Officer(s) to take responsibility for contracts with an estimated total value (excluding VAT) in excess of £10,001. Directors shall nominate a Contract Monitoring Officer for each contract and nominate one of their Contract Monitoring Officers to be responsible for the overall reporting and maintenance of contract records within the Directorate. A responsible officer shall be appointed for all contracts below £10,000.
- 4.6.8.2 Contract Monitoring Officers are responsible for liaising fully with Corporate Procurement and Legal Services on all matters relating to contracting and procurement.
- 4.6.8.3 Contract Monitoring Officers are responsible for agreeing exemptions from the formal tendering procedures with the senior Procurement Officer **and** the Monitoring Officer. All exemptions are to be approved in writing and reported in line with the requirements of 4.6.18 of the Council's Contract Procedure Rules.
- 4.6.8.4 Contract Monitoring Officers are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.
- 4.6.8.5 Contract Monitoring Officers are responsible for advising the senior Procurement Officer and Monitoring Officer of any concerns they receive regarding the suitability of a supplier to carry out work for the Council.
- 4.6.8.6 Contract Monitoring Officers are responsible for maintaining records of the:
- a Contractors included in their Approved Contractor Registers
  - b Contracts awarded including the nature and value of contracts and the names of successful tenderers
  - c Total value of contracts awarded to each successful tenderer during each financial year
  - d Names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price
  - e Details of any failure by a tenderer to comply with instructions to tenderers
  - f Details of the reasons for any tenders being withdrawn
  - g Details of failures by contractors to submit tenders after having requested and been invited to do so
  - h Contractors' performance
  - i Reasons for opening late tenders (paragraph 4.6.13)
  - j Reasons for exceptions to tendering procedures (paragraph 4.6.18)

- 4.6.8.7 The lead Contract Monitoring Officer appointed by the Director is responsible for keeping their Director briefed on contract and procurement issues within the Directorate.

#### **4.6.9 Senior Procurement Officer's Responsibilities**

- 4.6.9.1 Working to the Deputy Chief Executive, the senior Procurement Officer is responsible for providing advice on all aspects of the Council's Contract Procedure Rules save for the legal issues. The responsibility for the legal aspects of the Council's Contract Procedure Rules rests with the Monitoring Officer.

- 4.6.9.2 The senior Procurement Officer is responsible for chairing the Council's Corporate Procurement Group. Each Director shall appoint a senior officer to be a member of the Corporate Procurement Group and the membership shall include the Monitoring Officer or their nominated representative.

- 4.6.9.3 The Council's Corporate Procurement Group will meet at least quarterly in order to fulfil the following responsibilities:

- a Continually reviewing the Council's Procurement Strategy and making recommendations on appropriate enhancements to the Deputy Chief Executive to take forward in consultation with the Monitoring Officer for approval in line with the Council's arrangements for decision making as set out in the Constitution
- b Maintaining a register of current contracts
- c Monitoring compliance with the Council's Contract Procedure Rules and reporting non-compliance to the Deputy Chief Executive and Monitoring Officer for appropriate action
- d Preparing an annual report on the operation of and compliance with the Council's Contract Procedure Rules as a basis for the Deputy Chief Executive, in consultation with the Monitoring Officer, to report to the Audit & Governance Committee
- e Continually reviewing the Council's Contract Procedure Rules to ensure they keep pace with developing best practice and advising amendments as necessary
- f Prescribing the information needed from Contract Monitoring Officers and maintaining a central record of the information notified by Contract Monitoring Officers
- g Reviewing the Contract Procedure Rules Exemption Register and preparing an annual report on the exemptions recorded for the Monitoring Officer
- h Providing training and support for employees involved in procurement activities.

#### **4.6.10 Responsibilities of all Officers**

- 4.6.10.1 All officers are responsible for:

- a Following the Council's Contract Procedure Rules and any codes of practice, guidance or instructions provided by Corporate Procurement and the Monitoring Officer
- b Following all relevant English and European procurement laws
- c Seeking advice from Corporate Procurement and the Monitoring Officer in the case of any uncertainty
- d Ensuring that any departure from these Contract Procedure Rules is agreed with the senior Procurement Officer **and** the Monitoring Officer
- e Following the Council's Employee Code of Conduct (Part 5 section 13)
- f Following the Council's Financial Procedure Rules and the systems and procedures that are in place to control budgets properly
- g Declaring any interest that could influence their judgement in contracting matters to their Director and the Monitoring Officer
- h Not taking part in **any** decisions relating to the procurement of work, goods or services if they are part of a formal in-house bid for that work
- i Reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor
- j Ensuring that value for money is evidenced through the procurement process

## **APPROVED CONTRACTOR REGISTERS**

### **4.6.11 Introduction**

- 4.6.11.1 Approved Contractor Registers are very useful for some types of works, goods or services contracts and can be an efficient way of identifying suppliers.
- 4.6.11.2 Use of an Approved Contractor Register is particularly useful for low-value procurements such as building repairs for Council and school buildings, where tradesmen can be vetted formally in advance. Such a Register, however, must not be used for awarding contracts in excess of £50,000, where formal tendering procedures must be used to ensure best value is obtained (unless covered by a strategic service delivery partner).
- 4.6.11.3 Approved Contractor Registers should not be confused with Framework Agreements, which are a means to formally qualify single or multiple suppliers for a single type, or range of goods or services. Framework Agreements put in place the contractual terms and conditions that will apply to any awards under the Agreement, and are one of the methods that comply with European Procurement Directives. If the aggregate value of expenditure on any particular product, services or works is likely to exceed EU Procurement thresholds then advice should be sought from Corporate Procurement, as a process compliant with European procurement law may need to be followed. If an Approved Contractor Register exists and it is appropriate to use it – the value involved being clearly below both the European thresholds and the Council's threshold for formal tendering - then the Register should be used. All contractors will be subject to ongoing risk assessment.

- 4.6.11.4 When a valid Approved Contractor Register or Framework Agreement is used and there is therefore no need to advertise for potential bidders, then the procurement does not need to be posted on the Business Portal referenced in 4.6.13.24.
- 4.6.11.5 Contractors shall be added to an Approved Contractor Register by successfully completing a written application provided by the Council relevant to the specific Register they are applying for, which shall be subject to a written set of acceptance criteria. All Contractors applying to be added to the Register shall be treated equally and shall be subjected to an identical process. All Contractors shall be informed of the result of their application promptly in writing and, if unsuccessful, reasons for their failure are to be given. All applications and related correspondence are to be maintained on file during the life of the Register. All Approved Contractor Registers must be reviewed at least every two years, and Contractor details updated.

