

# AGENDA

## Overview and Scrutiny Committee

Date: **Monday 23 April 2012**

---

Time: **10.00 am**

---

Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

---

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

For any further information please contact:

**Paul James Democratic Services Officer**

Tel: 01432 260460

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

---

If you would like help to understand this document, or would like it in another format or language, please call Paul James Democratic Services Officer on 01432 260460 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Overview and Scrutiny Committee

## Membership

**Chairman**  
**Vice-Chairman**

**Councillor A Seldon**  
**Councillor JW Millar**

**Councillor AM Atkinson**  
**Councillor PL Bettington**  
**Councillor WLS Bowen**  
**Councillor MJK Cooper**  
**Councillor PGH Cutter**  
**Councillor EPJ Harvey**  
**Councillor MAF Hubbard**  
**Councillor RC Hunt**  
**Councillor TM James**  
**Councillor Brig P Jones CBE**  
**Councillor JLV Kenyon**  
**Councillor R Preece**  
**Councillor SJ Robertson**  
**Councillor P Rone**  
**Councillor PJ Watts**

**Non Voting – for  
education  
matters only**

**Mr P Burbidge - Roman Catholic Church**  
**Miss E Lowenstein – Secondary School Parent Governor**  
**Mr T Plumer – Primary School Parent Governor**  
**Mr P Sell – Church of England**

## GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

**AGENDA**

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
3.	<b>SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY</b> To consider suggestions from members of the public on issues the Committee could scrutinise in the future.	
4.	<b>CLINICAL COMMISSIONING GROUP</b> To receive an updated presentation on the work of the Clinical Commissioning Group.	
5.	<b>WYE VALLEY NHS TRUST</b> To receive an updated presentation on the work of the Wye Valley NHS Trust.	
6.	<b>TASK &amp; FINISH REVIEW - PLANNING SYSTEM REVIEW - DEVELOPMENT CONTROL AND THE OPERATION OF THE CONSTITUTION</b> To consider the findings arising from the Task & Finish Group – Planning System Review – Development Control and the Operation of the Constitution and to recommend the report to the Executive for consideration. (Note this item was deferred from 13 April 2012 agenda)	5 - 30
7.	<b>CALL-IN OF CABINET MEMBER (HEALTH &amp; WELLBEING) DECISION CONCERNING THE PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE</b> To review Cabinet Member (Health & Wellbeing) decision concerning the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment, which has been called in by three Members of the Committee: Councillors MAF Hubbard; JLV Kenyon and SJ Robertson.	31 - 44
<b>Exclusion of the Public and Press</b>		
In the opinion of the Proper Officer, all or part of the following item will not be, or is likely not to be, open to the public and press at the time it is considered.		
<b>RECOMMENDATION:</b>	<b>that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered</b>	

**that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

**3 Information relating to the financial or business affairs of any particular person**

**8. CALL-IN OF CABINET MEMBER (HEALTH & WELLBEING) DECISION CONCERNING THE PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE**

45 - 50

To review Cabinet Member (Health & Wellbeing) decision concerning the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment, which has been called in by three Members of the Committee: Councillors MAF Hubbard; JLV Kenyon and SJ Robertson.

## **PUBLIC INFORMATION**

### **Public Involvement at Scrutiny Committee Meetings**

You can contact Councillors and Officers at any time about Scrutiny Committee matters and issues which you would like the Scrutiny Committee to investigate.

There are also two other ways in which you can directly contribute at Herefordshire Council's Scrutiny Committee meetings.

#### **1. Identifying Areas for Scrutiny**

At the meeting the Chairman will ask the members of the public present if they have any issues which they would like the Scrutiny Committee to investigate, however, there will be no discussion of the issue at the time when the matter is raised. Councillors will research the issue and consider whether it should form part of the Committee's work programme when compared with other competing priorities.

#### **2. Questions from Members of the Public for Consideration at Scrutiny Committee Meetings and Participation at Meetings**

You can submit a question for consideration at a Scrutiny Committee meeting so long as the question you are asking is directly related to an item listed on the agenda. If you have a question you would like to ask then please submit it **no later than two working days before the meeting** to the Committee Officer. This will help to ensure that an answer can be provided at the meeting. Contact details for the Committee Officer can be found on the front page of this agenda.

Generally, members of the public will also be able to contribute to the discussion at the meeting. This will be at the Chairman's discretion.

(Please note that the Scrutiny Committee is not able to discuss questions relating to personal or confidential issues.)

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

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

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

## **Please Note:**

Agenda and individual reports can be made available in large print. Please contact the officer named on the front cover of this agenda **in advance** of the meeting who will be pleased to deal with your request.

The Council Chamber where the meeting will be held is accessible for visitors in wheelchairs, for whom toilets are also available.

A public telephone is available in the reception area.

## **Public Transport Links**

- Public transport access can be gained to Brockington via the service that runs approximately every half hour from the 'Hopper' bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning the officer named on the front cover of this agenda or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.



Where possible this agenda is printed on paper made from 100% Post-Consumer waste. De-inked without bleaching and free from optical brightening agents (OBA). Awarded the Nordic Swan for low emissions during production and the Blue Angel environmental label.

## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

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

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point A which is located at the southern entrance to the car park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

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

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



<b>MEETING:</b>	<b>OVERVIEW &amp; SCRUTINY COMMITTEE</b>
<b>DATE:</b>	<b>23 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<b>TASK &amp; FINISH GROUP REPORT – PLANNING SYSTEM REVIEW- DEVELOPMENT CONTROL AND THE OPERATION OF THE CONSTITUTION’</b>
<b>REPORT BY:</b>	<b>Task &amp; Finish Review Group</b>

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To consider the findings arising from the Task & Finish Group – ‘Planning System Review-Development Control and the Operation of the Constitution’ and to recommend the report to the Executive for consideration.

### **Recommendation(s)**

**THAT:**

- (a) **the Committee considers the report of the Task & Finish Group – Planning System Review - Development Control and the Operation of the Constitution’, in particular its recommendations, and determines whether it wishes to agree the findings for submission to the Executive and Audit and Governance Committee;**
- (b) **Subject to the Review being approved, the Executive’s response to the Review including an action plan be reported to the first available meeting of the Committee after the Executive has approved its response.**

### **Key Points Summary**

- A scrutiny Task & Finish Review has been undertaken into the Council’s Planning System Review- Development Control and the Operation of the Constitution’.
- The findings and recommendations of the Task & Finish Review Group are contained in the attached report. The principal recommendations concern: clarifying the system of redirection to Planning Committee; improved levels of training; improving the flow of planning information to Members and the public; ensuring sound decision making at Planning Committee; ensuring that Town & Parish Councils are clear about their part in the consultation process; possible retrospective planning application fees; and implications from the Localism Act.

---

Further information on the subject of this report is available from: Mr A Ashcroft (01432 383098) (Lead Officer for the Review) Mr K Bishop, Development Manager Northern Localities (Planning). (01432 260756) or P James, Democratic Services Officer (01432) 260460

## **Alternative Options**

- 1 The Committee can agree, not agree or can vary the recommendations. If the Committee agree with the findings and recommendations from the review, the attached report will be submitted to the Executive for consideration. It will be for the Executive to decide whether some, all or none of the recommendations are to be referred to the Audit and Governance Committee for recommendation to Council.

## **Reasons for Recommendations**

- 2 This Committee commissioned a Task & Finish Group to look at Planning System Review- Development Control and the Operation of the Constitution'. The Task & Finish Group has completed its task and its report is required to be submitted to this committee for approval. The recommendations also set out how the report should be progressed in accordance with the Council's Constitution, if approved by the Committee.

## **Introduction and Background**

- 3 The Overview & Scrutiny Committee commissioned a Task & Finish Group to undertake a Planning System Review- Development Control and the Operation of the Constitution'. The Review has been undertaken and the resultant findings and recommendations are to be reported back to Committee for its consideration prior to being referred to the Council's Executive for consideration.
- 4 In January 2010 Herefordshire Council implemented new constitutional provisions for planning (development control). Overview and Scrutiny Committee in July 2011 considered that it was timely for a scrutiny review to explore the effectiveness of the constitutional changes and to make recommendations with regard to any future modifications and/or amendments.

