

Corporate Services

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TO: ALL MEMBERS OF THE COUNCIL

20 September 2012

Dear Councillor

YOU ARE HEREBY SUMMONED to attend the meeting of the Herefordshire Council to be held on **Friday 28 September 2012** at Town Hall, St Owen Street, 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 CHAPMAN
ASSISTANT DIRECTOR LAW, GOVERNANCE AND RESILIENCE

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AGENDA

Council

Date: **Friday 28 September 2012**

Time: **10.30 am**

Place: **Town Hall, St Owen Street, Hereford.**

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

For any further information please contact:

Sally Cole, Governance Services

Tel: 01432 260249

Email: scole@herefordshire.gov.uk

If you would like help to understand this document, or would like it in another format or language, please call Sally Cole, Governance Services on 01432 260249 or e-mail scole@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Council

Membership

Chairman

Vice-Chairman

Councillor LO Barnett

Councillor ACR Chappell

Councillor PA Andrews
Councillor CNH Attwood
Councillor PL Bettington
Councillor WLS Bowen
Councillor AN Bridges
Councillor MJK Cooper
Councillor BA Durkin
Councillor DW Greenow
Councillor RB Hamilton
Councillor EPJ Harvey
Councillor JW Hope MBE
Councillor RC Hunt
Councillor TM James
Councillor AW Johnson
Councillor JLV Kenyon
Councillor JG Lester
Councillor G Lucas
Councillor PJ McCaull
Councillor JW Millar
Councillor NP Nenadich
Councillor FM Norman
Councillor GA Powell
Councillor R Preece
Councillor SJ Robertson
Councillor A Seldon
Councillor J Stone
Councillor DC Taylor
Councillor DB Wilcox

Councillor AM Atkinson
Councillor CM Bartrum
Councillor AJM Blackshaw
Councillor H Bramer
Councillor EMK Chave
Councillor PGH Cutter
Councillor PJ Edwards
Councillor KS Guthrie
Councillor J Hardwick
Councillor AJ Hempton-Smith
Councillor MAF Hubbard
Councillor JA Hyde
Councillor JG Jarvis
Councillor Brig P Jones CBE
Councillor JF Knipe
Councillor MD Lloyd-Hayes
Councillor RI Matthews
Councillor SM Michael
Councillor PM Morgan
Councillor C Nicholls
Councillor RJ Phillips
Councillor GJ Powell
Councillor PD Price
Councillor P Rone
Councillor P Sinclair-Knipe
Councillor GR Swinford
Councillor PJ Watts

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

		Pages
1.	PRAYERS	
2.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
3.	DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	MINUTES To approve and sign the Minutes of the meeting held on 20 July 2012.	1 - 38
5.	CHAIRMAN'S ANNOUNCEMENTS To receive the Chairman's announcements and petitions from members of the public.	
6.	QUESTIONS FROM MEMBERS OF THE PUBLIC To receive questions from members of the public.	39 - 44
7.	FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS To receive any written questions from Councillors.	
8.	NOTICES OF MOTION UNDER STANDING ORDERS Three Notices of Motion have been submitted for consideration by Council. Notice of Motion One Submitted by Councillors: MAF Hubbard, EPJ Harvey, C Nicholls, S Michael, J Kenyon, MD Lloyd-Hayes, EMK Chave, A Hempton-Smith, FM Norman. <i>Under 4.1.16.5 of the Constitution the undersigned move the motion below to address the critical local issue regarding the development of the Old Cattle Market.</i> On the morning of Wednesday 18 July the Member for Central Ward received some information regarding the retail development on the Old Cattle Market site from two separate sources that he considers to be reliable. In isolation, each piece of information might not be considered as urgent, but when put together they create a picture that necessitates an urgent motion to Council. The information was as follows: 1. A meeting has been held between representatives of Hereford Futures and Stanhope at which Stanhope asserted that without access to further funds to "incentivise potential tenants" a final deal could not be resolved for the retail development. 2. A senior executive of British Land with responsibility for negotiating progress on the retail development has asserted that as each day passes the likelihood of a deal being brokered becomes less and less likely due to the deteriorating economic climate under which the deal is	

being done. Further, that if any development is to occur on the Old Cattle Market site, the remaining restrictions on the developers approaching existing High Town retailers will have to be lifted.

MOTION

This Council resolves that:

- (a) there will be no further relaxation of the restrictions that limit the developers of the Old Cattle Market site from approaching existing High Town retailers and that the list of named retailers that they cannot approach be shared confidentially with Group Leaders and the Chairman of Overview and Scrutiny to ensure policing of this policy.
- (b) no further funding is made available from Herefordshire Council to the developer Stanhope for this project.
- (c) that cross party talks are immediately held to develop fall-back plans for the site should a deal not be forthcoming.

Notice of Motion Two

Submitted by Councillors: RI Matthews and TM James.

All Council Members, local businesses and the electorate we serve understand that the economy is showing little or no sign of sustained recovery, and further government funding cuts are anticipated over the coming months and years

The council has to make significant savings to protect vital front line services, and must carefully target any expenditure on economic development initiatives that achieve the best possible value for money with complete engagement of the existing business community.

At present, we have two unelected business boards in the form of Hereford Futures and the Enterprise Zone, with their own highly paid Chief Executives managing similar or almost identical organisations. We also have the highly respected Hereford Business Board who give their services free and because they are local should have far more say in our economic future.

The Council therefore moves that an urgent review takes place to investigate the possibility of Hereford Futures and the Enterprise Zone being amalgamated to form a leaner and fitter organisation with the aim of obtaining considerable financial savings for the taxpayer, together with achieving a far more effective and efficient unit to deal with all issues of economic development throughout the county.

Notice of Motion Three

Submitted by Councillor RB Hamilton

That this Council resolve:

- 1 to embrace its new responsibilities for public health in accordance with the Health and Social Care Act 2012 that takes effect from 1 April 2013 by demonstrating its leadership as an exemplar employer, and

2 to make a clear commitment to the health and well-being of its staff, volunteers and their families through the introduction of support to adopt healthy lifestyles.

9. LEADER'S REPORT	45 - 48
To receive the Leader's report, which provides an overview of the Executive's activity since the last Council meeting.	
10. THE ANNUAL COUNCIL MEETING	49 - 52
To receive the recommendations of the Audit and Governance Committee, that met on 21 September 2012. (To follow).	
11. REVIEW OF OVERVIEW AND SCRUTINY STRUCTURE	53 - 78
To receive the recommendations of the Audit and Governance Committee, that met on 21 September 2012. (To follow).	
12. GRANT OF DISPENSATIONS UNDER THE LOCALISM ACT 2011	79 - 82
To receive the recommendations of the Audit and Governance Committee, that met on 21 September 2012. (To follow).	
13. APPOINTMENT OF INDEPENDENT PERSONS TO THE HEREFORDSHIRE STANDARDS PANEL	
To note and approve the appointments of Mr Jake Bharier, Mr Robert Cook, and Mr David Stevens as Independent Persons to the Herefordshire Standards Panel, in accordance with the Localism Act 2011. This follows a recruitment period, and interviews which were held on 5 September 2012. The interview panel comprised Councillors Barnett, Robertson and Stone, and the Assistant Director – Law, Governance and Resilience/Monitoring Officer.	
Please note that as part of their new role, Independent Persons can be consulted by any members who are subject to a complaint under the new standards regime. They will be in attendance at this Council meeting, and there will be an opportunity for members to meet and chat to them informally before and after the Council meeting.	
14. APPOINTMENT OF TEMPORARY COUNCILLORS TO OCLE PYCHARD PARISH COUNCIL	83 - 86
To seek Council's approval for the temporary appointment of three Councillors to Ocle Pychard Parish Council to allow it to progress urgent business until either an election has been held or Councillors have been co-opted to fill some of the current vacancies which would allow the Council to become quorate.	
15. EMPLOYMENT PANEL	87 - 88
To receive the recommendations of the Employment Panel at its meeting on 13 September 2012.	

The Public's Rights to Information and Attendance at Meetings

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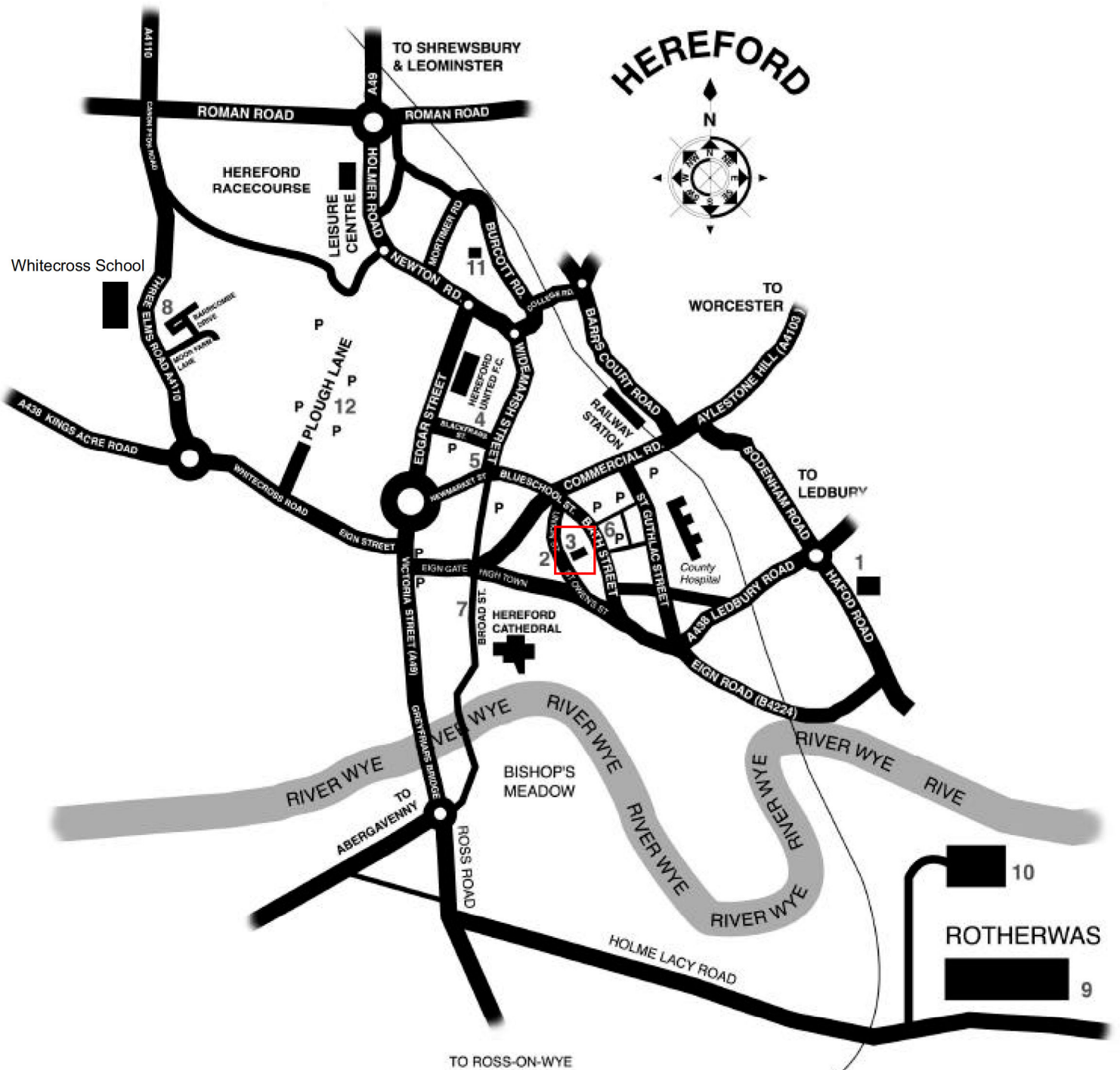
- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees 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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| 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 |