#### **Managing an Approved Contractor Register**

- 4.6.11.6 When establishing an Approved Contractor Register for the first time or reviewing an existing Register, Contract Monitoring Officers must advertise and invite applications from potential suppliers to be added to an Approved Contractor Register for the specific type of contract for works, goods or services that is required. Once a Register is in place they must also assess applications from any Contractors who approach the Council from time to time. Should the number of Contractors on an Approved Contractor Register reach a limit beyond which it would be too difficult to ensure each Contractor receives a reasonable number of opportunities for business, or would be generally unmanageable, then further applicants should be advised that the register is closed, but at the next Review Date they will be invited to apply and the Register will be re-assessed. At such Review Date, which shall be no more than two years apart for each specific Approved Contractor Register in accordance with 4.6.11.5, all applicants, including previous incumbents, shall be assessed and a new Register created. If a maximum number of Contractors are to be allowed onto the Register then applicants should be informed, and the highest-scoring ones selected.
- 4.6.11.7 Advertisements inviting applications from potential suppliers to be included in an Approved Contractor Register should be placed in the relevant local and trade press, the Business Portal, and if necessary, the EU Journal (OJEU).
- 4.6.11.8 When considering whether to include a contractor on an Approved Contractor Register, officers must look at each contractor's:
- a Past performance on similar contracts (quality and costs)
  - b Technical capacity
  - c Specialist experience in the type of products and services being procured
  - d Financial situation
  - e Public and employer's liability insurance arrangements

- f Health and safety arrangements
- g Equalities policy
- h Written references on the contractor's reputation.

4.6.11.9 Officers may add other criteria to help them select suppliers for inclusion on an Approved Contractor Register providing the additional criteria are relevant, do not prevent fair competition and do not illegally discriminate between suppliers. The Contract Monitoring Officer must establish the minimum standard required for each criterion before inviting applications for inclusion on the Approved Contractor Register.

4.6.11.10 An Approved Contractor Register must state the value of work that can be placed with each supplier at any one time.

4.6.11.11 All suppliers and contractors on an Approved Contractor Register must be given an equal chance of obtaining business for the duration of the register. This may necessitate adopting a system of rotation in seeking quotations, when there are a relatively large number of contractors on the register. In this case the policy and procedure should be in writing, and use of the procedure recorded, so that it can be demonstrated that it is being followed.

4.6.11.12 An Approved Contractor Register should normally contain at least five suppliers. Advice and guidance must be sought from Corporate Procurement where fewer than five suppliers qualify for inclusion as this might indicate that an Approved Contractor Register is not the most suitable route for the works, goods or services in question.

4.6.11.13 Officers must review their Approved Contractor Registers at least every two years using the criteria set out in 4.6.11.8 and 4.6.11.9 to assess whether a supplier should remain on the Register. The review should also consider whether the value of work that can be placed with each supplier at any one time should be revised.

4.6.11.14 Officers should consider suspending or removing suppliers from an Approved Contractor Register at any time if there are grounds to do so such as poor performance, disputes or poor financial standing. See 4.6.12 below for guidance on how to suspend or remove a supplier from an Approved Contractor Register.

4.6.11.15 All contracts let using an Approved Contractor Register must comply with the Council's Contract Procedure Rules in every respect. Corporate Procurement or the Monitoring Officer are able to advise on any aspect of the Council's Contract Procedure Rules.

#### **4.6.12 Suspending or Removing a Supplier from an Approved Contractor Register**

4.6.12.1 If an officer receives a materially adverse report concerning a contractor's performance or compliance with tendering procedures that suggests they should no longer be on an Approved Contractor Register, the officer must

seek advice from Corporate Procurement who will, in consultation with the Monitoring Officer, advise what further action is necessary.

- 4.6.12.2 If Corporate Procurement determines, after consultation with the Monitoring Officer, that the supplier should be suspended or removed from an Approved Contractor Register, the officer shall follow this advice and amend the Register accordingly. The officer shall also include the contractor in a List of Suspended and Removed Contractors and notify the contractor accordingly.
- 4.6.12.3 An officer must seek approval as outlined in 4.6.12.1 and 4.6.12.2 to lift a suspension on a supplier or re-admit a supplier to an Approved Contractor Register.
- 4.6.12.4 If an officer concludes as a result of a routine review of an Approved Contractor Register that a supplier should be removed from that Register, then they must seek advice as outlined in 4.6.12.1 and 4.6.12.2.

## **FORMAL QUOTATION AND TENDERING PROCEDURES**

### **4.6.13 Introduction**

- 4.6.13.1 West Mercia Supplies (WMS) should be used for all purchases of office supplies and consumables, janitorial supplies and personal protective equipment. Photocopiers, Multi-Functional Devices and basic desktop printers should be sourced from the Council contract with Altodigital. (More specialist printers and related standalone equipment may need to be sourced elsewhere, and ICT will provide advice on these). All other mandatory supply contracts with strategic service partners, (as described in 4.6.13.5), such as Amey Herefordshire, that the Council establishes from time to time, must be used for applicable items, and details of such arrangements shall be advised via routine communication channels and details maintained on the Council Intranet by Corporate Procurement.
- 4.6.13.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the senior Procurement Officer.
- 4.6.13.3 Requests to use an alternative supplier to WMS will be approved or otherwise by Corporate Procurement.
- 4.6.13.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction equivalent to the total price of the supply.
- 4.6.13.5 The Council, sometimes in conjunction with NHS Herefordshire, will engage with external suppliers to create large-scale strategic service delivery partnerships. This form of commissioning will become more common as the Council seeks to secure longer term efficiency gains and it is likely that it will involve larger amounts of more complex services within each contract's scope. Officers must use Council approved strategic service delivery partners if the work required is within the scope of the Council's service delivery contracts. Should officers be unclear of the scope of such contracts, they should seek advice from the Corporate

Procurement Section prior to proceeding with any procurement exercise. Corporate Procurement maintains details of the current service delivery partners on the intranet.

- 4.6.13.6 Procurement of ICT equipment must be achieved using the Council's online ICT procurement system accessed via the intranet.
- 4.6.13.7 The following procedures must be followed for all other types of procurement:
- a **Purchases in total valued up to £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
  - b **Purchases in total valued between £1,001 and £10,000** – at least two formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
  - c **Purchases in total valued between £10,001 and £50,000** – at least three formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
  - d **Purchases in total valued between £50,001 and up to relevant EU limit (£156,000)** – formal tendering arrangements must be followed (see 4.6.13.18 to 4.6.13.86)
  - e **Purchases in total valued in excess of relevant EU limit (currently circa £156,000 for goods and services)** – European procurement rules must be followed (see 4.6.14 of the Council's Contract Procedure Rules).
- 4.6.13.8 As the value, size and complexity of the contract increases, the degree of risk to the Council will also increase. Where contract values exceed £50,000, a formal risk assessment must be undertaken and a managed risk register maintained throughout the procurement process. Advice may be sought from the Council's risk and insurance officers.
- 4.6.13.9 It is important to respect confidentiality in quotation and tendering processes. Officers must not therefore disclose any information they have about potential suppliers to other persons/ suppliers potentially competing for the same contract
- 4.6.13.10 Official orders should be raised for works, goods and services in line with the Council's Financial Procedure Rules.