## **Key Considerations**

- 5 The Council's constitution is a living document and is under constant review. Following substantial changes to how the planning function is governed the Overview and Scrutiny Committee considered it timely to review how the new governance arrangements were operating.
- 6 The Task & Finish Group considered a range of information put before it (see appendix 2,3, and 4 in the attached report) and invited colleague Members to complete a questionnaire covering the key questions from the scoping statement (see appendix 1 in the attached report).
- 7 The Task & Finish Group conclude that:
  - All Members of the Council and Members of Town and Parish Councils would benefit from being kept up to date on a range of planning procedures or issues, particularly in relation to the implications of the Localism Act;
  - Greater clarity could be brought to the planning redirection system by specifying that the Chairman of Planning Committee makes the final decision on whether a planning application is redirected to Planning Committee.
  - If Planning Committee are minded to vote against officer recommendations then this should be supported by sound planning terms as this would: give greater clarity to the reasoning for the decision, be presented in a professional manner, and help

maintain the Councils reputation.

- Ensuring that relevant Council Member(s) receive timely information on planning issues in their ward;
- Ensuring that Town & Parish Councils are clear and proactive about their part in planning consultation;
- If the Council becomes responsible for setting the level of planning fees then, in relation to retrospective planning applications, a balance needs to be struck between the level of fee set for persistent offenders and those making a genuine mistake;

## **Community Impact**

- 8 The findings and recommendations from the review are in accordance with the Herefordshire Community Strategy in that it: relates to the themes of promoting self-reliant local communities and the long term outcome of enhanced local democracy and community engagement and the theme of commissioning the right services and the long term outcome of streamlined working practices.

## **Equality and Human Rights**

- 9 If the Committee agree with the findings of the Group the report will need to be considered by the Executive, Audit and Governance Committee and Council and, depending on their decision, any resultant suggested revisions to the Constitution will need to be assessed against the Equality Analysis and be reported to Cabinet, Audit and Governance Committee and Council.

## **Financial Implications**

- 10 None as a result of this report. If the Committee, the Executive, and Audit and Governance Committee agree with the findings of the Group, which would then have to be considered by Council, then any expenditure would need to be met from within existing budgets.

## **Legal Implications**

11. The Constitution reflects the statutory requirements and guidance. If the Committee, the Executive and Audit and Governance Committee agree with the findings of the Group, which would then have to be considered by Council, legal input will be given to the resultant revised constitution.

## **Risk Management**

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

## **Consultees**

- 13 As part of the Review a questionnaire was issued to all 58 Members of the Council. Input has been received from Mr A Ashcroft Assistant Director Economic, Environment and Cultural Services, and Mr K Bishop, Development Manager Northern Localities (Planning).

## **Appendices**

- 14 Task & Finish Review Group Report – Planning System Review- Development Control and

the Operation of the Constitution' (Appendix 1).

## **Background Papers**

- Revised Chief Executive's Scheme of Delegation; Development Management Statistics; Table of Planning Applications received; Statistics on the number of planning applications; Results of the questionnaire to Members; Local results from the Planning Advisory Service (PAS) national questionnaire.;

# **Task & Finish Group Report**

**Planning System Review –  
Development Control and the  
Operation of the Constitution**

**For consideration by the Overview &  
Scrutiny Committee – April 2012**





**Task and Finish Group Report  
Planning System Review – Development Control  
and the Operation of the Constitution**

**Background**

1. In January 2010 Herefordshire Council implemented new constitutional provisions for planning (development control). Overview and Scrutiny Committee in July 2011 considered that it was timely for a scrutiny review to explore the effectiveness of the constitutional changes and to make recommendations with regard to any future modifications and/or amendments. The review would also include the way planning applications are dealt with by Herefordshire Council from the registration of the application to the final decision. It therefore commissioned a Task and Finish Group to undertake a 'Planning System Review- Development Control and the Operation of the Constitution', and agreed a scoping statement for that review. The agreed terms of reference of the task and finish group were:
  - To explore member understanding of and engagement in the arrangements introduced in January 2010
  - To examine and ensure that all planning criteria are robust and will inspire public confidence in the council operating an efficient, timely, fair, robust, open and transparent system of determination based on good practice and effective decision making.
  - To examine effectiveness and performance of the Planning Committee arrangements since January 2010
2. The full Scoping Statement for the review is set out in Appendix 1
3. This report addresses the 5 key questions from the scoping statement including commentary based on the responses to the member questionnaire; comments upon a number of other planning related issues identified during the review and sets out a number of recommendations
4. The Task and Finish Group have not looked at:
  - The determination of individual planning applications;
  - the working relationships between individual officers and individual members; and
  - The working relationships between ward members and parish councils.
5. The Task and Finish Group comprised of Councillors: PJ Watts (Chairman); KS Guthrie; J Hardwick; R C Hunt; Brig. P Jones CBE; MD Lloyd-Hayes and were supported by: Mr A Ashcroft - Assistant Director, Economic, Environment & Cultural Services(Lead Support Officer); Mr K Bishop - Development Manager Northern Localities (Planning), (Support Officer); Mr P James (Democratic Services Officer).

6. Prior to the start of the review the Group were provided with a background information pack (see Appendix 2) and this has been supplemented by a number of further documents. Between July 2011 and March 2012 the group carried out research; convened meetings and interviews and undertook a 'walk through of the planning system' to gather as much background information and seek as many views as was required to make recommendations. The information gathering process also included a questionnaire to fellow members and was based on the 5 key questions in the scoping statement. The Group were disappointed with the low level of response from members considering that planning is a vital part of their ward work. The results of the questionnaire and comments received can be forwarded to the Cabinet Member if requested.

### **The 5 Key Questions**

#### ***Question 1 Have there been any changes to the working relationship generally between officers and members?***

##### **Member Questionnaire**

7. Responses to the question were: 5 Very Good; 17 Good; 0 No Change; 0 Poor; 0 Very Poor. Comments were positive but suggested there was still room for improvement.

##### **General**

8. While the officer/member working relationship under the previous arrangements for planning was considered to be good the current constitution has provided an extra stimulus to further improve that relationship and put in place some additional formality to govern the exchange of information.
9. A degree of concern has been raised that when case officers inform the ward member(s) that an application had been received the case officer didn't always provide an initial indication including (under delegated powers) of whether the case officer was minded to recommend that the application be approved or rejected. This made it difficult for the ward member(s) to judge whether the degree of local opinion was being taken into account and whether to seek to invoke provisions in the constitution for the redirection of an application to Planning Committee. The Group have been informed that since commencing the review this aspect has been addressed with enhanced officer training.
10. On receipt of a major, strategic or controversial planning application the case officer will brief the ward member(s) for the ward concerned. If deemed appropriate the ward member(s) of adjacent wards will then be briefed. It has been identified that benefit could be gained in briefing both at the same time.

##### **Recommendation 1**

**The Monitoring Officer be requested to prepare a report to the Audit and Governance Committee to prepare proposals to amend the Constitution to reflect that, on receipt of a major, strategic or controversial planning**



**application, benefit could be gained from briefing both the Ward Member(s), and where appropriate adjacent Ward Members, at the same time.**

***Question 2 How can the Council improve the way the public understands the Planning system in Herefordshire Council***

**Member Questionnaire**

11. A range of comments were received mainly suggesting greater clarity or more explanation concerning the processes involved was needed.