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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 20 July 2012 at 9.30 am

Present: Councillor LO Barnett (Chairman)
Councillor ACR Chappell (Vice Chairman)

Councillors: PA Andrews, AM Atkinson, CNH Attwood, CM Bartrum, PL Bettington, AJM Blackshaw, WLS Bowen, H Bramer, AN Bridges, EMK Chave, MJK Cooper, PGH Cutter, BA Durkin, PJ Edwards, DW Greenow, KS Guthrie, RB Hamilton, J Hardwick, EPJ Harvey, AJ Hempton-Smith, JW Hope MBE, MAF Hubbard, JA Hyde, TM James, JG Jarvis, AW Johnson, Brig P Jones CBE, JLV Kenyon, JF Knipe, JG Lester, MD Lloyd-Hayes, G Lucas, RI Matthews, PJ McCaull, SM Michael, JW Millar, PM Morgan, NP Nenadich, C Nicholls, FM Norman, RJ Phillips, GJ Powell, R Preece, PD Price, SJ Robertson, P Rone, A Seldon, P Sinclair-Knipe, J Stone, GR Swinford, DC Taylor, PJ Watts and DB Wilcox

20. PRAYERS

The Very Reverend Michael Tavinor led the Council in prayers.

Councillor Julie Woodward

Councillor MAF Hubbard paid tribute on behalf of Council to Councillor Julie Woodward who had died suddenly.

Council stood in one minute's silence in remembrance.

21. APOLOGIES FOR ABSENCE

Apologies were received from Councillors RC Hunt and GA Powell.

22. DECLARATIONS OF INTEREST

Agenda Item 6. QUESTIONS FROM MEMBERS OF THE PUBLIC.
Councillor AN Bridges, Personal, Employee of Network Rail.

Agenda Item 8. NOTICE OF MOTION ONE UNDER STANDING ORDERS.

Councillor PA Andrews, Personal, Member of Hereford City Council.

Councillor AM Atkinson, Personal, Member of Ross Town Council.

Councillor ACR Chappell, Personal, Member of Hereford City Council.

Councillor EMK Chave, Personal, Member of Hereford City Council.

Councillor PJ Edwards, Personal, Member of Hereford City Council

Councillor EPJ Harvey, Personal, Member of Ledbury Town Council.

Councillor AJ Hempton-Smith, Personal, Member of Hereford City Council.

Councillor JLV Kenyon, Personal, Member of Hereford City Council.

Councillor SM Michael, Personal, Member of Hereford City Council.

Councillor NP Nenadich, Personal, Member of Hereford City Council

Councillor C Nicholls, Personal, Member of Hereford City Council.

Councillor DB Wilcox, Personal, Member of Hereford City Council.

Agenda Item 8. NOTICE OF MOTION TWO UNDER STANDING ORDERS.

Councillor AJM Blackshaw, Personal, Candidate for election to office of West Mercia Police and Crime Commissioner.

Councillor WLS Bowen, Personal, Member of West Mercia Police Authority.

Agenda Item 11. STRATEGIC PLAN FOR CHILDREN AND YOUNG PEOPLE IN HEREFORDSHIRE; THE "YES WE CAN" PLAN.

Councillor AJ Hempton-Smith, Personal, Member of Herefordshire County Voluntary Youth Service.

23. MINUTES

RESOLVED: That the Minutes of the meeting held on 25 May 2012 be confirmed as a correct record and signed by the Chairman, subject to the following amendments:

- **(Minute no 8 – appendix 1)** That it be recorded that the answer to question 5 of the public questions to Council on 25 May was incorrect in stating that no other Councillors had taken up cycle training. Councillor PJ Edwards had done.
- **(Minute no 10)** That the first sentence of Minute no 10 be deleted.
- **(Minute no 9 – appendix 2)** Councillor EPJ Harvey informed Council that, with reference to the answer to her question to Councillor Jarvis at Council on 25 May (question 11), as recorded at page 16 of the agenda papers, the question and supplementary question asked and the answers given at that meeting were correctly recorded. However, subsequent correspondence with the Leader had revealed that, in giving the answer, the LDF Steering Group had been confused with her question about the LDF Task Group.

She therefore requested that it be recorded in the Minutes that the correct answer to her original question in May should have been:

“The most recent meeting of the LDF Task Group was held in September 2010; the minutes of this group’s meetings are available on the website.”

She stated that had she received this response at the time she would have asked a very different supplementary question.

She requested that this planned supplementary question also to be noted in the minutes, since under the constitution she was now barred from asking her original or any similar question for the next 6 months.

The supplementary question was prepared as being:

According to its terms of reference the Task Group:

- “is a non-executive group to advise on the preparation of the documents which together make up Herefordshire Council’s Local Development Framework
- will have a particular focus on advice concerning the consistency of the emerging policies with the priorities and programmes of the groups they represent

- will be supported by Planning, Transportation and other officers of Herefordshire Council as required, and
- minutes of each of their meetings will be circulated in draft, and agreed with the Chairman and published on the Council's website";

and its membership: "will include representatives of Herefordshire Partnership and Herefordshire Council thus: Herefordshire Partnership representatives drawn from Policy and Delivery Groups (PDGs) including at least one "Business representative" to represent the Economic Development PDG, one "Environmental representative" to represent the Environment PDG, one "Community representative" to represent the Stronger Communities PDG, additional member(s) as required to represent the other PDGs/the Board, a member of staff of the Partnership Team itself; and Herefordshire Council representatives: Cabinet Members for the portfolio areas which include Environment, Transportation and Economic Development; up to two Members to represent the minority political groups and the Chair of the Environment Scrutiny Committee in an ex-officio capacity".

With this in mind, and given the very recent recognition of the need to undertake further work to ensure the robust nature of the LDF, will the Leader give this Council his assurance that he will be reconvening this important Task Group so that it may provide the valuable stakeholder support and assistance which was its originating purpose?

24. CHAIRMAN'S ANNOUNCEMENTS

The Chairman in her announcements:

- Reported with sadness the tragic death of Warrant Officer Class 2 Leonard Thomas, from Symonds Yat killed in Afghanistan,
- Expressed how wonderful it had been to see so many people turn out to see Her Majesty the Queen on Diamond Day. Herefordshire had given Royal visitors a wonderful welcome and it had been a memorable day.

A small replica of the Hereford Bull in High Town had been presented to Her Majesty the Queen. The Chairman had thanked Hereford Academy for designing the presentation box for the bull.

She congratulated the organisers for their hard work in delivering such a fantastic event and also thanked all the volunteer stewards who had contributed to the success of the day.

- Reported that at a meeting between the Governor of the State of Washington, the Communities Secretary, representatives of the Get It Group and the Council a memorandum of agreement had been signed with the potential to bring over 500 jobs to the County.
- Reported that she had hosted a reception at the Hay Festival, an important highlight of the year for Herefordshire, attracting worldwide interest and providing an opportunity to showcase the County.
- Welcomed the holding of the prestigious Three Choirs Festival in Herefordshire, another example of superb organisation and partnership working.
- Thanked the custodians at the Shirehall who worked so hard to prepare the hall for Council meetings as well as other events.

- Thanked all those members of staff and partner organisations for their hard work in keeping the County going during the recent heavy rainfall and local flooding.
- Congratulated Mr David Stevens, who had chaired the Council's Standards Committee on being awarded the MBE in the Queen's Birthday Honours List for services to the community. Members applauded Mr Stevens.

25. QUESTIONS FROM MEMBERS OF THE PUBLIC

A copy of the public questions and written answers, together with the supplementary questions and answers asked at the meeting are attached to the Minutes as appendix 1.

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

A copy of the Member questions and written answers, together with the supplementary questions and answers asked at the meeting are attached to the Minutes as appendix 2.

27. NOTICES OF MOTION UNDER STANDING ORDERS

Notice of Motion One - Supporting the High Streets of Herefordshire

Councillor EPJ Harvey proposed the Notice of Motion and Councillor AM Atkinson seconded it.

Councillor Harvey noted that Councillors from all four of the Market Towns that had submitted bids for funding under the second tranche of Portas Pilot projects had signed the motion. A number of recommendations in the Portas Review were for implementation at local level and the motion sought to support these aspects being taken forward.

She stated that the County had a truly unique architecture: a large market town in the form of the cathedral city at the geographical centre surrounded by five distinct and characterful market towns – pretty much equidistant from one another and from the city. This was an incredibly resilient layout upon which to build.

The high streets and town centres were the hubs of the County's communities supporting hundreds of local jobs.

It was an indication both of the esteem in which the County's high streets were held and the tipping point at which many were now poised that in Herefordshire four communities had developed plans to implement aspects of the Portas Review's recommendations.