#### **Formal Quotation Procedure**

- 4.6.13.11 The requisite number of formal quotations must be obtained for all purchases (other than those with WMS or within the scope of a strategic service delivery contract) where between £1,001 and £50,000 in total (see 4.6.13.7).
- 4.6.13.12 A quotation is a written estimate of the cost to execute works or supply goods, materials or services.
- 4.6.13.13 Officers must produce a description of the goods or specification of the services required before seeking quotations. This will enable a fair comparison of prices. The level of detail in the description or specification

will depend on the value and type of goods or services being purchased. Advice can be obtained from Corporate Procurement.

- 4.6.13.14 Formal quotations should contain as a minimum the following information:
- a Date and reference number
  - b Supplier company details
  - c Council officer/department name
  - d Item/part number
  - e Description specification
  - f Quantity required
  - g Unit/service cost
  - h Total cost
  - i Delivery information
  - j Payment details
  - k Any special requirements
  - l Details of any discounts/rebates.
- 4.6.13.15 An appropriate Approved Contractor Register should be used if available to select the suppliers that will be asked to provide a quotation, when the contract value will be less than £50,000.
- 4.6.13.16 Every person or firm who makes a quotation must be treated fairly. Selection of the preferred supplier from the quotations received must be done in accordance with the principles set out in the formal tendering procedures (4.6.13.20 to 4.6.13.86).
- 4.6.13.17 Any departures from the formal quotation procedures must be discussed with Corporate Procurement who will agree or otherwise any exception in consultation with the Monitoring Officer. A record must be kept of the reasons for, and approval given for, departing from the formal quotation procedure.
- 4.6.13.18 Formal quotations for contracts up to £50,000 should be kept for a minimum of two years after the contract has been awarded.
- 4.6.13.19 When Council Officers are engaging in procurement activity on behalf of schools, or other third parties who will be the actual contracting entity, and the Council is therefore acting as the agent of the school or other party, they must adhere to the Council Contracts Procedure Rules, recognising that the Council may be held liable for any complaints or challenges relating to the process. The documents sent to bidders in such cases must contain a disclaimer saying that the Council will not be held liable should the contracting entity not follow the Council's recommendation in making an award. The Council must provide a written recommendation to the school or third party regarding making the award, pointing out that if they make a different choice to that recommended it will be at their own risk. Advice on wording can be obtained from Corporate Procurement.

### **Formal Tendering Procedure**



- 4.6.13.20 Formal tendering procedures apply to all contracts with a total value between £50,001 and the prevailing European procurement limit for supplies and services except for those with WMS or any other Council approved strategic service delivery contract. To ensure that European procurement rules are properly applied, including aggregation rules, Officers should liaise with Corporate Procurement before commencing any procurement with an estimated value in excess of £50,000. Aggregation rules also apply to Council formal tenders, so that requirements must not be artificially split to fall below the £50,000 threshold to avoid the need to follow the correct process. Advice should be sought from Corporate Procurement if uncertain.
- 4.6.13.21 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not therefore disclose any information they have about potential suppliers to others persons/suppliers potentially competing for the same contract.
- 4.6.13.22 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Strategic Procurement Manager.

#### **Selecting Potential Tenderers**

- 4.6.13.23 Potential suppliers must be sought by placing advertisements in the most appropriate media, in addition to the Business Portal, in accordance with 4.6.13.24.
- 4.6.13.24 Advertisements for potential suppliers may be placed at the officer's discretion in relevant trade or professional journals, local and national newspapers, the Council's website, or national websites administered by responsible bodies, and **must** be placed in the EU Journal (OJEU) if the contract is likely to exceed the relevant EU threshold. All contracts with a potential value exceeding £5,000 must be advertised on the Portal provided for that purpose via the Council's website, in addition to any discretionary advertising by other means. Where advertisements are published in OJEU such publication must **precede** their appearance on the portal, or any other supplementary means of advertising, to comply with EU regulations. Note, for clarity, publication is still required on the Portal if OJEU is used, and must quote the specific OJEU Reference for the contract, which suppliers should be asked to quote in their application.
- 4.6.13.25 The only occasions when procurements do not need to be advertised on the Portal is when the contract value will be less than £5,000, or if an existing Approved Contractor Register or Framework Agreement is to be used to source suppliers and advertising is therefore not required. Note that use of an Approved Contractor Register to source suppliers is limited to procurements where the value is below £50,001.
- 4.6.13.26 For formal tenders (values in excess of £50,000), the minimum number of tenderers required is three, and for tenders compliant with European law the minimum is normally five. In the event that officers find that they have less than the minimum number of applications they must consult with Corporate Procurement before they proceed further. Procurement will

advise on whether it may be possible to attract further applicants or if an Exemption needs to be sought in accordance with 4.6.13.34.

- 4.6.13.27 The method for collecting the information needed from potential suppliers to assess whether to invite them to submit a formal tender and the method of assessment must be agreed before the selection process begins.
- 4.6.13.28 The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice needs to be sought from Corporate Procurement before commencing a procurement in excess of EU thresholds (including ensuring sufficient time is allowed to carry out a compliant process, which can take several months). For procurements below the European thresholds, the advice in clauses 4.6.13.20 to 4.6.13.86 applies.
- 4.6.13.29 A standard business questionnaire may be used to collect information from the potential suppliers but the same questionnaire must be used for all potential suppliers. Alternatively, information may be gathered by inviting potential suppliers to express an interest in writing covering the specifics identified by the officer in the advertisement or letter of invitation. Market testing can be carried out to find market interest, including approaching suppliers directly, but pre-selection of suppliers for potential contract award must not commence until the market testing process has been completed and the actual formal procurement process begun. In the case of procurements above the EU thresholds, highly-prescribed processes apply. Further advice can be obtained from Corporate Procurement.
- 4.6.13.30 The method for selecting tenderers must:
- a Treat all tenderers in the same way
  - b Keep the process clear and simple
  - c Record all the selection decisions.
- 4.6.13.31 Officers must consider the following when selecting suppliers to be invited to tender for a particular contract:
- a Past performance on similar contracts (quality and costs)
  - b Technical capacity
  - c Specialist experience in the type of products and services being procured
  - d Financial situation
  - e Public and employer's liability insurance arrangements
  - f Health & safety arrangements
  - g Equalities policy
  - h Written references on the contractor's reputation
  - i Environmental policies.

- 4.6.13.32 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.
- 4.6.13.33 At least three suitable suppliers should be invited to tender. If there are only three suitable suppliers (e.g. due to the number of suppliers responding to an advertisement) they must all be invited to tender.
- 4.6.13.34 If there are only one or two suppliers indicating they wish to be considered then an exemption from the Contract Procedure Rules **must** be sought from the senior procurement officer and Monitoring Officer and their approval given before proceeding. The names or details of suppliers must not be passed on to anyone at any time during the tendering process.