**General**

12. The Group received a draft of a flow chart illustrating the process and considered that a simplified version (Appendix 3) would help the public in understanding how the planning application system worked. The chart could also indicate what level of involvement Town & Parish Councils have in the consideration of applications.
13. Previously the Council's website provided access to planning policy documents and sign posted users to the UK Planning website for details on planning applications. The UK Planning website provided limited information and was outside the Council's control.
14. With the introduction of the long awaited in-house scanning of planning documents, and their uploading to the Herefordshire Council Website, the Group have been informed that a greater range of information will now be available. The new system will ensure that a wide range of information concerning an application can be down-loaded to the individual planning file and that a comprehensive web-based file is then available to all users. During the latter period of undertaking the review the new planning web pages have become operational.
15. The Group appreciate that in addition to planning applications the planning system involves a wealth of plans; strategies, policy documents consultation documents etc. many of which can be confusing to the general public. The Group consider that any information, including planning information, must be presented clearly with minimal use of acronyms. It should also be structured so that planning information can be navigated in an intuitive way from the home page.
16. Consideration should be given to publicising the various aspects of the planning service for example an article in Herefordshire Matters.
17. Elected Members, whether Herefordshire or Town & Parish Councillors, are in the community talking to their constituents and attending meetings and, as mentioned elsewhere in this report, it is important that they are adequately trained and understand their role in the system so that a clear message is conveyed to the public.

### **Recommendation 2**

**That the Council's planning website be designed to provide the maximum clarity and ease of use.**

### **Recommendation 3**

**Opportunities should be taken to explain to the public in plain English about the range of services offered by the Planning Service and how the public can interact with the Service.**

### **Recommendation 4**

**The Group consider that all councillors should attend training with regards to the use of the planning web site, where it will be used "live" for demonstration purposes.**

***Question 3 How have requests for redirection of application to Committee been handled, and what are the areas of tension?***

### **Member Questionnaire**

18. The comments received seem to indicate a general acceptance of the redirection system, however, further training on the detail of the system would be appreciated. Questions were raised regarding where the 'final decision' to redirect rests and the timeliness of dialogue between the case officer and ward member(s) concerning applications.

### **The Constitution**

19. In accordance with the Constitution (para 4.8.4) many planning applications are delegated to the Chief Executive and determined by planning officers acting under the Chief Executive's Scheme of Delegation. Paragraph 4.8.4.2 of the constitution provides that Ward Member(s) may choose to ask that sensitive or controversial applications be 'redirected' for a decision by the Planning Committee. Redirection will generally be justified when set against para 4.8.4.5 of the constitution which principally related to:

- Unusual or sensitive planning issues;
- Unusually high level of public interest
- Significant change in planning policy

20. The Group consider that the criteria 'Significant change in planning policy' must also include any reference's, to the LDF, Town and Parish Plans and Neighbourhood Plans – emerging from the Localism Act 2011

21. The procedure for redirection is set out at 4.8.9 of the constitution

### **Statistics**

22. The Group have been provided with statistics for the 2011 calendar year to 29 November indicating that 32 applications for redirection had been received. Of those 20 had been accepted and 12 had been declined. While this was far fewer than the previous year's total of 40, it was thought that the

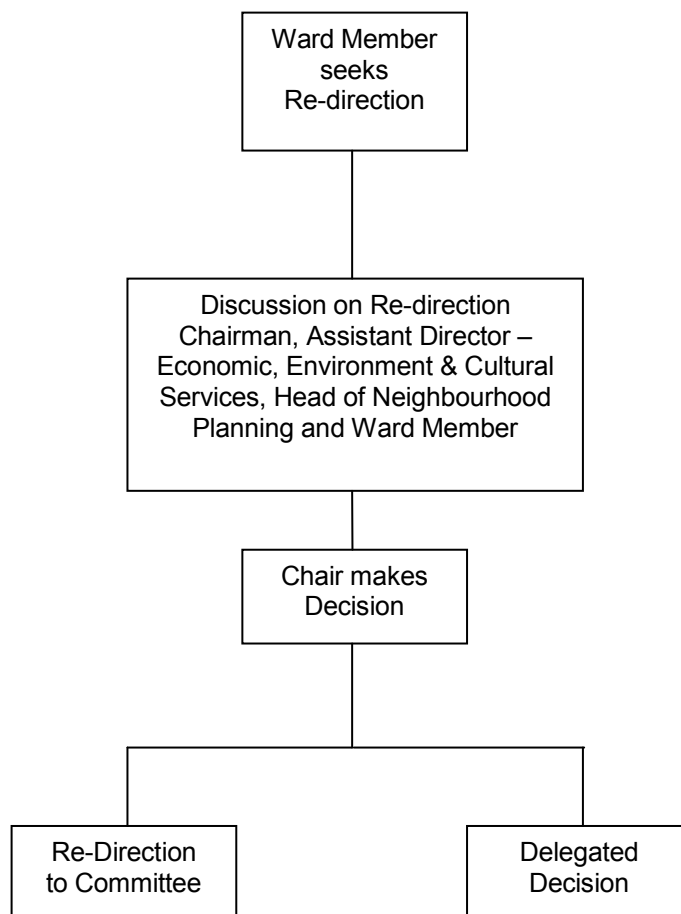
quality of the application for redirection had been higher as Members had become more familiar with the redirection process.

**General**

23. The Group have considered the current wording in the constitution; how the system has improved and how this relates to the range of comments received from Members. Under the current Constitution the final decision to redirect an application to the Planning Committee is made by the Assistant Director Economic, Environment and Cultural Services.

24. The Group are of the opinion that a request for redirection should continue to be submitted to the case officer, that request should then be discussed between the Chairman and the Assistant Director Economic, Environment and Cultural Services or the Head of Neighbourhood Planning. The Chairman and or officers will then discuss the matter with the Ward Member. The final decision whether to redirect should then be made by the Chairman of the Planning Committee acting apolitically, as this would reflect the democratic process.

25. New Proposal



### **Multi-member Wards**

26. On occasions Councillors representing multi-member wards may have a differing view over an application. If one member in a multi-member ward requests a redirection then the application for redirection is processed in accordance with the redirection process. The Group agreed that members, whether in multi-member wards or with adjacent ward members, need to apolitically work together to ensure that contentious issues are discussed and a possible compromise is identified. The Group agreed that this is easier to discuss at a meeting with the Case Officer than by correspondence.

### **Recommendation 5**

**The Monitoring Officer be requested to prepare a report to the Audit and Governance Committee to prepare proposals to amend the Constitution to reflect that the Chairman of Planning Committee, or in his absence the Vice-Chairman, makes the final decision on whether a planning application is redirected to Planning Committee.**

### **Recommendation 6**

**The Planning Guidance to officers be amended to reflect that where the Case Officer is aware of differing views between the local Ward Member(s) concerning a particular application, then all appropriate ward members be invited to discuss those views with the Chairman and Case Officer in an apolitical manner with a view to reaching a consensus.**

***Question 4 Are there ways of raising the profile of ward members in relation to planning matters?***

### **Member Questionnaire**

27. A number of comments suggest including ward member details in the letter to the applicant.

### **General**

28. The Group noted that the profile of the Ward Member must evolve as the implications of 'Localities Working' become clearer. Individual Members need to ensure that they keep up to date on planning procedures to ensure that they are able to convey accurate details to their ward constituents. Ultimately it is up to the individual Member how their public profile is portrayed.

***Question 5 How effective is the Council in communicating Planning Procedures to the public?***

### **Member Questionnaire**

29. Responses to the question were: 0 Very Good; 7 Good; 13 Poor; 1 Very Poor; 2 unable to comment. A range of comments were received mostly suggesting there was still room for improvement.

## **General**

30. The Group agreed with the results of the member questionnaire. It was appreciated that many members of the public probably only get involved in the planning process when they submit a planning application of their own or wish to object to or support an application. It is therefore essential that the information they receive is clear and easily accessible. The new planning website should make information on planning applications and strategic documents more accessible.
31. During the course of the review the Group were made aware that the Planning Advisory Service (PAS) were undertaking a national customer satisfaction survey. At a local level this involved PAS sending over 600 postcard questionnaires to local planning applicants and planning agents. The Group considered that the results would provide an independent opinion of the service. The Planning Advisory Service has recently released their report and the local results have been presented to the Group. (Appendix 4) The Group noted that Herefordshire was above average in all 6 of the questions and are of the opinion that Herefordshire's results were favourable when compared against its benchmarking group.