It was difficult to predict the effects of economic events at a national level. However, whatever changes they may bring, attention given now to the maintenance and improvement of the County's town centres, and to strengthening the businesses and communities which inhabit them, could only deliver a positive result.

Councillor Atkinson commented that whilst local communities were making considerable efforts on their own initiative they needed help. The Council should do what it could to help and support them.

A Member suggested that representatives of the Market Towns and the City should consider combining to submit a single bid under the Portas Scheme.

The Cabinet Member – Enterprise and Culture and the Leader of the Council spoke in support of the motion.

A Motion that the question be now put was carried.

RESOLVED (unanimously): That the Notice of Motion be supported:

That the Council resolves to support the high streets of Herefordshire by implementing the local government level recommendations of the Portas report; encouraging landlords, business owners and communities to work together to ensure the relevance, resilience and renewal of all of our town centres. Specifically the Council shall:

- 1. endorse, encourage and materially support the “Town Team” model of community engagement in the operational management of our high streets;**
- 2. celebrate markets in all their forms and encourage new market traders by actively reviewing trading regulations and promoting a “Herefordshire Market Day”;**
- 3. encourage new business through the exercise of new powers to approve business rate concessions and by the implementation of parking schemes tailored to the needs of a Locality in discussion with Town Teams;**
- 4. facilitate skills sharing and mentoring between large businesses and small local and independent retailers;**
- 5. engage with commercial landlords to support new and existing businesses through more flexible rent reviews, short tenancies and pop-up business models, and, if necessary, use statutory powers of compulsory purchase to ensure the redevelopment of key high street retail space; and**
- 6. promote Neighbourhood Planning and encourage the inclusion of the High Street as a distinct area in Neighbourhood Plans.**

Notice of Motion Two – Community Support Officers

Councillor PM Morgan proposed the Notice of Motion and Councillor RJ Phillips seconded it.

Councillor Morgan emphasised the important part Community Support Officers (CSOs) played in ensuring community safety and the health and wellbeing of communities and her concern that financial pressures on the Police Authority should not lead to the loss of this valuable resource.

Councillor Phillips commented on the reassurance CSOs provided to communities. He added that it was important that the Police Authority listened to the wishes of its residents.

A Member commented that the grant for Community Safety Officers was currently ring-fenced and there should therefore be no reduction in funding at this time. This would not be the case after April 2013 when responsibility for setting the policing budget would rest

with the newly elected Police and Crime Commissioners. It was suggested efforts should therefore be focused on lobbying the candidates for the West Mercia police area, making them aware of the Council's concerns and its support for CSOs.

A motion that the question be now put was carried.

RESOLVED: That the Notice of Motion be supported:

This Council is extremely concerned that the West Mercia Police are planning to reduce the number of Community Support Officers within Herefordshire.

This Council would like to ask the West Mercia Police to reconsider this decision, and see if there are ways in which we could work together to preserve and enhance the Community Support Officer role, which we believe performs an extremely valuable service within our communities.

(Councillor RI Matthews abstained and requested that this be recorded.)

Proposed Urgent Notice of Motion

Councillor MAF Hubbard sought the Chairman's permission to propose an urgent notice of motion in accordance with Standing Order 4.1.16.5 on the grounds that a critical local situation had arisen.

The Chairman did not accept that the proposed motion related to a critical local situation. She noted that the Cabinet Member – Enterprise and Culture had offered to discuss the issue with Councillor Hubbard and considered that to be the best course of action, expressing the wish that the discussions should take place as soon as possible.

28. LEADER'S REPORT

The Leader of the Council, Councillor JG Jarvis, presented his report.

He thanked the Chairman of the Council for her work in support of the Royal visit to the County. He also informed Council that the Secretary of State for Communities and Local Government had granted planning permission for the development of a waste incinerator at Hartlebury, Worcestershire.

Members made comments on the following items:

- Page 28 of the agenda papers paragraph 4 – The Leader of the It's Our County Group put on record his Group's view that unless a fully tested "no road" option was included in the Core Strategy difficulties lay ahead.
- Page 30 paragraph 22 – The Leader was requested to support an application for funding to provide for the replacement of four trees and the replacement of seating that had been removed to allow for the installation of the Hereford Bull sculpture in High Town. The Leader of the Council confirmed his support for this work.
- Page 29 paragraph 19 – Attention was drawn to the number of people on the housing waiting list and the fact that many had no prospect of being housed. It was suggested that a way had to be found of enabling applicants to have a clearer understanding of their housing prospects. The Leader commented that this was an extremely difficult problem. The relevant Cabinet Member and Cabinet Support

Member were considering the matter and concerns should be brought to their attention.

- Page 28 paragraph 6 - It was questioned whether it was correct to refer to the first phase of the root and branch reviews as being “well in hand”. The Leader commented briefly on the programme of reviews.
- Page 27 – Confirmation was sought that the Council had sufficient capital funding in place to support the Joint Waste Strategy.
- Page 28 paragraph 4 - It was requested that the outstanding matters referred to in that paragraph in relation to finalising the Local Development Framework should be listed, for Members reference. The Leader agreed to consider this request.
- Page 30 paragraph 20 – Clarification was sought as to who had made appointments to the Enterprise Zone Board, the selection criteria, and who paid the appointees. The Cabinet Member – Enterprise and Culture commented that the Board was established by the Marches Local Enterprise Partnership. A Managing Director for the Enterprise Zone had recently been appointed on an interim basis in accordance with the policy governing such appointments. He highlighted the planned investment by the Get it Group in the Enterprise Zone and the plans of that Group to work with local schools and colleges to try to ensure that local people would have the skills to take the jobs that would be generated.
- Page 29 paragraph 12 – With reference to the consultation on the adult social care charging policy and the policy that any charges made needed to cover the cost of services, assurance was sought that those on low incomes and on benefits would not be adversely affected. The Cabinet Member - Health and Wellbeing commented that there would be means testing. It was also confirmed that residential services were not affected and did not form part of the consultation.
- A Member requested that consideration be given to making greater efforts to raise Member awareness of major issues and consultations such as that on the adult social care charging policy.
- It was suggested that consideration should be given to establishing a financial reserve to deal with problems associated with floods given their increased frequency. The Leader acknowledged this suggestion but observed that caution needed to be exercised in considering the creation of such reserves. He would, however, discuss the matter with the Section 151 Officer.
- There was general praise for the work of Amey, emergency services, local councillors, local communities and the emergency planning team in responding to the recent flooding.

RESOLVED: That the overview of the Executive’s activity be noted.

29. ELECTORAL REVIEW OF HEREFORDSHIRE: PROPOSALS FOR WARDING ARRANGEMENTS

Council was invited to consider and approve the proposed submission to the Local Government Boundary Commission for England, in respect of council warding arrangements for Herefordshire.

The Leader of the Council presented the report. He noted that whilst the Commission would change the detailed boundaries of wards he considered there was a major principle that he wished to recommend to the Commission. This was that each ward

should be represented by a single Member who would be accountable to the electorate for their performance.

Councillor MAF Hubbard proposed the following amendment to recommendation b in the report published with the agenda papers.

This Council recognises that warding arrangements as set out in Appendix 1 to the report do not take account of the flexibility for multi-member wards as explained in part 6 of appendix 2 to the report.

This Council further resolves that a request be made to the Local Government Boundary Commission to look specifically at Herefordshire's urban areas and where evidence is brought forward that communities are being split they apply this flexibility.

Councillor Hubbard stated that the amendment was consistent with point 6 of the Electoral Review Warding criteria set out at appendix 2 to the report which had been agreed by the Electoral Review Working Group following hard debate. The current proposals based on single ward representation clearly split communities.

Councillor PJ Edwards seconded the amendment. He expressed concern that the Council would lose credibility if it were now to abandon its previous position that there should be flexibility and argue instead for single Member wards across the whole County. This would undermine the rest of the Council's submission.

A number of Members expressed the view that single Member wards strengthened accountability and provided clarity to the electorate. Others spoke in support of the flexibility of multi-member wards, the choice it offered to residents, and the ability to share the workload and pool skills and expertise.

Members commented that a number of proposals in the draft submission split communities. Examples given included: Bromyard, Holmer, Ledbury, Leominster and Sutton Walls.

Another Member commented that the proposals for Hereford City were fundamentally flawed, highlighting conflict with parish boundaries within the City which would cause confusion when elections were held.

It was suggested that only one ward had actually needed to be changed and the Council should have left well alone and focused on more important issues. The Leader challenged this point noting that the Commission's criteria had necessitated change.

In summing up, Councillor Hubbard commented that the electoral review was about both accountability and effective representation. He emphasised the wording of the motion, that where evidence was brought forward that communities were being split there should be flexibility.

A motion that the question be now put was carried.

A named vote was called on the amendment.

The following Members voted in favour of the amendment (24): CNH Attwood, PL Bettington, WLS Bowen, AN Bridges, EMK Chave, PJ Edwards, KS Guthrie, J Hardwick, EPJ Harvey, AJ Hempton-Smith, MAF Hubbard, Brig P Jones CBE, JLV Kenyon, MD Lloyd-Hayes, RI Matthews, PJ McCaull, NP Nenadich, C Nicholls, FM Norman, R Preece, SJ Robertson, P Rone, A Seldon, and GR Swinford

The following Members voted against the amendment (26): PA Andrews, AM Atkinson, LO Barnett, CM Bartrum, AJM Blackshaw, H Bramer, MJK Cooper, PGH Cutter, BA Durkin, DW Greenow, RB Hamilton, JW Hope MBE, JA Hyde, TM James, JG Jarvis, AW Johnson, JG Lester, G Lucas, JW Millar, PM Morgan, RJ Phillips, GJ Powell, PD Price, P Sinclair-Knipe, J Stone, and DB Wilcox.

Councillors JF Knipe and DC Taylor abstained.

The amendment was therefore lost.

Council did not accept recommendation (a) in the report that the proposals for warding arrangements as set out in the summary of the Submission at Appendices 1 and 2 to the report be adopted.

A motion that recommendations c and d in the report should be combined was carried. Council did not accept the combined recommendation.

RESOLVED: That the Council requests the Local Government Boundary Commission to conduct the review so that the recommendations in due course will provide that all wards in the County should be single member electoral areas, and accordingly return one councillor in each case.

(Council accepted the Chairman's proposal that any remaining business be agreed unopposed, with the exception of the final item on the agenda (agenda item 17).)