#### **Inviting tenders**

- 4.6.13.35 Each potential supplier should be sent an invitation to tender, the contract documents, a tender form and a return label bearing the name of the contract and the word 'Tender', together with instructions on when and how the tenders should be returned. They must be instructed to return their tender in a plain envelope addressed to the officer who has been approved by the Monitoring Officer to receive the tenders. There should be no marks or writing on the envelope, other than the address and the return label, such that the identity of the tenderer cannot be discerned from the envelope. Tenderers must be advised not to use a franking machine if they propose posting their tender. Alternatively, officers may use electronic means to despatch and receive tenders, as long as the process is deemed at least as secure as the paper process described in this clause. Such electronic means may include, for example, HM Government's Buying Solutions Online Procurement System. Any such electronic method must be approved for use by Corporate Procurement and Legal Services.
- 4.6.13.36 A copy of the Council's standard contract terms should also be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used advice should be sought from the Monitoring Officer on which of the standard clauses to incorporate.
- 4.6.13.37 Tenderers must be told exactly how and when tenders shall be returned and that tenders sent by other means, or received after the deadline, will not be accepted.
- 4.6.13.38 Tenders can be returned by hand or by post to the Monitoring Officer, Brockington, 35 Hafod Road, Hereford, HR1 1SH or to the officer and address otherwise approved by the Monitoring Officer. Tenderers should be advised to use postal services that provide them with proof of postage and the time of sending. Alternatively, tenders can be returned by an electronic method approved by Corporate Procurement and Legal Services.
- 4.6.13.39 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.

- 4.6.13.40 The invitation to tender **must** state that the Council does not bind itself to accepting the lowest or any tender.
- 4.6.13.41 The invitation to tender needs to explain how the Council will deal with any mistakes it identifies in the tender documentation submitted (see Assessing Tenders below).
- 4.6.13.42 The invitation to tender **must** set out the criteria that will be used to select the preferred supplier. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 4.6.13.43 The tender assessment criteria should include:
- a Price
  - b Technical standard
  - c Experience and skills
  - d Financial proposals
  - e Financial standing
  - f Contract management arrangements
  - g Quality management proposals
  - h Delivery proposals
  - i Employment practices
  - j Environmental considerations
  - k Diversity issues.
- 4.6.13.44 If an officer wants to know whether the supplier has received an invitation to tender, they must enclose a 'Tender Received Confirmation Form' with the invitation to tender documentation. They must not contact the potential supplier to check they have received the documentation.
- 4.6.13.45 During the period allowed for preparing tenders, all communications with tenderers must be recorded. All communications should go through the Contract Monitoring Officer who can obtain the information requested from others if necessary. If a tenderer raises a query during this period, it must be passed on to all other tenderers, together with the reply. The identity of the tenderer who has raised the query **must not** be revealed.

### **Receiving Tenders**

- 4.6.13.46 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. Any extension should not provide either advantage or disadvantage to any of the tenderers. Any proposal to extend the closing date must be agreed by Monitoring Officer.
- 4.6.13.47 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date.

- 4.6.13.48 Tenders should be recorded in a register that shows the time, date and name of the contract as they are received. Tenders delivered by hand should be acknowledged with a written receipt and the time, date and name of the contract similarly recorded in the register. All tender envelopes must be date stamped on receipt with the time of receipt written on the envelope and countersigned by the receiving officer.
- 4.6.13 49 Tenders must not be opened until the final deadline for receiving them. Tenders must be stored securely until it is time for them to be opened. The storage used should be locked and access to it available only to those officers in Legal Services, or approved by the Head of Legal Services, responsible for handling tenders, and they must ensure that keys are secure at all times. For tenders received electronically opening should be password-protected and opened under independent witness, and details recorded in the same way as for paper submissions.
- 4.6.13.50 A Legal Services officer, or an officer delegated to that role by the Monitoring Officer, shall be responsible for opening the tenders for a contract in the company of the Contract Monitoring Officer\responsible officer and an independent witness (an officer from a different Directorate). The Legal Services officer (or delegate) must ensure the number of tender envelopes to be opened tallies with the number recorded in the tender register and shall sign the register to indicate that this is the case.
- 4.6.13.51 If a tender is opened by mistake before the deadline, a record of how this has happened should be attached to the packaging. The tender should be re-sealed immediately and its contents kept confidential.
- 4.6.13.52 If fewer tenders are received than expected, officers should not contact tenderers to ask whether they have sent one in.
- 4.6.13.53 In exceptional circumstances, officers, in consultation with and the approval of the Monitoring Officer, can accept a late tender (see the section "Late Tenders" below).

#### **Opening & Recording Tenders**

- 4.6.13.54 All tenders relating to a contract must be opened at the same session and opened one at a time. Each officer present must sign, date and write on the tender form the time that the tender was opened.
- 4.6.13.55 The key documents submitted by each tenderer must be recorded on a tender return form along with value. Each officer must check, sign and date the form.
- 4.6.13.56 The Contract Monitoring Officer must sign each page of the tender document unless it is very long. In this case, they may only sign the pages that include pricing information.
- 4.6.13.57 Once the tenders have been opened, they should be held in a secure place by the Contract Monitoring Officer.

## **Late Tenders**

- 4.6.13.58 The Monitoring Officer must reject tenders that are received after the deadline unless none of the tenders submitted on time have been opened or there is proof that the tender was posted in enough time to meet the deadline (for example, the postmark date is the day before the deadline for a first class delivery or is three days before the deadline for a second class delivery) or other exceptional circumstances exist which the Council, in exercising reasonable discretion, deems sufficient to allow acceptance. The core principle is that tenders should not be rejected if the delay is due to the actions of the Council, a third party, or force majeure.
- 4.6.13.59 If the Monitoring Officer decides to accept a late tender, they must treat that tender in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.
- 4.6.13.60 If the late tender is rejected, it should be returned to the tenderer and a record of posting kept on file for two years with the other documents from the tender opening. The tender should be opened, under the same conditions as the other tenders, merely to ascertain the return name and address. The tenderer should be informed in writing of the date and time the tender was received.

## **Assessing Tenders**

- 4.6.13.61 The Contract Monitoring Officer will ensure the tenders are assessed in accordance with the advice provided by Corporate Procurement.
- 4.6.13.62 Before assessing the tenders, the Contract Monitoring Officer needs to check that each part of them meets the requirements of the specification. The responsible officer also needs to make sure that there are no mistakes and that nothing is missing
- 4.6.13.63 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded and the tender rejected.
- 4.6.13.64 The accuracy of the figures in each tender must be checked. If mistakes are found that do not affect the overall price of the goods or services, the tenderer must be contacted and asked to confirm the correct figures in writing.
- 4.6.13.65 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.
- 4.6.13.66 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.
- 4.6.13.67 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.
- 4.6.13.68 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation

must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify those to whom such documents have been issued and the date returned.