## **Recommendation 7**

**That consideration be given to enhancing the direct link from the home page of the Council's website to the planning application web pages.**

## **Member questionnaire issues not covered above**

32. In the questionnaire Herefordshire Members were also asked 'how would you rate your level of understanding of arrangements for dealing with planning applications and engagement in the planning procedure?'
33. Responses to the question were: 8 Very Good; 10 Good; 5 not so good; 0 not at all good; 0 unable to comment. Comments seem in the main to be that Members feel that there is a good level of understanding of the subject but refresher training, principally on practical rather than theoretical matters, would be appreciated particularly for those members not on the Planning Committee.
34. Members were also asked 'overall what do you think of the current arrangements for dealing with planning applications?'
35. Responses to the question were: 5 Very Satisfied; 10 Satisfied; 8 Slightly dissatisfied 0 Very dissatisfied. A range of comments were received relating to the redirection system; the part played by Town & Parish Councils in the planning system; decisions made under delegated powers and a lack of individual ward based knowledge on the Planning Committee.
36. Many of the key issues identified in response to the above two questions are considered elsewhere in this report.

### **Other Issues Considered**

37. During the course of the review the following issues have also been considered:

#### **Decisions against officer Recommendation**

38. The Group considered instances when the Planning Committee had decided applications against the officer recommendation. It was agreed that while this was perfectly permissible it could be very confusing for members of the public particularly when unsubstantiated by valid planning grounds.

39. The Group consider that it should be perfectly feasible for any member, or members, who may be minded to vote or speak against officer recommendation, to consult with the case officer prior to the meeting to discuss and formulate, if possible, a case for challenging the officers that was supported by valid planning grounds. In Committee the member, or members, would then consider the case and if still minded to vote against the recommendation they could then present their reasoned case, which may then form the basis of any recommendation. The Group consider that introducing this practice would ensure that any decision against recommendation would: give greater clarity to the reasoning for the decision, be presented in a professional manner, and help maintain the Councils reputation.

#### **Recommendation 8**

**The Monitoring Officer be requested to prepare a report to the Audit and Governance Committee to prepare proposals to amend the Constitution to reflect that a member(s) who may be so minded to vote against an officer recommendation must wherever possible consult with the Development Manager prior to the Planning Committee to prepare a written response using sound planning terms for submission at the Planning Committee. Therefore 4.8.2.10 must be deleted from the constitution.**

#### **Herefordshire Council Member Training**

40. Following the local Council elections in May 2011 training on planning issues was offered to Herefordshire members. The Group considered that training was essential as it:

- Assists the local member in their ward work;
- Ensures that the local member can confidently and authoritatively contribute to Town or Parish Council meetings or other public meetings;
- Enables the member to act as a substitute for a member on the planning committee
- portrays a professional image to the public and upholds the reputation of the Council

41. Having considered the results and comments arising from the member questionnaire the Group are very conscious that all members of Herefordshire Council need to keep up to date with planning issues.

42. The Group also urge that training be given on how to access and use the new web based planning information system.
43. The Group considered occasions when a Herefordshire Councillor may also be a Town or Parish Councillor (dual hatted) and concluded that clarification of the separate roles should be included in any general planning training sessions.

#### **Recommendation 9**

**All Members of the Council to be given refresher training on the planning system, particularly in the areas of: accessing and using the new planning website; pre-determination, clarification of the dual hatted role of some members, and the redirection process.**

#### **Town & Parish Council Training**

44. The Group appreciated that a degree of training on planning issues had been provided to Town & Parish Councillors by Herefordshire Association of Local Councils (HALC) and that the Planning Service had responded to invitations from individual Town or Parish Council's to give presentations on planning issues and process. However, the Group were also aware that there was still a degree of confusion or frustration within some Town & Parish Councils over their role in the process; what was expected of them and why Herefordshire Council didn't always appear to take account of their input.
45. The Group are aware that further changes to the planning system will arise from the Localism Act and the Community Infrastructure Levy and this will provide an opportunity for further professional training to be given to members of Town & Parish Councils. The Group have been informed that a degree of training in these areas had commenced.
46. The Group also considered it appropriate that a short planning guidance note be provided to the Clerks and Planning Committee chairs of Town & Parish Councils to be used as a reminder of their Councils role in the process and the aspects they are invited to comment on.
47. In common with the Herefordshire members, the Group also urge that training be given to Town & Parish Councils on how to access and use the new web based planning information system.

#### **Recommendation 10**

**In view of the enhanced responsibilities arising from the Localism Act Town & Parish Councils should take the opportunity to provide further training for their members on the planning system including guidance on using the new planning website.**

## **Recommendation 11**

**That a short planning guidance note be provided to Clerks and Planning Committee Chairs of Town & Parish Council's for use as a reminder of their Council's role in the planning process and the aspects they are invited to comment on when relevant committee's are in session.**

### **Charging for pre-application advice**

48. The Group briefly questioned the introduction of charging for pre-application advice, as set out in the 'Pre-Planning Application Advice Service Guidance Note' and available from the Council's web site. The Group noted that charging had been agreed by Cabinet on 30 June 2011 (report on Income Proposals & Charging Proposals) and was in line with the majority of other authorities. The Group have been informed that since the introduction of the charges there had been a reduction in the number of abortive enquiries and this had made it possible to ensure an increased level of service/guidance to genuine applicants. The charging of a fee had now been accepted and the service was being used by local agents who generally appreciated the quality of the advice. Customers appreciated that pre-application advice could pre-empt, in a cost effective way, any major problems when submitting their application. In addition the fee was also providing an income stream to support work which previously had been free.

### **Retrospective Planning Applications**

49. The issue of retrospective applications can create a high degree of public unrest as it is seen as flouting the planning procedures. The Group noted that for a variety of reasons, whether intentionally or by accident, some development works were commenced before a planning application had been submitted or granted. This in itself is not a criminal act, however, Herefordshire Council in common with other authorities have been lobbying government to reverse this to make enforcement action easier to undertake. The Group have been informed of the procedures in place concerning retrospective applications and advised that in many cases officers in the planning service may already be investigating such cases and that enforcement action was taken where appropriate.

50. The Group noted that the level of planning fees was set nationally but that the Council were proactively lobbying for fees to be set at a local level. In relation to retrospective application fees the Group appreciated that there was a difference between persistent offenders i.e. those that deliberately went ahead with development knowingly they should have applied for permission, and those making a genuine mistake and the Group considered that this should be kept in mind should the level of planning fees be set locally.



### **Recommendation 12**

**Should Herefordshire Council be in a position to set the level of planning fees then a degree of flexibility should be built into the fee structure to penalise retrospective applications but acknowledge that genuine mistakes are sometimes made.**

### **Planning Enforcement Issues**

51. The Group discussed a number of issues relating to planning enforcement and noted that Herefordshire Council follows government guidance contained in Planning Policy Guidance 18 (PPG18). Some authorities take a differing view to its interpretation – more relaxed or more extreme – which may then relate to the level of resources that authority devoted to enforcement activity.
52. The Group considered whether the public and Town & Parish Councils understood the enforcement process and timescales. The Group were aware that in many instances the public perception was that enforcement action either wasn't being undertaken or that it was exceedingly slow. The Group fully appreciated that enforcement wasn't as clear-cut as the public may think. The Council's Enforcement Team had to collect evidence and build a legal case to support any action and due to the complexity of the statutory process some cases could take years to conclude. In some instances enforcement action had commenced and a new planning application had been submitted thereby putting the enforcement on hold until the new application had been determined. The Group appreciated that while there was no legal requirement for the Council to undertake planning enforcement, the Enforcement Team were operating within the resources available and therefore prioritising cases accordingly.
53. Ward Councillors should receive timely notification of enforcement cases in their ward, however, the Group suggest that this isn't always the case and this may need to be included in the revised Planning Enforcement Policy.
54. The Group agreed that further training was needed, for both Herefordshire and Town & Parish members, on how the Planning Enforcement Policy (currently being updated) was applied and what 'tools' were available in the 'enforcement tool kit' to tackle problem cases.