**30. STRATEGIC PLAN FOR CHILDREN AND YOUNG PEOPLE IN HEREFORDSHIRE;
THE "YES WE CAN" PLAN**

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

RESOLVED:

**That (a) the *Yes We Can* plan as recommended by Cabinet be approved; and
(b) it be noted that the priorities within the *Yes We Can* plan will be considered as part of the Council's Root and Branch Reviews.**

31. IMPLEMENTATION OF LOCALISM ACT 2011 CHAPTER 7 - STANDARDS

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

The Minutes of the final meeting of the Standards Committee held on 15 June 2012 had been circulated to Members in advance of the meeting.

RESOLVED:

**That (a) the Code of Conduct be adopted;
(b) the Complaints Process be adopted;
(c) the granting of dispensations be delegated to the Audit and Governance Committee and the Monitoring Officer be requested to make recommendations about further delegations;
(d) the powers of Audit and Governance Committee be enlarged to enable it to determine complaints about member conduct and the**

Monitoring Officer be empowered to make any necessary consequential amendments to the Constitution;

- (e) the Audit and Governance Committee be requested to bring forward amendments to Standing Orders as a matter of urgency;
- (f) all members be encouraged to attend training;
- (g) the members of the Standards Committee be thanked for their hard work and especially their assistance in developing these proposals; and
- (h) the Minutes of the final meeting of the Standards Committee held on 15 June 2012 be noted.

32. TREASURY MANAGEMENT OUTTURN REPORT

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

RESOLVED: That the Treasury Management out-turn report be approved.

33. HEREFORDSHIRE COMMUNITY SAFETY STRATEGY 2011-2014

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

RESOLVED: That the Herefordshire Community Safety Strategy 2011-2014 be adopted.

34. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

RESOLVED: That the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 15 February and 20 June 2012 be received.

35. WEST MERCIA POLICE AUTHORITY

(This item was agreed unopposed in accordance with 4.1.7.2 of the Constitution.)

RESOLVED: That the report of the meetings of the West Mercia Police Authority held on 14 February and 19 June 2012 be received.

36. REPORT OF THE EMPLOYMENT PANEL

RESOLVED: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

Paragraph 1 Information relating to any individual.

Paragraph 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(The following is the complete Minute of the proceedings during which the public were excluded.)

The report of the Monitoring Officer including details of the consultation with the employee concerned was considered.

RESOLVED: That the Chief Executive's employment be terminated on the basis of the information contained in the report of the Monitoring Officer.

The meeting ended at 1.25 pm

CHAIRMAN

PUBLIC QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Mr P McKay, Leominster, Herefordshire

Question 1

Un-adopted Roads

A paper reference SN402 raised to inform MP's about un-adopted roads may be read at www.parliament.uk/briefing-papers/SN00402.pdf and advises that there are 40,000 such roads in England, with councils being the highway authority though they are not maintained at public expense. In Herefordshire some are referred to as being the highway on which footpaths and bridleways terminate on the written statements, others of public interest include those that are through routes or lead to places of public resort. My supplementary question of 25 May asked *"Thank you for advising that highway records will be online by autumn, and asking if you will please check that this will include those un-adopted roads Council is aware of, especially those that connect with public rights of way or are through routes, as required by the 2007 Regulations ?"* and is being responded to by letter, but whether or not the reply is *'yes these un-adopted roads will be included'*, which is reply I predict, as otherwise the online highway records would be littered with gaps, cul-de-sac's, etc., and be a mockery not worthy of our Council, leading to many needless costly and time consuming representations, may I please ask:-

Will Council raise a management policy for un-adopted roads, as being un-adopted they are outside scope of current Highway Maintenance Plan, with this policy covering identification, management, and adoption procedures, etc., recognising the contribution these routes make to countryside access, particularly for equestrians due to the identified lack of recorded bridleways in the county ?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

The Highway Maintenance Plan rightly focuses the council's attention on adopted highways that are maintainable at the public expense, as these are the roads for which we are entirely responsible. The plan in no way prevents the council from utilising its powers in regard to other highways. There are over 2000 miles of A, B, C and unclassified roads in Herefordshire and we know that they are not all in the condition that we would like to see them; however the council has limited resources and therefore must focus those resources to the areas of greatest priority.

This isn't a problem that is specific to Herefordshire; in 2009 the Government estimated that it would cost £3billion nationally to improve these unadopted roads to an adoptable standard – in Herefordshire this figure would equate to well over £350million.

Supplementary Question

The reply to my question of 25 May was that complete highway records would be online by the autumn, but written reply to supplementary question says this will only be part of the records. With my having little interest in just part of the information, nor in separate sources of information when the 1991 legislation and 2007 regulations requires that footpaths, bridleways and unadopted roads be included on the Local Street Gazetteer, and Geoplace who manage the Local Street Gazetteer having a paper online titled "Joining up intelligence for improved service delivery", may I seek your assurance that Council is complying with this legislation and ask if you would provide a written reply advising what

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timetable of events, including when the protocol referred in reply to supplementary question, to get the Local Street Gazetteer online with the various highway records intelligently joined up may be expected ?

Cabinet Member Response

There is currently no timescale for completing this onerous work. I will send a written response when I have the detail.

Cabinet Member Written Response

An initial piece of work to put the LSG online and import the data from the definitive map into the LSG is planned to be completed within the next 6 months. We will then continue to process further additions to the LSG such as green lanes etc and these will be added as their status is verified. Clearly there will be an ongoing need to verify and develop the LSG so that it is the complete and accurate record of all local streets.

Question from Mr P Mitchell, Herefordshire

Question 2

Shortfall in proceeds of the sale of Council interest in WMS

Can the Cabinet Member explain the circumstances which led to the sale of the Council's interest in West Mercian Supplies to Hedgeland Ltd a holding or shell company which apparently itself was then sold on only a week later to Smiths News Ltd at more than six times the value the Council was paid for it.

Specifically addressing -:

- *What if any proportion was the pre-existing value of Hedgeland of the sale value to Smiths News*
- *Disclosure of likely under valuation to this Council funds of up to £7.4m on the £1.4m sale share*
- *If the Council's adviser valuation was independently checked or validated before the WMS sale*
- *Why this potential direct sale opportunity to Smiths News had not been identified by its adviser*
- *Explain its validation of Hedgelands claims to independently operate WMS itself*
- *Any sale conditions set for recovery of premature onwards sale proceeds*
- *What steps can and are being taken to recover any shortfall in receipts rightly due to the Council*
- *Demonstrate no impropriety by its agents or any other party involved in the sale*
- *How such potential mistakes will be avoided / prevented in the future*

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Answer from Councillor PD Price Cabinet Member Corporate Services

The decision to progress the sale of this business was taken by the partner councils in June 2011 following an external review which identified this was not an essential activity and in light of an expectation amongst the partners that future profits would reduce. The warehouse-based business part of West Mercia Supplies (WMS) was sold to the Trowbridge-based care and education supplies business, The Consortium for Purchasing and Distribution Limited, in April 2012.

A number of the specific queries raised in the question assume a like for like subsequent sale, and also assume that the partner councils should have been aware of the subsequent sale and taken this valuation into account. Neither premise is correct. The warehouse-based part of WMS was grouped with a larger range of business activity for onward sale and therefore comparisons of sale value are not appropriate; the sale of the consortium to Smiths News PLC was confidential under stock exchange rules regarding disclosure and therefore the partner councils could not have been made aware of, or taken such information, into consideration.

The utilities business, which supplies energy is being retained by the partners and will be known as West Mercia Energy.

We were advised by external consultants throughout the process to make sure we obtained good value for money from the sale.

Herefordshire Council was one of four councils involved in the sale and all four councils separately made a decision to proceed. Herefordshire received £1.4m as its share and does not believe there to have been any impropriety, shortfall in receipts or mistakes made in the sale process.

Supplementary Question

WMS appears to have been quite profitable over the past three years. Why was it sold? Can you provide me with the report recommending the sale?

Cabinet Member Written Response

Under section 43 (Commercial Interests) of the Freedom of Information Act 2000 the report is viewed as exempt.

There is a competitive market for the supply of office consumables. The potential future threats to the company's viability meant that if the authorities retained ownership diversification of operations and markets was required. The implementation of changes in business strategy would have been challenging under the former ownership structure. A change in strategy could have conflicted with the organisation's remit.

The business continued to have a profitable position but the utilities element was becoming increasingly significant. As indicated above the assessment was that the company was a sound sales proposition likely to yield significant capital receipt but that changing market conditions would require a different strategy in the future.

The sale represented best value given market conditions and the authorities were advised as such.

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Best value was achieved at the time and this assessment was supported by independent external advice. The decision to dispose of the business was made separately by each of the four owning authorities.

The authority is satisfied it has made the correct decision on the basis of the information it received and the assessment of future prospects.

Question from Mr H Bryant, Herefordshire

Question 3

A49 to A465 Link Road

Can Herefordshire Council give an assurance that, before they spend a large amount of public money on the A49-A465 Link Road, that it has thoroughly investigated and shown evidence that all reasonable alternatives for solving Herefords traffic flow problems? Such as:

- *A new river crossing at Rotherwas*
- *Banning parking on Belmont Road from the Tesco roundabout to the Greyfriars Bridge thus enabling two lanes in in the morning and two lanes out in the afternoon, as has been done successfully in Cardiff*
- *Reopening Pontrilas station as a request stop and a park and rail scheme at Tram Inn*
- *An efficient school bus scheme*
- *A tramway on the Great Western Way*

Where is any such evidence available?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

Yes I can give assurance that before progressing any major road building project a thorough investigation of alternative solutions is undertaken, including 'no road' alternatives.

The proposed A49/A465 link road is a common element in either a western or an eastern relief road. The council has published a comprehensive evidence base relating to transport infrastructure requirements to support the future growth of the city and the county overall. This clarifies the need for a relief road and a complementary package of sustainable transport measures. The evidence base can be viewed on the council's website.