- 4.6.13.69 The Contract Monitoring Officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.
- 4.6.13.70 Once the assessment has been completed the responsible officer should produce a report showing:
  - a The result of the assessment of each tender
  - b A comparison of assessment results
  - c The recommendation on which tenderer should be offered the contract.

### **Accepting and Rejecting Tenders**

- 4.6.13.71 The Contract Monitoring Officer should accept the tender that is:
  - a The lowest tender that meets the evaluation criteria; or
  - b The tender that will be of most economic benefit to the Council.

Where this is not the lowest tender, the Contract Monitoring Officer should explain in writing, giving objective reasons why that tender is preferred, and seek approval from Corporate Procurement and the Monitoring Officer to proceed to appoint. A note should be placed on file to show that Corporate Procurement and Monitoring Officer has reviewed the evaluation process and agreed with the outcome.

- 4.6.13.72 The Contract Monitoring Officer should always consider whether their recommendation for awarding the contract should be put before a Cabinet Member, the Cabinet or Council for formal approval **before** contacting the successful tenderer. The Functions Scheme (Part 3) sets out the Council's procedures for making decisions. If in doubt, seek advice and approval from Corporate Procurement and the Monitoring Officer. Tenderers should be told at the outset if Cabinet or Council approval will be needed.
- 4.6.13.73 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received**.
- 4.6.13.74 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the appropriate authorised signatories. In the case of an EU-compliant process the contract cannot be formally awarded until the losing bidders have been informed and the Mandatory Standstill Period has elapsed without any challenges arising from the bidders.
- 4.6.13.75 Unsuccessful tenderers should be informed at the same time that the successful tenderer is notified. If unsuccessful tenderers ask why their tender was not successful then general feedback should be given on the

areas of their tender that scored poorly. The Contract Monitoring Officer should not become involved in detailed arguments or discussions in order to justify their decision. If the tenderer requires more detailed information the officer should advise them to put their request in writing and seek appropriate advice before responding in writing. In the case of EU – compliant processes, a detailed scheme of requirements means a comprehensive briefing on the results of the tender has to be provided to all bidders. With the increasing tendency for losing bidders or third parties to ask for such information under the Freedom of Information Act, it is essential that full details are recorded and can be supplied easily for all tender exercises, both above and below the EU thresholds.

### **Negotiating**

4.6.13.76 The Contract Monitoring Officer must comply with the following conditions when negotiating on price with tenderers:

- a Guidance must be sought from Corporate Procurement who will consult with the Monitoring Officer as necessary before advising on the appropriate course of action
- b The Contract Monitoring Officer must be accompanied by another officer during negotiations with tenderers and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with Corporate Procurement
- c All negotiations must be carried out at the Council's offices
- d Officers must not discuss one tenderer's detailed prices, conditions or terms with another tenderer
- e Officers must respect the confidentiality of information provided by tenderers
- f If negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. If this is the case, the whole process should start again.

4.6.13.77 If there is an in-house tender for a contract, negotiations must not take place without permission from the Corporate Procurement as outlined in 4.6.13.76 a above.

### **Awarding a Contract**

4.6.13.78 Before awarding any contract, the officer responsible must first obtain the approval of their Director or their authorised representative with confirmation of:

- a The competency of the proposed contractor and the adequacy of any necessary insurance
- b The prices quoted by the proposed contractor
- c The consistency of the procedure followed and the proposed action with the objectives and requirements of the Council's Contract Procedure Rules, including European Procurement Law if applicable



- d The financial stability of the proposed contractor
- e A satisfactory credit check if the Council has not dealt with that contractor for more than two years for contracts in excess of £50,000. A credit check should be carried out on all short listed tenderers for contracts in excess of the European procurement limit for supplies and services.

Where necessary advice should be sought from a specialist in the appropriate function: Accounts; Insurance and Risk; Procurement; or Legal.

- 4.6.13.79 Once this approval has been granted, the officer needs to complete the contractual arrangements. The documents should clearly set out the name of the supplier, what the contract is for, and the terms and conditions of the contract. They should also show that there is suitable insurance to protect the Council's interests. Advice on insurance matters is available from the Council's Insurance and Risk Manager. Where an official purchase order is used and where it makes reference to the Council's General Terms and Conditions for Services, Supplies and Works those terms will apply to the contract. If this is not the intention and a specific set of contractual terms and conditions has been provided, this must be made clear in the body of the purchase order. If in any doubt with the contract documentation, advice should be sought from the Monitoring Officer.
- 4.6.13.80 All contracts must be signed by the Monitoring Officer or their delegated officer. The Monitoring Officer will only sign contracts if the relevant Director has given written authority for them to do so and written assurance that the Council's Contract Procedure Rules have been complied with in all respects. The relevant Director must also sign all contracts where European Procurement Rules apply.
- 4.6.13.81 Officers are responsible for seeking advice from Legal Services if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by the Council.
- 4.6.13.82 The Contract Monitoring Officer must inform Corporate Procurement of the contract and must record the details of all contracts in the Contracts Register.
- 4.6.13.83 Officers must keep written records of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them.

#### **Publication of Contract Details**

- 4.6.13.84 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.

- 4.6.13.85 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.
- 4.6.13.86 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed. Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the Council will need to meet its obligations under the Freedom of Information Act.

## **EUROPEAN PROCUREMENT RULES**

### **4.6.14 Introduction**

- 4.6.14.1 Whilst European Procurement Rules prevail, officers are expected to follow the principles set out in the Council's Contract Procedure Rules.
- 4.6.14.2 The European Procurement Rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from Corporate Procurement and the Monitoring Officer.

### **European Limits**

- 4.6.14.3 The following table sets out the public sector thresholds for 1 January 2010 to 31 December 2011:

	<b>Supplies</b>	<b>Services</b>	<b>Works</b>
Public Sector Contracting Authorities	£156,442	£156,442	£3,927,260
Indicative Notices	£607,935	£607,935	£3,927,260

- 4.6.14.4 The figures are revised every two years on 1st January and officers should check with the Monitoring Officer for the latest values.
- 4.6.14.5 If a contract for supplying goods or services will be worth more than the limits set out in the table above, the contract is likely to be governed by EU Directives and English Regulations. Note that calculation of the value of the contract is to be as detailed in 4.6.14.7.
- 4.6.14.6 The value limits apply to individual contracts and groups of contracts with similar characteristics that are to be agreed in the same year. Contracts with similar characteristics have to be added together to see whether they have reached the value limits. This is to prevent organisations packaging similar contracts into small units to avoid the rules.
- 4.6.14.7 Individual contract values are calculated as follows:
- a If the contract is part of a series or is renewable, its value will be:
    - i The value given in the previous financial year (over a 12-month period);
 or

- ii The estimated value over the next 12 months from the date the goods, work or service is first provided
  - b If the contract is for a fixed term of less than four years, the value will be the total value of the contract
  - c If the contract has no end date or is for a fixed term of more than four years, the value will be the monthly value of the contract multiplied by 48.
- 4.6.14.8 If more than one of the above applies, the method that gives the highest value must be used. Again this is to prevent organisations by-passing the rules by choosing a calculation that puts a contract or group of contracts below the value limit.
- 4.6.14.9 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or group of contracts with similar characteristics is greater than the value limit, European procurement rules must be followed. To ensure that the aggregation rules are properly applied, Contract Monitoring Officers should liaise with Corporate Procurement for all contracts in excess of £50,000.
- 4.6.14.10 Before going any further with a European procurement process, officers must discuss the next steps with Corporate Procurement and the Head of Legal Services.