### **Recommendation 13**

**Planning Enforcement Officers must ensure that Ward Members receive regular updates throughout the course of an enforcement investigation or action associated with their ward.**

### **Recommendation 14**

**In addition to the training set out at recommendations 9 & 10, Herefordshire members and Town & Parish Council members should also receive training on the Planning Enforcement Policy.**

## **The Localism Act**

55. During the course of the review the Localism Act has reached the statute book. While some parts have been enacted other parts have not and guidance is awaited. The Act contains provisions on a wide range of services delivered by local authorities, or in which councils might have an interest. Planning, housing, and governance are all covered. The Group are aware that the implications for the planning service and governance have still to be assessed and plans made for their implementation. The Group hope that any areas of the Act open to local interpretation will be guided by the recommendations in this report.

### **Recommendation 15**

**That the implementation of provisions in the Localism Act, open to local interpretation and covered by this report, be guided by the recommendations in this report.**

### **Recommendation 16**

**The Group recommends that all Councillors attend a planning seminar on how the planning and governance implications of the Localism Act are likely to impact on their work as Herefordshire Councillors and as Ward Members.**

## **The Council Constitution**

56. The Group have made a number of recommendations which when accepted will necessitate amendments including deletions e.g. 4.8.2.10, to the various parts of the Council's Constitution to ensure the document as a whole is consistent.

<b>TITLE OF REVIEW:</b>	<b>Planning System Review – Development Control and the Operation of the Constitution</b>
-------------------------	---

## **SCOPING**

### **Reason for Enquiry**

To explore the effectiveness of the new Constitutional provisions for Planning (development control) matters introduced in January 2010 and to make recommendations with regard to future modifications and/or amendments, to also include the way planning applications are dealt with by Herefordshire Council from registration to the final decision

### **Links to the Community Strategy**

The review contributes to the following objectives contained in the Herefordshire Community Strategy, including the Council's Corporate Plan and other key plans or strategies:

This review relates to the themes of promoting self-reliant local communities and the long term outcome of enhanced local democracy and community engagement and the theme of commissioning the right services and the long term outcome of streamlined working practices.

### **Summary of Review and Terms of Reference**

#### **Summary**

The review is to consider the effectiveness of the operation of the Constitution in relation to development control matters since January 2010

#### Terms of Reference

- To explore member understanding of and engagement in the arrangements introduced in January 2010
- To examine and ensure that all planning criteria are robust and will inspire public confidence in the council operating an efficient, timely, fair, robust, open and transparent system of determination based on good practice and effective decision making.
- To examine the effectiveness and performance of the Planning Committee arrangements since January 2010.

### **What will NOT be included**

- The determination of individual planning applications.
- The working relationships between individual officers and individual members.
- The working relationships between ward members and parish councils.

**Potential outcomes**

To

- Identify areas where the 2010 changes are yet to be fully embedded.
- Propose detailed modifications/amendments to improve or streamline working arrangements of planning applications by the planning committee.

**Key questions**

To

- Have there been any changes to the working relationship generally between officers and members?
- How can the Council improve the way the public understands the Planning system in Herefordshire Council
- How have requests for redirection of application to Committee been handled, and what are the areas of tension?
- Are there ways of raising the profile of ward members in relation to planning matters.
- How effective is the Council in communicating Planning Procedures to the public.

**Cabinet Member (s)**

Councillor DB Wilcox

**Key Stakeholders/Consultees**

- Chairman/Vice Chairman of the Planning Committee (past and present).
- All Ward members.
- Development Manager/Area Team Leaders.
- Public

**Potential Witnesses**

- Chairmen of Planning Committee (past and present).
- Ward Members who have been successful or unsuccessful in requests for redirection of planning applications.

**Research Required**

Sample feedback from members.

Number of applications reported to Committee/length of meeting.

Number of requests for redirection (by month/ward etc.)

Webcasts

**Potential Visits**

To

- High merit in visiting a similar authority with a similar system in operation.

<b>Publicity Requirements</b>	
Launch of Review	
During Review	
Publication of the Review and its recommendations	
Herefordshire Matters	
<b>Timetable</b>	
<i>Activity</i>	<i>Timescale</i>
Collect current available data for circulation to Group prior to first meeting of the Group.	By Mid August
Confirm approach, programme of consultation/research/provisional witnesses/meeting dates.	First meeting of the Review Group. By End August??
Collect outstanding data	By mid September
Analysis of data	By mid to end September
Final confirmation of interviews of witnesses	By End August
Carry out programme of interviews	By end September
Agree programme of site visits	n/a
Undertake site visits as appropriate	n/a
Present interim report to relevant scrutiny \Committee, if appropriate.	TBC
Final analysis of data and witness evidence	By end November 2012
Prepare options/recommendations	December 2012
Present Final report to Relevant Scrutiny Committee	16 January 2012
Present options/recommendations to Cabinet (or Cabinet member (s))	17 January 2012
Cabinet/Cabinet Member (s) response (within two months of receipt of Group's report)	By Mid March 2012
Consideration of Executive's Response by the Overview and Scrutiny Committee	As soon as possible after the response is received.
Monitoring of Implementation of agreed recommendations ( within six months of Executive's response)	September 2012

<b>Members</b>	<b>Support Officers</b>
<b>Councillors: (Chairman of Review Group)</b> Councillor P Watts	<b>Lead Support Officer</b> (Independent of the Service being Reviewed) Andrew Ashcroft - Assistant Director Economic, Environment & Cultural Services
Councillor K Guthrie Councillor J Hardwick Councillor RC Hunt Councillor Brig P Jones CBE Councillor MD Lloyd-Hayes Councillor GA Powell	<b>Democratic Services Representative(s)</b> Paul James
	<b>Other support Officers</b> Kevin Bishop – Development Manager Northern Localities (Planning),
<b>Additional members of the Review Group</b>	--