Question from Mrs Morawiecka, Brienton, Herefordshire

Question 4

Revised Preferred Option Consultation Results

A consultation was carried out on the Revised Preferred Option of the Local Development Framework from September to November 2011. Whilst all the individual responses have

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been published on the Herefordshire Council website, an actual summary of the results of the consultation, analysed consistently with previous years, has not been made public. Instead, Here for Hereford have had to provide a total analysis in the absence of the work being done by Council officers. This summary shows that:-

- a. 84% of respondents were against the revised, proposed housing plans for the county;*
- b. 88% against the Western relief road;*
- c. 93% requested plans in place for increased water and sewage treatment prior to the Core Strategy being approved;*
- d. 94% requested that plans be in place to cater for increased demand for hospital beds prior to the Core Strategy being approved.*

Could you please explain how the revised preferred option has been amended to address the concerns raised through the consultation process?

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

All comments received during consultations on the LDF are considered and taken into account in preparing the Core Strategy. However, consultation responses need to be weighed with other factors, including evidence of requirements for additional housing and the need for new or improved infrastructure to serve the population of the County. Having taking all the information available into consideration, including any views expressed during consultations, we are still of the view that the proposed level of growth, the identified strategic sites and associated infrastructure remain the best option for meeting the needs and requirements of the county to 2031.

Supplementary Question

When will the Council publish the results of the Autumn 2011 consultation?

Would the Council have a sound local development plan by now if it had taken responses to earlier consultation exercises into account?

Cabinet Member Response

The results of the Autumn consultation will be published to the website shortly.

With regard to the Core Strategy new information has to be considered along with changes to the legislative framework. Work on the Strategy is ongoing and the Strategy will be published in due course.

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Question from Mrs Corrigan, Holmer, Herefordshire

Question 5

Housing at Holmer

Holmer has been proposed by officers for inclusion within the draft Core Strategy to accommodate 500 homes. However, existing residents in Holmer have not been able to connect to a mains sewerage system in the last 19 years and their soakaways have been compromised by surrounding developments permitted by Herefordshire Council. With sewerage facilities overloading, what is Herefordshire Council proposing to do to remedy this situation, especially before any further developments should be included in the Draft Core Strategy and when is the new main between Cleeve Orchard Pumping Station and Wentworth Park likely to be adopted?

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

The council is aware of historic foul drainage issues in the Holmer area and any new development would need to demonstrate that adequate drainage capacity is available to accommodate the development or can be created with the installation of new infrastructure. As with other recent developments, this would be a pre-requisite to securing planning permission and will be a criteria with the relevant Core Strategy policy; it is essential that infrastructure and growth are aligned appropriately.

In relation to the specific issue raised, the adoption of existing historic drainage infrastructure is subject to the provisions of the Water Industry (Schemes for Adoption of Private Sewer) Regulations 2011. The adoption of new drainage infrastructure is subject to an independent process between the developer and Welsh Water. The drain in question has been designed and installed to adoptable standards and adoption normally takes place when the development is largely complete. Welsh Water agreed to adopt the system in 2011 and issued a notice to adopt. That notice is the subject of an appeal by the developer and is being determined by OFWAT. The determination has been awaited since the beginning of 2012; we expect that a decision will be made shortly.

Supplementary Question

Please give an undertaking that there will be no further development until the existing sewer has been adopted by Welsh Water and sewerage problems have been addressed.

Cabinet Member Written Response

The Council will ensure that all new developments are served by appropriate foul and surface drainage infrastructure. If this requirement is met, the lack of adoption of historic drainage infrastructure would not be a sustainable planning reason to withhold permission.

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Question from Mrs Wegg-Prosser, Breinton, Herefordshire

Question 6

Re Bed Shortages in County Hospital

Further to my question raised on 25th May concerning a meeting regarding bed shortages in the County Hospital which meeting has yet to be arranged despite Councillor Jarvis saying then it would be progressed 'in the next few weeks', the Overview & Scrutiny committee heard this month that Herefordshire continues to have the lowest number of hospital beds per head of population in England. Could you please explain how the new housing developments proposed for Herefordshire will help increase hospital bed provision within the plan period 2012 to 2031?

Answer from Councillor JG Jarvis, Leader of the Council

Discussions regarding the need for improved healthcare facilities in Herefordshire as part of developing the Core Strategy indicate that new housing development will **not** lead to a requirement for more hospital based care.

This is because the emerging health and social care model, both nationally and locally, aims to reduce the amount of time people spend in hospital, to treat more people in the community and in their own homes, and to increase personal responsibility for health leading to healthier lifestyles and the prevention of ill health.

The Health & Wellbeing Board, whose members include the Herefordshire Clinical Commissioning Group, Wye Valley Trust, local GPs, and third sector representatives, is responsible for overseeing the whole health & social care system. The Board will ensure that health & social care facilities will meet the needs of the population as presented in the 'Understanding Herefordshire' report, and will continue to work with partners and communities over the coming years to improve the health of the local population, improve access to high quality local health care and minimise the length of stays in hospital.

Question from Mrs Churchward, Breinton, Herefordshire

Question 7

Draft Core Strategy

The new National Planning Policy framework reiterates that Local Planning Authorities should take into account the economic and other benefits of "the best and most versatile agricultural land" (ie. Grades 1,2 & 3A agricultural land) . Where significant development is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land, in preference to that of higher quality.

Could you please explain how this approach has been applied to the Draft Core Strategy, especially when 3 Strategic Sites for Hereford (namely Holmer, Three Elms and Lower Bullingham) have been proposed, which are on land which falls within this classification?

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Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

Agricultural land quality is one of the factors which were taken into account in identifying the strategic housing proposals in the Core Strategy. Much of the land around Hereford and the market towns is of high agricultural value and where land of lower quality exists it is often impacted upon by other constraints to development such as being land liable to flood or is subject to environmental designations.

Question from Mrs Morris, Hereford

Question 8

Omission from Draft Core Strategy (12 July 2012)

Neither the Edgar Street Retail Development nor the urban housing scheme for 800 homes, has been identified by officers for inclusion within the Draft Core Strategy, according to the report to Cabinet (12th July 2012).

As Herefordshire Council has spent millions on bringing forward these key city centre sites for development, why have they been omitted from the Draft Core Strategy?

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

There has been no omission. Both elements already are, and will remain, key components of the Core Strategy, including the city centre retail development (which already has the benefit of planning permission) and housing on the Urban Village.

Supplementary Question

Why were these elements not specifically mentioned in the report to Cabinet on 12 July?

Cabinet Member Written Response

There are many detailed elements of the Core Strategy which were not specifically referred to in the Cabinet Report on 12th July. In respect of the central area regeneration proposals including the housing and retail elements these are longstanding commitments enshrined in existing policy areas (with key elements already having planning permission) as well as emerging policy. The Cabinet Report on the 12th July primarily outlined strategic proposals which although have been subject to consultation, have not yet reached such an advanced stage in the development plan process.

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Question from Mrs Ferris, Dinedor, Hereford

Question 9

Hereford Broad Street Improvements

Who was responsible for formulating and agreeing the Hereford Broad Street improvements briefing and how was the remit of the briefing decided upon?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

The Broad Street improvement scheme was included within the council's bid for 'Destination Hereford' funding from central government, and the initial brief was developed by the council on the basis of that bid.

Question from Mr Grice, Belmont, Hereford

Question 10

Hereford Relief Road Southern Section

With reference to the proposed Hereford relief road southern section and the introduction of four more routes ie. SC3, SC4 , SC5 & SC6. I was particularly concerned by the limited consultation period previously adopted when the former bypass route was proposed as a preferred option. What is the full process which Herefordshire council are obliged to follow when choosing the route?

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

The full process that the council is obliged to follow when choosing a route will be informed by work that has recently been commissioned to provide a technical assessment of the southern link (A49 to A465) route options which will include:

- * Survey and Data Collection
- * Engineering Design
- * Traffic and Economic Assessment
- * Environmental Surveys and Assessments

This assessment will be carried out in accordance with Stage 2 of the Department for Transport guidelines as established in the Design Manual for Roads and Bridges and WebTAG (Web Based Transport Analysis Guidance) guidelines, and will include the identification of a preferred route. The Stage 2 report is due by April 2013 following which the council will be able to determine a preferred route for the A49 to A465 link.

It is worth noting that further processes will need to follow including the pursuit of a planning permission and there is no timetable for these stages at present.

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The early findings will be shared with local people who may be directly affected by this route. The views of local people will be taken into consideration in formulating the revised Core Strategy, in deciding the preferred route for this particular road, and as part of the normal planning application process. In undertaking these consultations I will ensure that the suggestions made by the Overview & Scrutiny Committee about improvements to consultation processes are taken on board.

Question from Mr Wallace, Breinton, Hereford

Question 11

Rotherwas Rail

I understand that much of the original rail infrastructure to the Rotherwas area exists and could be reopened for freight and passengers, for much less than any of the new road schemes proposed by Herefordshire Council. What assessments have Herefordshire Council undertaken to determine the role that railways could play in local transport policy?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

The council has commissioned a study to appraise the merits and costs of re-instating rail access into Rotherwas. This study will consider scheme costs, revenue costs and likely patronage levels. Currently, there are no reliable costings for this proposal and hence it is not possible to make comparisons against other transport schemes.

The council considers rail to be an important component of the transport network in the county and it will continue to lobby the Department for Transport, Network Rail and the train operating companies, which are collectively responsible for rail services, to improve both services and infrastructure. The council's long term lobbying of Network Rail was rewarded recently with the introduction of passenger lifts at Leominster Rail Station which will provide better access for people with mobility difficulties in the north of the county.

Supplementary Question

Why are costings not yet available? Will costings be available for the Local Transport Plan?

Answer from Cabinet Member

The Cabinet Member agreed to discuss the matter outside the meeting.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Councillor C Attwood of Councillor PD Price, Cabinet Member Corporate Services

Council disposal of West Mercia Supplies

- 1 *Why is it that the majority of Councillors first knew of the disposal of WMS through the pages of the Hereford Times?*

As a Councillor it is not possible to defend the Council (it might have been a good decision) or otherwise when nothing is communicated to Members. It is a discourtesy to Members and reputationally highly damaging to the Council for the Cabinet to act in such a secretive manner. Can you please explain this behaviour?

Answer from Councillor PD Price, Cabinet Member Corporate Services

The decision to progress disposal was taken by Cabinet in June 2011. Leading up to the sale the four councils approached the issue of communication jointly and given that negotiations were commercially confidential the process was handled appropriately. It was important that the affected staff were kept informed in a way that gave them assurance about their future.