#### **Awarding Contracts Subject to European Procurement Rules**

- 4.6.14.11 Before issuing an award notification, or if contact is made by an unsuccessful tenderer at any time during the standstill period, contact Corporate Procurement or your external procurement consultants for advice.
- 4.6.14.12 To ensure compliance with European procurement rules there must be a **minimum** standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract. This 10 day standstill period incorporates other specific deadlines that can result in the standstill period being extended.
- 4.6.14.13 The standstill period is to allow unsuccessful tenderers an opportunity to challenge any award decision. Where a legal challenge is made within the 10 day standstill period, the contract cannot be awarded until the outcome of the application to court is known. **It is imperative that any correspondence amounting to an acceptance letter is not issued during this period.**
- 4.6.14.14 The written notification to the unsuccessful tenderers which triggers the standstill period **must** contain:
- a The award criteria
  - b The tenderer's score (where appropriate)
  - c The winning tenderer's score (where appropriate)
  - d The name of the winning tenderer.

4.6.14.15 The European procurement rules require tender results to be published in the Official Journal within 48 days of the date a contract is awarded. This must be done in consultation with the Monitoring Officer.

4.6.14.16 Corporate Procurement and the Monitoring Officer must be consulted on all EU procurements.

#### **4.6.15 FRAMEWORK CONTRACTING**

4.6.15.1 Framework contracting involves selecting a contractor from a list of contractors on an approved "Framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or European law.

4.6.15.2 Purchasers can enter into subsequent 'call-off' contracts from a Framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.

4.6.15.3 Frameworks can be externally formed (for example. by Government) or internally formed (for example. by the Council). The number of approved contractors on a Framework can vary but the minimum number should be three. Frameworks should not be confused with internal Approved Contractor Registers.

4.6.15.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchaser's 'call-off' contract and contractors are not obliged to agree to any amendments to them.

4.6.15.5 From 1 January 2006, **EU Procurement Directive 2004/18/EC** has governed the process under which contracts under Frameworks are to be awarded and in the interests of competition has placed a maximum duration of 4 years on any Framework (unless special justification can be made for a longer period).

4.6.15.6 Officers must take the following steps to ensure compliance with EU Procurement Directive 2004/18/EC when using a Framework contract created since 1 January 2006:

- a All the contractors on a Framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.
- b The reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced.

- c Award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.

4.6.15.7 Corporate Procurement and the Monitoring Officer must be consulted on all Framework contract procurements.

#### **4.6.16 OTHER PROCUREMENT PROCEDURES**

4.6.16.1 There are a number of other procurement procedures that may be available in particular circumstances:

- a Design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
- b Public housing schemes where the size and complexity of schemes necessitate the close collaboration between the Council and contractors.
- c Concession contracts where contractors derive income from the completed work, for example a toll bridge.

4.6.16.2 Corporate Procurement and the Monitoring Officer must be consulted regarding any proposals to follow any such procedures.

#### **4.6.17 CONTRACTS UNDER SEAL**

4.6.17.1 All contracts for building, engineering, property repairs and property maintenance works excluded from the Council contract with Amey Herefordshire, with an estimated value in excess of the European procurement limit for supplies and services (currently £156,000), shall be sent to the Monitoring Officer for execution under the Council's seal.

#### **4.6.18 EXEMPTIONS FROM THE COUNCIL'S CONTRACT PROCEDURE RULES**

4.6.18.1 Exemptions from the Council's Contract Procedure Rules are only allowed in exceptional circumstances such as there being insufficient suppliers for the goods, works or services being procured. Permission must be obtained for any exemption from the senior Procurement Officer **and** Monitoring Officer. Major contracts may be subject to the European Procurement Rules and the Monitoring Officer cannot provide an exemption from those requirements.

4.6.18.2 A written application for an exemption from the Council's Contract Procedure Rules must be made to the Monitoring Officer setting out the reasons for the application. The Monitoring Officer must respond within 21 days. If agreed by the Monitoring Officer, the exemption must be approved in accordance with the Council's Constitution.

4.6.18.3 The normal procedure for the completion of Exemption Forms is for the responsible officer to obtain the signature of their Director on the form to demonstrate their approval of the request, then forward the form to the

senior Procurement Manager for their approval. If the senior Procurement Manager is satisfied they will forward to the Monitoring Officer or their deputy for final approval and signature. A copy bearing all three signatures will be filed by Legal Services and copies also returned to the responsible officer and Corporate Procurement for their records.

- 4.6.18.4 Tenders need not be invited in accordance with the provisions of the Council's Contract Procedure Rules if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least two quotations must be obtained and any decision made or contract awarded shall be reported to the relevant Director, Cabinet Members and Local Members. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the Contract Procedure Rules at the earliest practical opportunity.

<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>16 JULY 2010</b>
<b>TITLE OF REPORT:</b>	<b>LEADER'S REPORT</b>

**CLASSIFICATION:** Open

### **Wards affected**

County wide

### **Purpose**

To provide an overview of the Executive's activity since the last meeting of Council.

### **Recommendation**

**THAT: the report be noted.**

### **Report**

1. Cabinet has considered the following issues:
  - a) *Public Health Annual report* – Cabinet received the annual report of the Director of Public Health noting the key population health issues in Herefordshire and the recommended strategies and actions to address these issues.
  - b) *Budget and Performance Monitoring Reports* – Cabinet considered reports on the end of year performance and revenue and capital outturn for 2009/10. Cabinet noted a slowing in the rate of improvement and the need for greater focus on the selection of appropriate targets to support improvement in local priorities. Cabinet approved allocations from the capital programme of £1.5m for maintenance and refurbishment of Hereford Leisure Pool and £.25m to support the disabled facilities grant scheme.