**Documents in the initial pack or received during the review.**

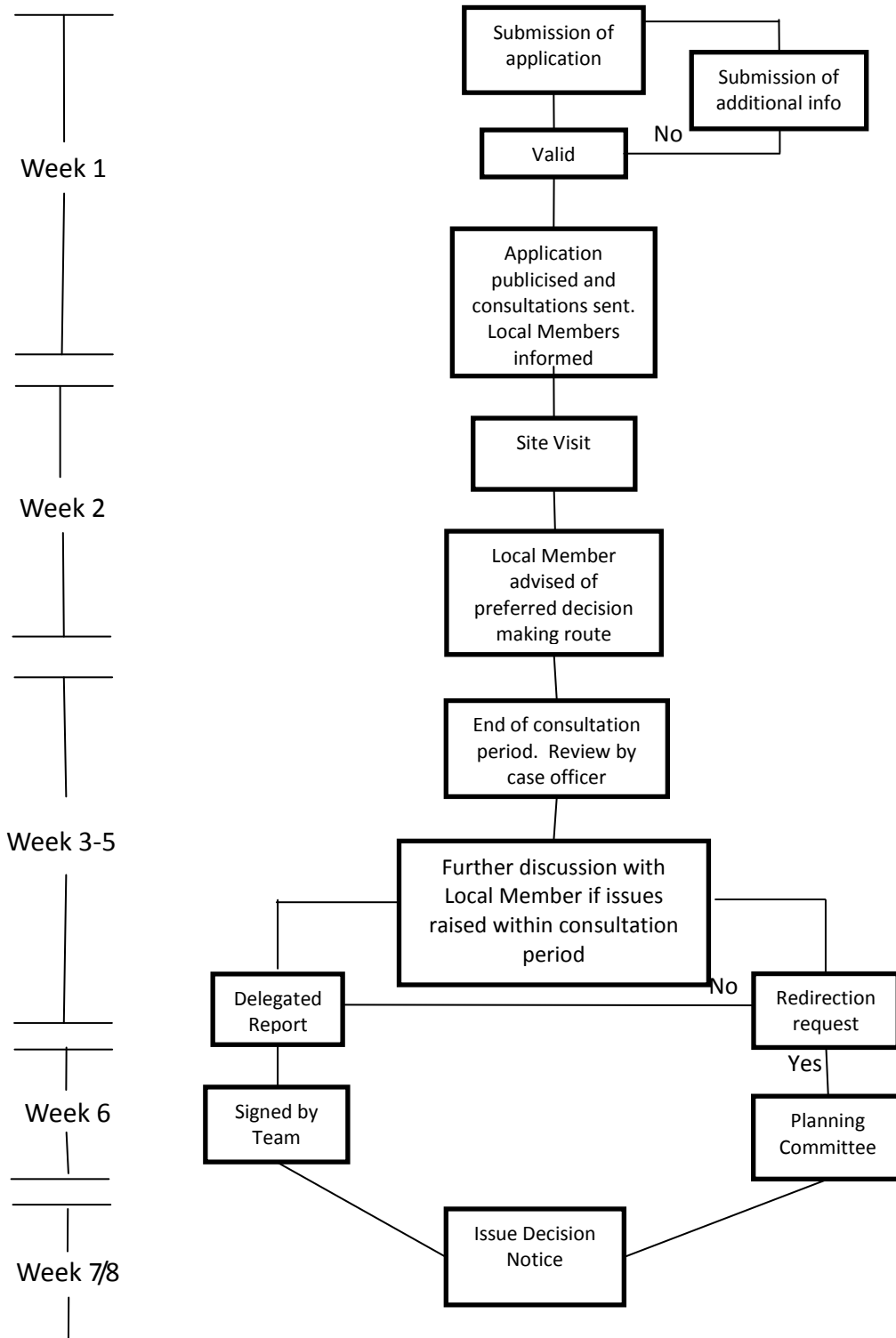
**Initial Pack**

1. The New Planning System
2. Revised Chief Executive's Scheme of Delegation
3. Development Management Statistics
4. Table of Planning Applications received
5. Flow chart identifying Decision Making Process
6. Registration Process
7. Web site information
8. Guide to Making Representations on Planning Applications
9. Public Speaking at Planning Committee

**During the Review**

10. Extract from Council Constitution Function Scheme concerning determining applications;
11. Statistics on the number of planning applications.
12. Pre-Planning Application Advice Service Guidance Note.
13. Results of the questionnaire to Members.
14. Local results from the Planning Advisory Service (PAS) national questionnaire.

# Processing of Planning Application

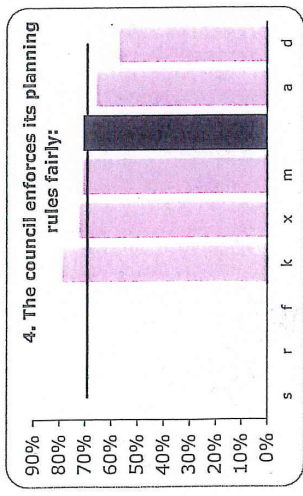
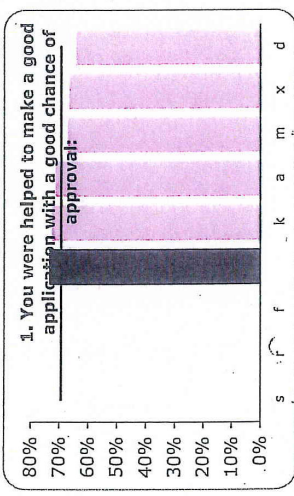
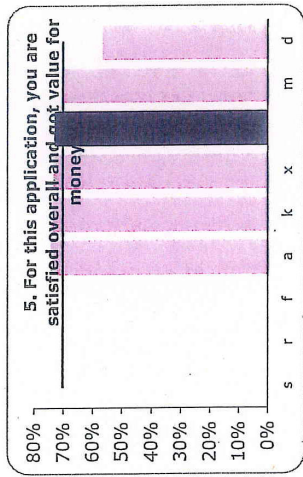
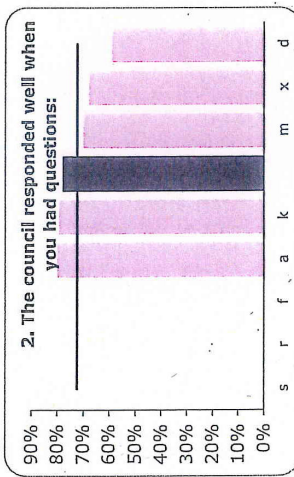
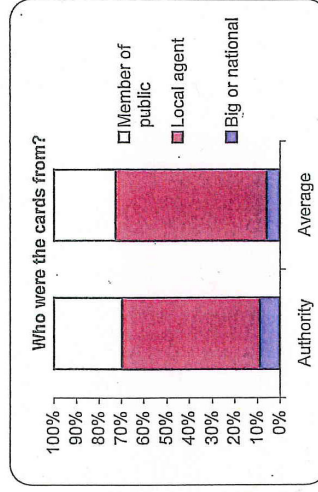
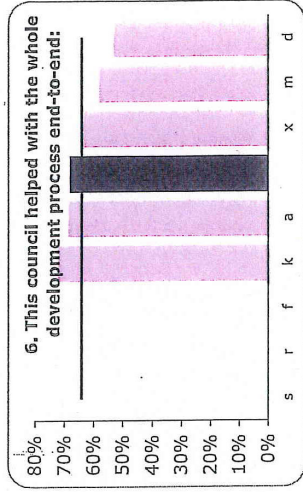
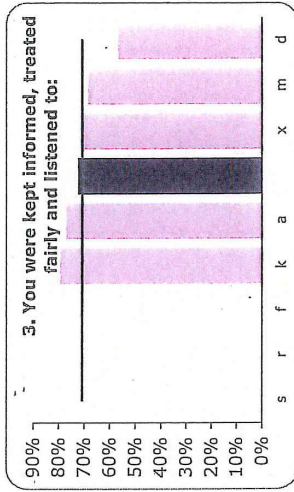




Extract from Planning Advisory Service Customer Satisfaction Report

**CUSTOMER SATISFACTION - Comparison of Post-Card Scores.**

Respondents with refused applications have been removed from the calculation of averages, as they had a disproportionate effect on scores. So, the calculation of satisfaction is only based on permitted applications.



m = Cornwall Council  
 d = Forest of Dean DC  
 a = Malvern Hills DC  
 x = North Somerset DC  
 k = Shropshire Council  
 s = West Berkshire Council  
 f = Wychavon DC  
 r = Wyre Forest DC

\_\_\_\_\_ = average

05/12/2011

PAS3



<b>MEETING:</b>	<b>OVERVIEW AND SCRUTINY COMMITTEE</b>
<b>DATE:</b>	<b>23 APRIL 2012</b>
<b>TITLE OF REPORT:</b>	<b>CALL-IN OF CABINET MEMBER (HEALTH &amp; WELLBEING) DECISION CONCERNING THE PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE</b>
<b>REPORT BY:</b>	<b>Assistant Director – Law, Governance and Resilience</b>

**CLASSIFICATION:** Open

## Purpose

To review Cabinet Member (Health & Wellbeing) decision concerning the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment, which has been called in by three Members of the Committee: Councillors MAF Hubbard; JLV Kenyon and SJ Robertson.