However the sale was concluded on 19 April and, on reflection, we should have ensured that Councillors had better visibility of this important sale at that point.

Supplementary Question

What mechanism does Cabinet propose to introduce to communicate more effectively with Members?

Cabinet Member Response

It is proposed to develop the use of the Ward Member update as a means of informing Members of forthcoming matters. It would be helpful if Members indicated what information they would like to see in the newsletter to ensure that it was relevant.

Question from Councillor P Watts of Councillor RJ Phillips, Cabinet Member Enterprise & Culture

Hereford Car Parks

- 2 *How many car parks (including those on private land and charity land) within Herefordshire County has Herefordshire Council designated "streets" – if so, what are their locations?*

Answer from Councillor RJ Phillips, Cabinet Member Enterprise & Culture

In 1999 Herefordshire Council adopted a scheme under the 1982 Local Government (Miscellaneous Provisions) Act in relation to street trading. The definition of a 'street' for

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these purposes is 'any road, beach, footway or other area to which the public have access without payment'.

At the time the legislation was adopted, there was extensive consultation including Public Notices in local newspapers and correspondence with all Parish Councils. A list of streets deemed prohibited for street trading was published, with all other areas deemed to be a 'street', automatically receiving consent status and thereby potentially licensable.

Therefore the situation currently exists that any car park in Herefordshire which falls within the definition of a 'street' for street trading purposes may be a licensable area.

Traders are currently licensed at the B&Q car park Hereford, Merton Meadow car park Hereford and Lower Wyche car park, Colwall. We have historically done so at both Wickes and Homebase car parks in Hereford and, until recently, Blackhills car park on the Malvern Hills.

Supplementary Question

How were the changes that have taken place in the arrangements at Blackhills car park decided? There seems to have been no consultation.

Cabinet Member Written Response

Malvern Hills Conservators brought to our attention an incident of illegal street trading near their land, which affected the trader that they permitted to operate on their land. Enforcement action was taken in accordance with the relevant legislation. The trader at Blackhills Car Park applied for and was granted a street trading consent, he has now finished at Blackhills Car Park of his own volition; there was therefore no action on which to consult.

Question from Councillor RI Matthews of Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

LDF Strategy - Costs

- 3 *Work commenced on the LDF in 2007, and it is my understanding that the Council's Forward Planning Team have been more or less fully occupied with the project ever since. Could Members be told how much overall the LDF Strategy has cost the taxpayer to date? And could we also be informed of what is the total cost of Consultants, including AMEY's input, who have been employed on this project since 2007.*

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

The expenditure figure for the LDF 2006/7 to 2011/12 was £1,132,694 (with consultancy fees, including Amey and other specialist consultants' input, accounting for £784,000 of this).

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In addition, the cost of Forward Planning staff (salaries and indirect costs) from 2007-2012 was £2,912,706 (not all of this is attributable to the LDF or related activity).

The total cost is £4,045,400.

Supplementary Question

Does the Cabinet Member expect to conclude the work on the LDF within the amended timetable?

Cabinet Member Response

Yes, I intend to adhere to the timetable published in the Cabinet report.

Question from Councillor J Knipe of Councillor RJ Phillips, Cabinet Member Enterprise and Culture

Locality Working

4 *I would like clarification of how the locality concept was conceived. Despite attending Golden Valley locality meetings over the past year, very little appears to have been achieved and decisions that have been made, have had minimal impact.*

I am concerned that little recognition has been made of the cost of these proceedings with regards to officers' time and the entailing bureaucracy. This is particularly pertinent in today's financial climate. For example: the officer chairing the Golden Valley locality meeting, would expect to be charged out at £400 per hour if he worked for Price-Waterhouse. This cost would be multiplied 8 or 9 times if extended throughout the county. In the private sector, these costs would have to be recognised and their impact evaluated.

Therefore, I would like the Cabinet Member to justify whether these costs will provide substantial benefit to the locality and whether he sees a future for localities working in partnership in Herefordshire.

Answer from Councillor RJ Phillips, Cabinet Member Enterprise and Culture

The Locality Strategy approved by Cabinet in March 2011 (available on the council's website at [Localities - Herefordshire Council](#)) provides both the local and national context for the development of our approach to the future delivery of public services in the county; in essence it is about working with our communities to develop local solutions.

I would absolutely agree with Cllr Knipe that, whilst we still have a long way to go to fully deliver the vision of locality working, what it is not about is developing a bureaucracy around meetings. Enhancing the role of ward members as community leaders was recognised as a key learning point from the 'Reaching the Hearts of Herefordshire' pilots which recognised the positive difference made by members working more closely with their parish councils and communities. The principles underpinning locality working build on this approach. That said, officers have been allocated to each locality area to support

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

ward members and help coordinate the delivery of locality working (and I can confirm the private sector figures quoted bear no resemblance to the salaries of those council officers).

By working in this way we have already delivered positive outcomes in localities, for instance multi-agency working in Leominster to address a problem with anti-social behaviour, working with partners to see how we can maximise the use of our assets – there are positive examples of how that is working in practice in Ledbury and Ross. The work in the Golden Valley is strengthening community leadership. This approach is evident through the work with senior police officers to seek an explanation for the delivery of policing in the Golden Valley. Other events have seen fire staff, health employees and Amey staff meet with the locality representatives about service delivery issues and improvements.

We will shortly be publishing the Locality Engagement Toolkit which sets out a number of successful locality-based projects and I would urge members to review these to understand what can be achieved through working closely with our communities.

We will also continue to monitor the impact of locality working and I welcome the Overview & Scrutiny Committee's inclusion of this approach in its future work plan.

Supplementary Question

Will the Cabinet Member give an assurance that consideration is given to the cost of officer time spent on such activities?

Cabinet Member Response

There is a national drive to deliver services to communities on a more local basis. Locality working provides an opportunity for local Members to develop an understanding of their communities and contribute to them working in partnership with other agencies. Locality working needs to demonstrably add value and not incur unnecessary costs but the way in which localities develop is the responsibility of individual Members.

Question from Councillor TM James of Councillor PD Price, Cabinet Member Corporate Services

West Mercia Supplies

- 5 *Can the Cabinet Member responsible for the sale of West Mercia Supplies inform Members of the Council:*
- A *The name of the independent advisors used for the transaction.*
 - B *The cost of that advice*
 - C *The fees and other costs involved*
 - D *Were the Councillors on the West Mercia Board aware that it was to be sold to a third party within days of the sale of the business?*

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

E What enquiry will take place to ascertain why yet again it appears that the Council have failed to maximize the income of Herefordshire Council residents, only to benefit private and public companies outside the County?

Answer from Councillor PD Price, Cabinet Member Corporate Services

- A Ernst and Young for financial advice and managing the sales process and Cobbetts for legal advice.
- B The advice cost £500,649 in total and Herefordshire's proportion was 25% (£125,162) that was deducted from the sale proceeds.
- C Other costs totalled £75,976 and Herefordshire's proportion was 25% (£18,994) that was deducted from the sale proceeds.
- D No. The sale of the consortium to Smiths News PLC was a sale that was confidential under stock exchange rules regarding disclosure.
- E The council (along with the other three councils that owned West Mercia Supplies) assessed this was the best price for the concern. There was a risk that any delay would be affected by declining sales. It should be noted that the Utilities Division has remained in the ownership of the councils and is expected to provide an annual dividend.

Supplementary Question

Smiths News PLC issued a press release showing they considered the business an area for growth. Would the Cabinet Member not agree that the Council has lost millions of pounds and should have secured a better deal?

Cabinet Member Response

I do not agree. We have not lost millions of pounds. We got the best deal we could. It was a surprise when the business was sold on. However, WMS was only part of the further sale. WMS did not have a long term future in Council ownership.

Question from Councillor MAF Hubbard of Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

Justification for and risks of including A49-A465 link in "interim" LTP, ahead of confirmation of deliverability of the road and consultation on the third revision of the Core Strategy

- 6 *The Cabinet has agreed that the 'A49 to A465 highway link' will be included in a 'revised' local transport plan (to 2014/15, in the report on the LDF and LTP discussed at the Cabinet meeting of 12th July). Elsewhere in the report this link is described as the 'southern route corridor of the Hereford Relief Road' (para 24).*

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

When I asked at the Cabinet meeting when this decision to advance this link had been discussed and approved by Herefordshire Council, I was told by the Head of Transportation and Access that the A49-A465 link had been in the LTP2 since 2006.

The 2006 LTP2 clearly identifies the link as the 'Hereford Outer Distributor Road Stage 1' (p69) where it is proposed as a 'major scheme development' to be funded by the 'LTP, Advantage West Midlands and the Highways Agency'.

A *Why is the A49-A465 link being progressed independently of the rest of the Western Relief Road and*

B *What are the implications for soundness if consultation on a key proposal for Core Strategy is prejudiced in this way?*

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

A The A49 to A465 link is being progressed independently of the western relief road in accordance with Council's adopted policy as set out in the local transport plan.

The adopted local transport plan clearly identifies the proposal to undertake a detailed assessment of the A49 to A465 link in order to secure planning approval and identify sources of funding for the link. The supporting text for the proposal clarifies that this work could progress without prejudice to the consideration of overall alignment for an outer distributor road either to the west or east of the city as the link would be required.

Whilst local residents understandably have concerns about the route of any road, they have also confirmed that continuing uncertainty represents the worst possible situation. Therefore we are taking steps to progress this element as soon as possible because we are able to do so and to remove that uncertainty.

B There are no implications for soundness. Indeed, where more detailed work has been undertaken on a specific proposal this will help demonstrate its deliverability.

Supplementary Question

Does the Cabinet Member really think that the A49-A465 link can be dealt with as a decision in LTP2 and progressed independently of the western relief road when the Core Strategy has not been agreed?

Cabinet Member Response

I believe in the action we are taking. The planned work is intended to identify a preferred route. This will still be subject to consultation. I appreciate that there is uncertainty and that people are concerned to have clarity. I am clear that we need to provide this as soon as possible.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Councillor MAF Hubbard of Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

Offering the public a meaningful alternative to road building in the next consultation on the Core Strategy

7 *In the first consultation on the Core Strategy (January to March 2010), the only choice offered to the public was between road corridors — to the east or west — for an 'Outer Distributor Road'. No alternative to road building, supported by evidence, has ever been put to the public.*

When the public did have evidence about the impacts of road building, at the Autumn 2010 consultation on the Hereford Preferred Option, they overwhelmingly rejected the Movement Policy. The consultation report shows that their top two comments were 'disagree with the need for relief road/no road' and 'provide further sustainable measures'.