### **Meeting the Financial Challenge**

2. With the announcements made by Government over recent weeks, there has been some greater clarity about the impact of in-year budget reductions as well as the likely scale of the challenge to be met in future years. On 10<sup>th</sup> June, the Communities & Local Government Minister announced that nationally some £1.165bn of in-year savings were to be found from local government expenditure, to be achieved through reduction of grants to local authorities.
3. The revenue grant reduction for Herefordshire amounts to some £1.158m (0.7% of grant) all of which is within Herefordshire's area based grant allocation, with a further £640k reduction in capital grants. In addition, an estimated £836k of grant will not be received in Herefordshire; however as these grants had not been confirmed prior to the council's budget setting their loss impacts on the ability to add to existing budgets rather than requiring a reduction to existing commitments. The table below outlines the position for Herefordshire; however the council will look to be as flexible as possible in determining where these cuts must be made to ensure that the impact of these cuts on the most vulnerable will be kept to a minimum.

<b>GRANT REDUCTION AREA</b>	<b>£000</b>
<i>Revenue Grant (ABG)</i>	
Department for Education	934
Supporting People Administration	102
Cohesion	18
Road Safety	87
Home Office	17
<b>TOTAL</b>	<b>1,158</b>
<i>Capital Grants</i>	
Integrated Transport Block	540
PRN Network Funding	30
Road Safety Capital Grant	70
<b>TOTAL</b>	<b>640</b>

4. Further announcements have shown that Herefordshire will no longer receive the government support for its free swimming programme for local people under 16 or over 60 years of age.
5. The government has confirmed its commitment to a council tax freeze, and whilst we await the outcome in the autumn of the government's comprehensive spending review which will give a clearer indication of the scale of savings to be met by local government from 2011/12 onwards, we have continued to prepare for future budget reductions. The council has continued to deliver a balanced budget demonstrating a positive track record for financial management which will place us in a good position for the future. In addition, the uniquely close partnership with NHS Herefordshire means the county is better placed than most to make the efficiencies needed to ensure the resources we have available are directed to best effect. Already the partnership has merged some directorates and is reducing the number of senior managers as well as seeking further savings through sharing corporate support services between the council, NHS Herefordshire and Herefordshire Hospitals Trust.
6. During the summer/early autumn the council and NHS Herefordshire will be asking our employees and residents for their views and suggestions on how, together, we can best meet the needs of local people in light of the new financial pressures on public services; and we will of course continue, both in our own right and with partners, to press for a fairer share of government resources for Herefordshire.

#### **Statement of Accounts 2009/2010**

7. It is pleasing to note that the Audit & Governance Committee, at its meeting on 29<sup>th</sup> June, approved the annual Statement of Accounts for 2009/2010, which provides clear information to the public about the council's finances. As a complex public body with an annual budget of around £350 million and providing a vast array of services, many in partnership with others,



any information that helps people understand how we work is welcomed.

### **National Policy Developments**

8. Following publication of the Coalition Agreement, on 20<sup>th</sup> May the government published its five year programme setting out key actions in thirty-one policy areas. The full document can be found at: [http://www.cabinetoffice.gov.uk/media/409088/pfg\\_coalition.pdf](http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf)
9. The Queen's Speech on 25<sup>th</sup> May set out 22 Bills that will be introduced in the parliamentary session running to November 2011; key Bills affecting local government include:
  - a) *Decentralisation & Localism Bill* – to include giving Councils a power of general competence; greater financial autonomy to local government & community groups; abolition of regional spatial strategies, the Infrastructure Planning Commission and the Standards Board regime; returning to local councils decision making powers on housing & planning; creation of Local Enterprise Partnerships to replace the current regional development agencies; local communities to have the right to bid to take over local state-run services and new powers to help save local facilities and services threatened with closure; publication of salaries and expenses of senior officials; local referendums on local issues and the power to veto excessive council tax increases; abolition of home improvement packs; creation of new trusts to enable communities to provide homes for local people; a review of the housing revenue account
  - b) *Academies Bill* – including providing schools with freedoms to deliver excellent education in the way they see fit within a broad framework where they are accountable for the outcomes they deliver; enable all maintained schools to apply to become an Academy; allow primary and special schools to apply to become an Academy in their own right; allow schools which apply to become Academies to keep any surplus balance they hold; automatic charitable status for Academies; simplified process for applying to become an Academy with no requirement to consult the local authority.
  - c) *Education & Children's Bill* - including providing schools with freedoms to deliver excellent education in the way they see fit; reform of OFSTED and other accountability frameworks; introduction of a slimmer curriculum; introduction of a reading test for 6 year olds; give teachers and head teachers powers to improve behaviour and tackle bullying; ensure money follows pupils with the introduction of a pupil premium so that more money follows the poorest pupils
10. A number of other Bills will also impact on local government including: Police Reform & Social Responsibility Bill; Public Bodies Bill, Health Bill, Freedom (Great Repeal) Bill.
11. We will take account of these legislative changes in planning for the county's future, whilst maintaining a clear focus on ensuring that we make the best uses of the resources we have locally to deliver better outcomes for the people of Herefordshire.

### **Supporting the local economy**

12. With the government's announcement that regional development agencies will cease to exist by 2012, we are working with our sub-regional partners and business sector to explore the potential opportunities offered by a local enterprise partnership to ensure that local businesses can continue to grow and develop; I have had positive meetings with the Leaders of Shropshire & Telford & Wrekin councils as well as local business representatives to progress this.
13. In Herefordshire we are maintaining our focus on regeneration; work has begun on the new

livestock market which will replace the current poorly located and inadequate site with a new state of the art market facility, safeguarding our agricultural economy for the future. As well as delivering improvements to the road, cycle and pedestrian network system around the site, the move will also unlock a significant area of land in the city centre.

14. Other activity includes:

- The creation of *Hereford Futures*, a new development company which will be responsible for securing private sector investment to bring to life the priorities voiced by residents in the recent *Shaping our Place* consultation, where local people said they wanted: new and better paid jobs, new enterprise, affordable homes and vibrant new communities, better transport links and improved higher education facilities. Following on from the holistic focus provided by *Hereford Futures*, this month also sees the launch of the new *Shop Hereford* card to help local residents save money whilst supporting local retailers.
- Work continues to time on the £1.3million refurbishment scheme for Widemarsh Street (including Maylord Street) in the city. The council has rapidly responded to the concerns of local people who reported that the new paving in the area was contributing to trips and falls. A temporary solution is in place and being monitored whilst the designers identify a more permanent solution to the problem.

### **World Blind Football Championships**

15. Hosted by the Royal National College for the blind, the county is extremely proud to be the home for the 1010 World Blind Football Championships, the first time this event has come to England. Running from 14th - 22nd August Blind 2010 will showcase the very best blind footballers from across the globe as they compete for the most prestigious prize in the sport - to be crowned world champions and win the right to compete in the London 2012 Paralympic Games. In addition to the football matches themselves, there will be a programme of arts events and community celebrations to mark the championships, which will be an excellent opportunity not only to welcome and celebrate different cultures and people whatever their ability or disability, but to promote Herefordshire to the wider world, and I encourage you all to attend – and support your favourite team!