## Recommendation(s)

**THAT: the Committee reviews the Cabinet Member's decision and decides**

- (i) whether it accepts that decision with no further comment, or**
- (ii) whether it wishes to accept the grounds on which the decision of the Cabinet Member has been called-in and refer the decision back to the decision maker for reconsideration and, if so, what recommendations to Cabinet it wishes to make.**

## Key Points Summary

- Call-in is a statutory right for Members of the Council to review a decision of the Executive taken by Cabinet or an individual Cabinet Member after it is made but before it is implemented.
- A decision can not take effect pending consideration of the call-in by the Overview and Scrutiny Committee.
- After consideration by the Overview and Scrutiny Committee the decision maker may implement the original decision or reconsider it in the light of the Overview and Scrutiny Committee's comments.
- The Committee has no power to overturn a decision of the Executive. It can only request the Executive to reconsider its decision.

- The Constitution (4.5.16.5) provides that call-in should only be used in exceptional circumstances including but not limited to;
  - a where there is evidence which suggests that issues have not been handled in accordance with the decision-making principles set out in this Constitution;
  - b where a key decision has been taken which was neither published in accordance with the requirements for the Forward Plan, and is not subject to the urgency procedures set out in this Constitution; or
  - c where a decision is outside the Budget and Policy Framework.
- The Overview and Committee can either accept the Cabinet Member (Health & Wellbeing) decision with no further comment or accept the grounds on which the decision of the Cabinet Member has been called-in and refer the decision back to the decision maker for reconsideration.

## **Reasons for Call-in**

1. In accordance with the Scrutiny Procedure Rules set out at Part 4 Section 5 of the Constitution, the Cabinet Member (Health & Wellbeing) decision on 28 March 2012 concerning the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment has been called in for consideration by this Committee.
2. The stated reasons for the call-in are:
 

“That procedures have not been followed correctly in that the tendering process may have unfairly excluded certain bodies who currently provide services and therefore this needs further investigation.”
3. The call-in is therefore made on the basis that there is evidence which suggests that issues have not been made in accordance with the decision making principles set out in the Constitution.
4. The decision notice (Ref No: 2012.H&WB.001), together with the report by the Director of People's Services to the Cabinet Member (Health & Wellbeing) in relation to the delivery of Herefordshire's Yes We Can Children's Plan, 28 March 2012, is appended.
6. In response to the Call-in the Director of People has provided further background to the issues and this is contained in Appendix 3 to this report. As this relates to a live tender appendix 3 is exempt by virtue of Section 100A and Schedule 12A Part 1 paragraph 3 of the Local Government Act 1972 (as amended).

## **Appendices**

- Decision Notice of the Cabinet Member (Health & Wellbeing) on 24 June 2011 (Ref No: 2012.H&WB.001).
- Report to the Cabinet Member (Health & Wellbeing) 28 March 2012.
- Additional paper Response to the call-in. (Exempt report)

## Background Papers

- None identified.



## WRITTEN STATEMENT OF A KEY DECISION CABINET MEMBER HEALTH & WELLBEING

<b>ITEM:</b>	<b>PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE</b>
Date of Decision:	28 March 2012
Exempt:	No
Confidential	No
This is a key decision because It is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.	
The item was included in the Forward Plan.	
Urgency/Special Urgency: (As defined in Constitution)	No
Purpose:	To seek approval to commit funding over £500k in the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment.
<b>Decision:</b>	<b>THAT:</b> <b>(a) the commitment of contract sums over £500,000 as detailed in the attached report be approved.</b>
Reasons for the Decision:	The purpose is to obtain Cabinet Member approval of the procurement activity which commits £1,060k in new 2 year contracts from 1st April 2012. This equates to £530k per annum.
Options Considered:	Contracts are coming to an end on the 31st March 2012 and must be replaced with new arrangements in order to ensure the continuity of services. Services could be provided by the Council, but greater opportunity and efficiencies have been sought through a commercial tendering process.
Declaration of Interest:	
Date the key decision is due to take effect:	3 April 2012

**COUNCILLOR P MORGAN:** .....Date: 28 March 2012  
**Cabinet Member Health & Wellbeing**

<p><b>To be completed by officer:</b></p>	
<p>Date consent received from Chairman of Overview &amp; Scrutiny Committee:</p>	
<p>Subject to Call-in:</p>	<p>This Decision was not called in <b>OR</b> This Decision was called in on <b>DATE</b> by Councillors <b>NAME</b>, <b>NAME</b> and <b>NAME</b>. The call in meeting of the <b>Scrutiny</b> Committee was held on <b>DATE</b></p>
<p>Was the decision modified?</p>	<p>Yes/No</p>
<p>If yes Cabinet Member (.....) decision reference:</p>	
<p>If no any comment(s) to be noted</p>	
<p>Date original decision took effect:</p>	<p><b>DAY AFTER SCRUTINY MEETING</b></p>



# **PROCUREMENT OF SERVICES TO SUPPORT THE DELIVERY OF HEREFORDSHIRE'S YES WE CAN PLAN FOR CHILDREN AND YOUNG PEOPLE**

## **REPORT BY DIRECTOR FOR PEOPLE'S SERVICES**

**REPORT TO CABINET MEMBER HEALTH AND WELLBEING**

**DATE REPORT CONSIDERED AND DECIDED BY CABINET MEMBER: 28 MARCH 2012**

**SCRUTINY COMMITTEE FINAL CALL IN DATE: 2 APRIL 2012**

**DATE DECISION TO BE IMPLEMENTED: 3 APRIL 2012**

---

**CLASSIFICATION:** Open

### **Wards Affected**

County-wide

### **Purpose**

To seek approval to commit funding over £500k in the procurement of services for children and young people, in line with the priorities set out in Herefordshire's Yes We Can Plan and based on evaluation of current contracts, equality impact assessments and information from the Joint Strategic Needs Assessment

### **Key Decision**

This is a Key Decision because it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates:

### **AND**

It was included in the Forward Plan.

### **Recommendation(s)**

**THAT:**

- (a) the commitment of contract sums over £500,000 as detailed in this report be approved;

### **Key Points Summary**

- There is a need to tender and award contracts for a number of children's services as the current contract arrangements are coming to an end on the 31<sup>st</sup> March 2012.
- The approval of the amount would allow necessary contracts to be put in place for the services to begin from 1 April 2012 and is consistent with the service requirements and budget set by the Council for 2012/13.

### **Link to Joint Corporate Plan**

- The proposed tender arrangements aim to produce a cost effective service which is

outcome focussed and able to meet the needs of vulnerable children in Herefordshire, including maintaining them in their own homes wherever appropriate. These aims are part of our corporate plan specifically priority 3.2 *Improved intervention and support for children and young people and keeping them safe*

## **Alternative Options**

- 1 Contracts are coming to an end on the 31st March 2012 and must be replaced with new arrangements in order to ensure the continuity of services. Services could be provided by the Council, but greater opportunity and efficiencies have been sought through a commercial tendering process.

## **Reasons for Recommendations**

- 2 The purpose is to obtain Cabinet Member approval of the procurement activity which commits £1,060k in new 2 year contracts from 1st April 2012. This equates to £530k per annum.

## **Introduction and Background**

- 3 Within the context of Herefordshire's Yes We Can plan and based on an evaluation of current contracts and equality impact assessments, a number of major procurement activities have been identified. In addition a number of current contracts terminate on the 31st March 2012. A procurement programme has begun, agreed by People's Services Directorate Leadership Team, to tender for the services the local authority requires to meet the needs of children, young people and their families. This programme has provided an opportunity to improve current procurement arrangements by grouping together some services that were previously procured individually.
- 4 Current contracts are insufficiently outcome focussed and this provides an opportunity to improve the way the Council organises services and contracts with providers.
- 5 Potential providers were made aware of these opportunities during the Provider Forum meetings held in November 2011 and January 2012. These services fall under Part B of the European Procurement Directives meaning that the procedures which we must follow are more flexible. We have employed a single stage procurement process in order to meet with the required timescales.
- 6 The Council's electronic tendering portal "Proactis" has been used to both advertise the opportunities and receive tenders. It will also be used to assist in the Evaluation Process. Providers have the opportunity to raise issues through this portal, such issues have been promptly responded to by the named tender co-ordinator.