The 2011 Revised Preferred Option consultation shows 'a level of public concern and opposition remains regarding ... in particular, strategic proposals at Hereford, including matters regarding the provision of a relief road ...' according to the report to Cabinet on 12 July.

A *Will the Council undertake to present a properly tested, reasonable alternative to road building to the public in the forthcoming consultation on the Core Strategy?*

Answer from Councillor RB Hamilton, Cabinet Member Environment, Housing and Planning

The Core Strategy Developing Options Consultation undertaken between June and August 2008 specifically included a no-road option. Almost 80% of the responses to this consultation supported the package of transport improvements which included a new road.

The forthcoming Core Strategy consultation will not include a set of proposals without a relief road for Hereford. The “no road” option has been tested but the evidence is that the relief road is needed to support proposed growth of the city for the period up to 2031. The Strategic Environmental Assessment which will accompany the Core Strategy will fully set out the reasonable alternatives considered in its preparation.

Supplementary Question

Will the Core Strategy be sound when it will not include a no road option for public consideration?

Cabinet Member Response

The Core Strategy will not be brought forward until soundness has been assessed. I am aware of your concern and will take it into account.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Councillor WLS Bowen of Councillor H Bramer, Cabinet Member Major Projects

Floods and heavy rainfall

- 8 *Knowing that Amey has recently made 50 people redundant:*
- A *What assurances can we be given that Amey has sufficient manpower and resources to cope with the aftermath of the repeated floods and heavy rain storms that we have recently encountered?*
- B *Will they be able to restore our drainage systems and roads to a decent state that will be able to cope with any reasonable eventualities in the future?*

Answer from Councillor H Bramer, Cabinet Member Major Projects

- A The existing contracts with Amey are structured in a way that maintains a core set of routine activities. In addition to this Herefordshire Council does pay a routine fee to retain an emergency response capability and similarly if that capability is not being maintained this payment would also be withheld.
- B The ability of our assets, be they drainage systems or roads, to cope with 'reasonable eventualities' now and in the future is a question that is being actively considered in the development of our Asset Management Plan and our Local Flood Risk Management Strategy. Clearly, as with all our assets, these needs must be prioritised in the context of limited and reducing financial resources.

Having regard to the recent impacts of the exceptional bad weather, we are compiling a claim to Government for additional funding for the repair of flood damage under the Belwin scheme; the government has committed to fund all claims above the 2012/13 threshold (which is £459,165 for Herefordshire) at 100%. This funding together with the core resources directly employed by Amey Herefordshire and the use of sub-contractors when needed should ensure that Herefordshire's capacity and capability to recover from repeated weather events is maintained.

Supplementary Question

Will the Cabinet Member arrange for a map of all drainage systems to be issued to Members and Parish Councils?

Cabinet Member Response

A definitive map will not be produced for a considerable time. I will confirm separately when it is expected to be available.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Councillor SJ Robertson of Councillor GJ Powell, Cabinet Member Education and Infrastructure

Speedwatch

- 9 *A number of Police Forces (Cambridgeshire, Thames Valley, Hampshire, Leicestershire, Devon and Cornwall to name a few) are running the initiative "Speedwatch" with volunteers from the general public. This initiative allows the public to get actively involved in monitoring the speed of vehicles travelling through their neighbourhood.*

Speeding has been highlighted in the majority of parish plans as a major issue. Having tried for many years to resurrect "Speedwatch" in Herefordshire, would the cabinet member support me in investigating the possibility of trialling a pilot in Burghill?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

Yes; community Speedwatch schemes are very much about empowering communities to address issues which are important to them and which are having a real impact on their quality of life. Whilst there are various such schemes around the country, they are led by the police and West Mercia Police do not currently support such schemes. This issue has been raised with the local Area Commander on a number of occasions, and I would be happy to support the local member in seeking West Mercia Constabulary's development of a trial in Burghill.

In the meantime we are working with the police to develop a scheme using their specials to carry out speed enforcement in those areas which are not currently targeted by the Safer Roads Partnership but which have a demonstrated problem with speeding traffic. This is being supported by the Community Safety Partnership with a target date for implementation in the autumn.

The Cabinet Member added that 129 requests for the introduction of speed limits were outstanding. He was investigating whether it was possible to speed up the approval process. However, a lot of speeding was committed by local residents. Communities could do a lot themselves to resolve speeding issues.

Question from Councillor PJ Edwards of Councillor PD Price, Cabinet Member Corporate Services

Corporate Services letter (13 July) to Parish Councils

- 10 *How can it be right that the content of a letter apparently sent to all Parish Councils quotes that "**Council is to agree to proposals for a new pattern of wards which can be seen by following this link on the Council's web site**" in advance of any such agreement having been made by Council?*

Please note that following the provided 'link' no alternative options of warding are provided.

Answer from Councillor PD Price, Cabinet Member Corporate Services

The purpose of advising local councils of the recommendation to today's Council meeting was to give them advance notice of what was being recommended to Council and to remind them that they could also make representations to the Local Government Boundary Commission on warding arrangements, if they so wished. Of course any changes to the recommendations agreed by Council today will be communicated to the local councils.

Supplementary Question

The Leader promised the Electoral Review Working Group that there would be a free vote on the boundary proposals. Has the letter to Parish Councils prejudiced the position making a vote unlawful?

Cabinet Member Response

I do not agree that the letter is prejudicial and do not interpret the letter to carry the meaning that the questioner has placed upon it. There is an item later on the agenda where Council will be discussing and determining the submission to the Commission.

Question from Councillor R Preece of Councillor GJ Powell, Cabinet Member Education and Infrastructure Highway Repairs

11 *Over the last few months, certainly in South Wye and talking to other Members it seems countywide, there has been a drastic reduction in what I would call proper highway repairs. All that I have seen are quick repairs that may last a few weeks and I have reported the same ones two or three times recently.*

What is the policy regarding repairing these works properly and also who is responsible when damage to vehicles and persons arises resulting from poor workmanship or just ignoring Members requests?

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

The policy in regard to the repair of roads is set in the Highway Maintenance Plan. This plan is available on the Councils website.

In times when the demand on this service is high, the need to address a vast number of safety repairs quickly does lead to the use of temporary repairs and as a consequence repeat repairs. This action has to be considered in the context of the high demand for these repairs following severe weather across the whole highway asset and our duty to maintain the highway in a condition that reflects its character and usage to which it is put.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

I would also wish to put the overall repairs and maintenance issue into context. As a rural county Herefordshire has in excess of 2000 miles of publicly maintained highways. Whilst we have achieved a sustainable road condition for our A & B roads across the county, over 50% of our network is made up of C or Unclassified roads. It would take over £17m to achieve a sustainable condition for these. This is not a position unique to Herefordshire; we are investing over £10m annually in maintaining and improving these assets, but financial resources are reducing and we must continue to prioritise available funding to ensure that we get the best value out of every pound we spend.

As the Highway Authority, Herefordshire Council are responsible for the roads and whenever damage or injury occurs, any claim for compensation should be directed to us. Should there be proven liability against the contractor the matter would be pursued through the appropriate contract process.

Supplementary Question

Would it be possible to improve the information from Amey on whether or when repairs would be carried out in response to requests so that constituents could be better informed?

Cabinet Member Response

I am discussing improvements with Amey. I will inform Members of the outcome of these discussions.

Question from Councillor L Harvey of Councillor PD Price, Cabinet Member Corporate Services

Payments for Services

- 12 *What work has been undertaken by Bloor Homes for the council since April 2010? Please can you list the invoices (paid and outstanding), their dates, their amounts, the services procured in each instance and whether the contract was competed or single source.*

Answer from Councillor PD Price, Cabinet Member Corporate Services

None

Supplementary Question

It was suggested that subsidiaries of Bloor Homes had supplied goods and services to the Council and it was requested that the Cabinet Member investigate further and provide a written response.

Cabinet Member Written Response

The Cabinet Member agreed to provide a written response. This was subsequently provided to Councillor Harvey covering the points raised in the supplementary question.

Question from Councillor L Harvey of Councillor PD Price, Cabinet Member Corporate Services

Interim Appointments

13 *I am concerned to understand the council's reliance and strategy relating to the use of interim appointees. So I would like to know:*

A *How many interim appointments are currently in place across the council?*

B *What is the longest period of time an appointment has been running*

C *What is the most senior position currently operating as an interim appointment?*

Answer from Councillor PD Price, Cabinet Member Corporate Services

A Assuming the definition of 'interim' includes individuals who are in permanent posts where we've yet to appoint and excludes wider fixed term contract posts or agency/bank staff there are currently 57

B 4 years and 10months (*NB the contract is due to end in 8 months*)

C There are 2 positions graded at HC13 (salary band £50,206 - £54,412) within these figures.

NB All figures as at 18/07/12

Supplementary Question

Does the Cabinet Member think that it is appropriate for an interim appointment to have been running for five years?

Cabinet Member Response

I agree that consideration needs to be given to this point.

Question from Councillor WLS Bowen of Councillor GJ Powell, Cabinet Member Education and Infrastructure

Broadband

14 *Can the Cabinet Member bring us up to date with the timescale for the implementation of high speed broadband throughout Herefordshire.*

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

- A *How much slippage has there been in the timescale?*
- B *What are the names of the firms involved in the roll out of broadband in Herefordshire?*
- C *Are sufficient resources being employed to produce the high speed broadband required throughout Herefordshire at this moment?*

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

- A The Borders Broadband project is reaching the final stages of the procurement process to secure a telecommunications company to design, build and operate a wholesale broadband network in those areas of Herefordshire and Gloucestershire which will not receive commercial investment.

The “Call for Final Tender” has now been issued which is the final and shortest part of the process. The final submission will be received in early August which will then be evaluated based on coverage, cost and long term viability, with a view to a report coming forward for Cabinet consideration in September.

At the start of the procurement last year the original timescale for a decision on contract award was estimated as May 2012. This was extended because the contract can not be awarded without EU State Aid approval of the national programme (the timescale for the approval has not been confirmed but is estimated to be early autumn), and to enable negotiations with BDUK to take place resulting in additional funding being made available in recognition of the sparsity issues within the county.