<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>16 JULY 2010</b>
<b>TITLE OF REPORT:</b>	<b>REPORT OF THE STANDARDS COMMITTEE MEETING HELD ON 02 JULY 2010</b>
<b>PORTFOLIO AREA:</b>	<b>LEADER OF THE COUNCIL</b>

**CLASSIFICATION:** This is an open report.

**MEMBERSHIP:** Robert Rogers (Independent Member) (Chairman); Jake Bharier (Independent Member); Isabel Fox (Independent Member); Richard Gething (Town and Parish Council Representative); John Hardwick (Town and Parish Council Representative); David Stevens (Independent Member) (Vice-Chairman); John Stone (Local Authority Representative); Beris Williams (Local Authority Representative).

## Wards Affected

County-wide

## Purpose

To note the report and approve any recommendations therein.

## Recommendation(s)

**THAT: Council approves the Guide to Blogging and Social Networking for members attached at Appendix A to this report.**

## Vice-Chairman

1. Members appointed David Stevens as Vice-Chairman of the Standards Committee for the ensuing municipal year, in accordance with matters approved at Annual Council on 28 May. The move to appoint a Vice-chairman for the first time in the Committee's history is a response to the Committee's increased level of activity. As well as acting in the Chairman's absence at meetings, David will assist in matters which require the Chairman's input in the absence of the Chairman.

## Dispensations

2. We have granted dispensations to seven members of Bridstow Parish Council in relation to Bridstow Village Hall.

## **Guide to Standards Committee Processes and Framework**

3. We agreed a guide to Standards Committee processes in respect of complaints received about councillors in relation to the Code of Conduct. The aim of the guide is to help members of the public better understand the processes and the timescales involved. We will make the guide publicly available, and it will also appear on the Council's website in the next few weeks. Given the proposed changes to the Standards Board Regime announced by the government it was decided not to recommend the inclusion of this guide in the Council's constitution at this time. The Constitutional Review Working Group agreed.

## **The Future of the Local Government Standards Framework**

4. It is clear that changes to Standards for England and the local Standards framework will be effected through the proposed Decentralisation and Localism Bill, due to be published later this year. Standards for England have ceased some of its activities and have cancelled this year's Annual Assembly of Standards Committees in response to the news. To date, we have no further information on any proposals, and the local filter still continues to operate as before. The present message, therefore, is very much "business as usual" until any new measures are introduced by Central Government.

## **Guide to Blogging and Social Networking**

5. We have produced guidance for all local authority, parish and town council members in respect of blogging, social networking and other forms of communication. Standards for England initially issued guidance on its website, and ours essentially mirrors this, with some amendments in accordance with our local procedures, and with additional advice for members who find themselves the subject of adverse comments in other's publications. We feel that the guidance is essential to ensure that members are compliant with the Code of Conduct when using electronic forms of communication, particularly given the rapid and widespread distribution of this medium. The guidance is attached at Appendix A.

## **Appeal to the First-Tier Tribunal**

6. We welcomed the news that the First Tier Tribunal, in an appeal panel on 21 May 2010, upheld the decisions of the Standards Committee Hearing in the case of Councillor Frank Myers of Walford Parish Council. The Tribunal's decision is available in full on its website (case reference APE 0491), via the link:

<http://www.adjudicationpanel.tribunals.gov.uk/Public/Decisions.aspx>

## **Local Filter Cases and Determinations**

7. We have reviewed progress made with complaints about local authority, town and parish councillors since the introduction of the local filter on 08 May 2008. In 2008, our Assessment Sub-Committee considered eighteen complaints, fifty in 2009, and so far in 2010 it has dealt with eighteen.

## **Appendices**

Appendix A – Guide to Blogging and Social Networking

### **Background Papers**

- Agenda for the Standards Committee Meeting held on 02 July 2010.

**ROBERT ROGERS  
CHAIRMAN  
STANDARDS COMMITTEE**



## Guide to Blogging and Social Networking

This guide is intended for use by all local authority, parish and town councillors in Herefordshire.

1. Blogging and social networking are effective methods for councillors to interact with constituents and support local democracy. Used effectively, they can engage those who would not normally have access to local councillors and politics.
2. Standards for England supports the use of such media and encourages councillors to get online. You should think about what you say and how you say it, in just the same way as you must when making statements in person or in writing.
3. You will also need to think about whether you are seen to be, or give the impression that you are acting in your official capacity as a councillor.
4. Many councils do not provide a specific site in which councillors can write blogs. Individual councillors are permitted to write their own official blogs as councillors, however, and under this circumstance, they will only be permitted to act in their official capacity, and not in their private capacity. Councillors must also bear in mind that if they do have private blogs and refer to council business on them, they will be viewed as acting in their official capacity.
5. To make sure you comply with your Code of Conduct (the Code) and to ensure your use of online media is well received, you are requested to observe the following guidelines:

### Do

- set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- be aware that the higher your profile as a councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network
- ensure you use council facilities appropriately; and be aware that any posts you make will be viewed as made in your official capacity
- be aware that by publishing information that you could not have accessed without your position as a councillor, you will be seen as acting in your official capacity
- be careful if you choose to make political points, and be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine political expression is less likely to be viewed as disrespect.

### Don't

- blog in haste.
- post comments that you would not be prepared to make in writing or face to face
- use council facilities for personal or political blogs.

## When the Code may apply

6. Bear in mind the Code when you blog or use social networking sites. You should pay particular attention to the following paragraphs of the Code:
  - Disrespect
  - Bullying
  - Disclosure of confidential information
  - Disrepute
  - Misuse of authority resources
7. However, it is difficult to give definitive advice on the application of the Code as each blog and social networking page is different. The content of a blog or other social networking tool and the circumstances surrounding its creation will determine whether or not it might be covered by the Code.
8. Ethical use of online social media is not limited to what is covered in the Code. Councillors are encouraged to respect the **Ten General Principles of Public Life**, which can be found in Herefordshire Council's Constitution as the preamble to the Members' Code of Conduct. While your conduct may not be a breach of the Code it may still be viewed as less than exemplary and attract adverse publicity for your office and authority.

## Derogatory comments

9. On occasion, councillors might find themselves the subject of offensive or defamatory remarks on other people's blogs or networking sites. The following approach is advised in such circumstances, and applies equally to any form of publication:
  - Pursue a policy of indifference to such remarks, and do not be tempted into retaliation because you may risk breaching the Code. You could ask the person making the remarks to remove them from the site.
  - If the person making the comments is a local authority, town or parish councillor, discuss the situation with the Monitoring Officer. It might be the case that the person has breached the Code by making the remarks, and it could be appropriate to make a complaint to the Standards Committee.
  - Aside from any possible breaches of the Code of Conduct, the matter is usually deemed private between yourself and the individual. The Council cannot provide legal assistance for pursuit of a claim through the civil courts, but you may decide that you wish to take independent legal advice.
  - If a person had a blog or a social networking site, and a second person places comments about you on that site, you could ask the person to remove the second person's comments from their site.