## **Key Considerations**

- 7 There are a number of key considerations:
  - Financial pressures mean that more efficient and effective ways of delivering services must be found.
  - The number of current contracts that expire on March 31<sup>st</sup> 2012

- The opportunity to group together certain services that were previously procured individually thereby making them more attractive to potential providers and potentially securing greater value for money.
- Changes on this scale can raise anxieties amongst stakeholders and an engagement and communication process has been put in place to mitigate these. Engagement and communication is being developed with current and successful providers.

8 The information below sets out the tender opportunity with the individual “lots” which requires Cabinet member approval as this commits the authority to expenditure over £500k.

PROJECT TITLE	SERVICES INCLUDED	CONTRACT DURATION	CONTRACT BUDGET VALUE £000's
Targeted and Specialist Family Support	<ul style="list-style-type: none"> <li>• Edge of Care support</li> <li>• Intensive Family Support</li> <li>• Rapid Response</li> <li>• Family Group Conferences</li> <li>• Supervised Contact</li> <li>• Parenting Assessment</li> <li>• Befriending/Outreach support</li> </ul>	Two years	1,060

9 The tender is currently active so no further details can be included within this report. The process is being progressed to enable appropriate delivery of new contracts from 1 April 2012. Approval to commit the sum detailed will enable this process to take place.

10 In addition to the above tender, the Director for People’s Services will approve other tenders under £500k and contract awards for all these contracts, in line with delegated responsibilities and will be reported separately to the lead member. The following points are made from a range of perspectives of stakeholders in relation to the tender exercises:

**a. Service Users**

Existing contracts do not in practice secure any greater level of staff or provider continuity and changes do occur. The new arrangement will provide better opportunities for service users to receive continuity of both care worker and provider in the longer term because the increased volume of work and longer term nature of contracts

There may be some concern that users will face a change of provider and a

change of care staff. Changes will be managed in such a way as to minimise negative impacts experienced by service users through effective care management and transitional plans established as part of the procurement process.

**b. Providers**

Providers will be assured that the tender process will be an equitable process with opportunities for providers to consider participating both at an individual level and on a collaborative basis should they wish.

The council uses an appropriate mix of quality and price in the procurement decisions. This has been explained in the tender documentation.

These tender opportunities are offering longer term contracts, in line with the Compact, which in turn provide security and certainty to providers with the aim of achieving greater efficiencies.

**c. Current workforce**

Provider employees working on HPS commissioned services may be concerned about their future employment prospects. While this procurement exercise will inevitably lead to some workers having to change their employer they should be assured that the overall policies and objectives of the Council and its strategic partners is to increase the number of individuals supported in the community and that appropriate HR and procurement policies will be followed.

## **Community Impact**

- 11 The tendering activities support both statutory elements for the local authority eg supervised contact, and also the priorities within the Yes We Can plan and therefore Council Joint Delivery Plan. The plan is based on the Joint Strategic Needs Assessment which gathers data and intelligence from a wide range of sources, thereby reflecting the needs of the communities within Herefordshire. An analysis of unmet needs, through the multi-agency groups was also considered.
- 12 Any changes e.g. the end of a contract is assessed through equality impact assessments which consider the effect on service users and the provider. The results of these have been carefully considered alongside statutory requirements, priorities and the resources available.
- 13 The services provided through these activities will be available to children and young people identified as having additional needs through the Common Assessment Framework (CAF) or a statutory assessment.

## **Equality and Human Rights**

- 14 The services being commissioned will pay due regard to our public sector equality duty. They will provide more disadvantaged children and young people with the services that enable them to live their lives and achieve the same sorts of outcomes as their peers.
- 15 Equality Impact Assessments were carried out on all contracts that are due to end at the end of March 2012. This is to assess the impact on service users and the

provider.

- 16 Successful service providers will need to evidence that they comply with the requirement of the Equality Act 2010. There is not an expectation that SME's (Small & Medium size Enterprises) will be fully compliant, or even understand their requirements. Where a gap is identified the provider will be expected to commit to Equality & Human Rights training for all employees.

## **Financial Implications**

- 17 The budgeted costs of this tender exercise are £1,060,390 over a 2 year period.
- 18 From a Commissioner's point of view there are no financial risks to Herefordshire Council attached to this proposal as the programme drives cost reductions. It is important to note that the amounts are significantly reduced from current contract amounts across the total area of activity. This is in line with the overall reductions in public sector funding. The principle applied has generally been an above inflation rate year on year reduction plus allowing for any change in service levels to fit into the available budget now and in the future. The Targeted and Specialist Family Support tender has been reduced to £1,060,390 over 2 years
- 19 Providers, through the tendering process, will be expected to submit offers which will have accounted for a market rate profit level; this means that the financial settlement should be sustainable.

## **Legal Implications**

- 20 Some aspects of the tender will provide the mandatory services that the local authority is obliged to provide. These include supervised contact, parenting assessments and intensive family support.
- 21 As noted in paragraph 5 the services being tendered for are classified as Part B services under the Public Contracts Regulations 2006. Thus they are not subject to the full EC procurement regime with its various tightly regulated procedures. Nonetheless the authority has a duty to conform to the wider EC principles of equal treatment, non discrimination and transparency. This duty can be satisfied by following the authority's own contract procedure rules which contain suitable provisions relating to advertising, tendering, evaluation and award. The procurement process will be in accordance with the authority's contract procedure rules and will involve the necessary advisors from procurement, finance and legal services.

## **Risk Management**

- 22 Risk is predominantly related to adverse publicity arising from a range of stakeholders with a preference for maintaining the status quo. It is proposed that this be managed by ensuring a common understanding throughout the Council and therefore consistent communication of the facts emphasising the positive contribution this project will make to:
  - a. maintaining service levels whilst increasing opportunities for service user choice and control of how the service is provided
  - b. securing more consistent standards of care across the County

- c. maintaining local employment opportunities
  - d. protecting front line services by securing financial efficiencies
- 23 Further management risk exists if the Council does not adequately execute its implementation plan. This may result in dissatisfaction and undue anxiety amongst service users. It is proposed that implementation is phased and is closely linked with service user reviews to allow staff to assist with any changes.
- 24 If the decision is challenged at any point this will add a delay to awarding any new contract. In this case the current providers would be approached to extend services for a further limited period to allow time to respond to any challenge and for the new contract to be negotiated. Providers are already in discussion as to transition and hand over arrangements. Extending contracts would require a waiver to be agreed by the Director, legal and procurement services.
- 25 If the proposals are declined, the current arrangements will come to an end which will result in the cessation of these vital services.
- 26 Contracts that are awarded will request certain flexibilities to change or vary services if required within the term of the contract. This includes confirmation of funding on an annual basis. With the ongoing pressure on budgets and the planned root and branch reviews there may be the need to reduce, change or even de-commission these services before the end of the formal contract period. The Council standard contract and Compact allows this to happen provided sufficient notice is given to the provider and Equality Impact Assessments are undertaken.

## Consultees

- 27 Service specialists in these areas have significantly contributed to the service specifications to ensure the final services provided are of the highest quality for the price offered.
- 28 Providers were consulted at the Provider Forum events held in November 2011 and January 2012. This gave an indication of the services that would be coming up as tender opportunities so they could consider and prepare for when those were released. Unfortunately some of the feedback to allow a greater length of time for providers to respond has not been possible in every case due to the capacity of the commissioning teams. However, a month turnaround has been the general length of time allowed.
- 29 People's Services Directorate Leadership Team have also contributed further to the final service specifications and commissioning approaches.
- 30 Service users views should be involved throughout the commissioning cycle ie informing the needs assessment, planning, procurement decisions and monitoring and reviewing services. In terms of procurement exercises a service user is asked to join the evaluation panel. For this family support contract a young people's panel will interview the providers who score the highest in the first round of evaluations.

## Appendices

- 31 None

## **Background Papers**

- None identified.





Document is Restricted