- B The intention is that the Cabinet will consider contract award in mid September 2012 following which the name of the recommended supplier will be released.
- C Sufficient resources are being employed to support this vital work. As a cross county project with Gloucestershire we are able to share management and administration resources. At relevant stages of the procurement, specialist expertise has been commissioned to ensure bids have been fully tested.

With regard to capital resources, this will be addressed in the report to Cabinet in September.

Supplementary Question

Will the Cabinet Member give an assurance that broadband will be available across the whole County so that the full economic benefit can be derived from it?

Cabinet Member Response

I will discuss this outside the meeting.

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

Question from Councillor FM Norman of Councillor GJ Powell, Cabinet Member Education and Infrastructure

School Meals

15 *Once again, concern has been expressed at the national level about the quality of school meals. This concern is also shared locally by parents, teachers and governors.*

Bearing in mind:

- (a) the importance of good nutrition both in reducing poor behaviour and increasing concentration and academic progress,*
- (b) the high number of children entitled to free school meals in some of our schools,*
- (c) the low uptake of school meals in some of our schools,*

A *How much support are we giving schools in sourcing high quality, nutritious school meals?*

B *How are we helping schools to improve the uptake of school meals?*

C *How much autonomy do schools and governors have in selecting the providers of school meals, and ensuring that the meals are of high nutritional value and sourced from fresh, local produce?*

Answer from Councillor GJ Powell, Cabinet Member Education and Infrastructure

A Ensuring that our children have the healthiest possible start in life is clearly a priority; the 'Yes We Can' plan (appearing elsewhere on the council agenda today) reflects this priority, and also demonstrates that like many of the issues we have to address, it is something that the council can't address on its own – all partners, including schools, must help move things in the right direction.

Currently 40 schools have a service level agreement with the council for the provision of school meals and all those schools have had access to the support and advice of a catering officer. The council's catering contracts incorporate the Soil Association's 'Food for Life' standards.

It is a matter for the remaining schools to work with their caterer in supplying healthy nutritious lunches that comply with the Food and Nutritional Standards.

The sustainable food & drink strategy for the county has been made available to all schools.

B An annual survey by the School Food Trust shows that uptake of school meals has increased both national and locally in Herefordshire between the academic years 2009/10 and 2011/12, although uptake remains below 50%.

Although there is no specific council activity currently underway to encourage uptake of school meals, the joint public health team are running initiatives to

MEMBERS' QUESTIONS TO COUNCIL – 20 JULY 2012

promote the national Change4Life programme in schools, which includes top tips for eating a healthy diet as well as increasing physical activity to prevent obesity.

- C Schools have complete autonomy to source school meals from a supplier of their own choosing; school meals served in Local Authority maintained primary, secondary and special schools and pupil referral units are legally required to comply with the School Food Regulations which specify the minimum nutritional standards for school meals which include a maximum amount of unhealthy salt, fat, and sugar and a minimum amount of healthy fruit and vegetables.

The emerging issue is that new academies established in 2010 are not legally bound to serve meals that meet the School Food & Nutritional Regulations and national research by the School Food Trust shows that while some do others do not.

Supplementary Question

Couldn't the Council be more proactive and advise School Governing bodies to take action?

Cabinet Member Response

Given the autonomy of schools, the responsibility rests with Governing Bodies and I urge them to take account of this issue.

MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	QUESTIONS FROM MEMBERS OF THE PUBLIC
REPORT BY:	ASSISTANT DIRECTOR LAW, GOVERNANCE AND RESILIENCE

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;

Further information on the subject of this report is available from
Chris Chapman, Assistant Director Law, Governance and Resilience on (01432) 260200

- 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. The register of questions put to the Council meeting, both questions allowed or rejected, is available at a Council meeting for members of the public to view.

Questions

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

PUBLIC QUESTIONS TO COUNCIL – 28 September 2012

Question from Ms B Mark, Orleton, Herefordshire

Question 1

Local action during flooding

There is much going on to bring in localism but our Parish Council is frustrated that they are left almost powerless when flooding hits Orleton. Localism is about trusting locals, and when flooding hits the county, county resources are stretched. A partnership between local and county, at these times, would seem to be a sensible thing to work toward. Once an area has been proved to be susceptible to flooding could we ask that Highways gives permission for Parish Councils to protect home owners, and road users, by putting up flood signs or even closing severely flooded roads until the flood subsides? There could be a phone-in centre where all the actions of local PC are collected so Highways can monitor road floods and actions.

With all the work the county council is putting into monitoring flooding and ideas of alleviating floods hopefully such actions will be needed less and less. But while flooding persists action has to be fast and local people can do this much better.

Question from Mr P Mitchell, Herefordshire

Question 2

Demonstration of optimum value for money solution for the PFI procurement of the energy from Waste CHP scheme

Would the Cabinet Member responsible provide an assessment explaining and demonstrating that the chosen procurement option and chosen technical CHP solution at Hartlebury offers the best value for money to the tax payers of Herefordshire. Specifically addressing -:

- How he has determined and ensured the optimal technical CHP solution at Hartlebury (against other CHP alternatives considered) to achieve minimum NPV (best value to Council tax payers) for this project within a single tender PFI contract.
- Why he has not considered / adopted commissioning independent technical support to specify, competitively tender and project manage then operate the energy from waste CHP plant on behalf of the Council.
- How within this contractual arrangement he is safeguarding the public purse by independently validating the offered energy from waste CHP technical solution also demonstrating that this delivers lowest NPV or best value for money solution.
- How he has avoided well recognised adverse long term cost implications historically repeatedly delivered under many and varied other public PFI contracts and which are now generally consider as a poor value method of project implementation.

PUBLIC QUESTIONS TO COUNCIL – 28 September 2012

Question from Mr P Linnell, Eardisland, Herefordshire

Question 3

Affordable Housing

On the evidence base for the LDF, please indicate the likely percentage of the identified affordable housing need which will be met by the implementation of the proposed LDF strategies and policies in full. Please show all data sources and calculations, and indicate estimates of the worst, best and most probable cases along with the assumptions these estimates are based on.

Question from Mr A Fisher, Hereford

Question 4

Democratic accountability in the contracting out of statutory council services.

According to the Project Mandate for the Council's 'root and branch reviews' of the services it provides, all services are included in the review, with the aim of shrinking the Council budget by 30% and leading eventually to new governance structures.

Which are the laws and regulations applying to the contracting out of statutory council services that ensure continued (and improved) democratic accountability both during and in the culmination of this review process? (Please list the laws and regulations and the statutory services to which they apply.)

Question from Ms P Mitchell, Hereford

Question 5

Statistically robust opinion surveys of a representative sample of the County's population for the Root and Branch Reviews of services provided by Herefordshire Public Services

The Council propose to learn residents' views on the provision and contracting out of all services (and on the Interim Local Transport Plan) through a 'community engagement exercise', 'Your community - your say', comprising evening meetings, a web forum, twitter and a facebook page. In addition 'there may be some supplementary locality based consultation on aspects of certain Reviews' (report to Cabinet 5th April 2012).

PUBLIC QUESTIONS TO COUNCIL – 28 September 2012

Will the Council be undertaking any statistically robust opinion surveys in connection with the Root and Branch Reviews designed both to be properly representative of the county's population (and including 'hard to reach' groups) and capable of being weighted according to the respondents' stake in the service in question?

MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	LEADER'S REPORT

CLASSIFICATION: Open

Wards Affected

County wide

Purpose

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

Recommendations

THAT:

- a) **the overview of the Executive's activity be noted.**

Report

Planning for the Future

1. Building on the Quality of Life survey undertaken before the summer, the locality based 'Your Community; Your Say' engagement events are now taking place. The local headlines from the survey will be fed into these local events, which are part of a broader engagement programme and provide the opportunity for communities to inform the root and branch reviews as well as the overall council corporate planning process. In the continuing economic recession, with resources being squeezed ever tighter, having a good understanding of the views of residents about what matters most to them and what support or information they need to enable them be as self-reliant as possible is essential.

Herefordshire's People

2. Despite the national difficulties experienced in relation to the GCSE English language examinations this year, which were mirrored in Herefordshire, I am delighted to say that provisional results suggest that Herefordshire has maintained its strong profile regarding the numbers of students achieving five or more GCSE grades at A*-C which was well above the national average last year and currently stands at 87 percent for the county. Improvements in maths GCSE and the results achieved by our looked after children have been particularly pleasing – I am sure members would wish to join me in congratulating all those young people who have worked so hard to achieve these results.
3. The recent consultation on the adult social care charging policy has now concluded. There has been an excellent response and we are reviewing what changes we need to make to our initial proposals to respond to the feedback received during the

consultation. Whilst demands on adult social care services remain our most significant pressure we must ensure that any charges made to cover the cost of the service provided are applied as fairly as possible.

4. At the end of July consultation began on the future strategy for carers in the county; the consultation ends on 12 October and I encourage all carers and relevant support organisations to respond to the consultation, details of which are available on the consultation page of the council's website.
5. The Government is ending the national Council Tax Benefit scheme and has required every council to come up with a local system instead. This means that Herefordshire has to plan its own Council Tax Support scheme and decide who should be eligible for help to pay their council tax, and by how much, for introduction in April 2013. A consultation is currently underway seeking the views of residents and interested organisations on how we should plan the local scheme in order to help us make a decision that is as fair as possible. The consultation ends on the 26 October and again details are available on the consultation page of the council's website.

Herefordshire's Economy & Communities

6. Members will be aware of Northern Racing's recent decision to end their operation of Hereford's racecourse at the end of 2012. We remain committed to supporting racing on the site and positive discussions have taken place with Arena Racing Company about securing racing in Hereford. We will of course keep members informed of progress.
7. With nearly 5,000 people on the housing register for affordable housing across the county, the council is taking action to help local landlords get their properties refurbished and back on the market. Working with West Mercia Housing, we have launched a new loan scheme to help bring some of the almost 1,500 privately owned empty properties in the county back into use. Anyone interested can find further information on the council's website at the following link: http://www.herefordshire.gov.uk/housing/empty_homes/3563.asp.
8. At its meeting on 13 September Cabinet agreed arrangements to finalise negotiations for the delivery of improved Broadband infrastructure; and as part of those arrangements agreed the council's financial contribution to the project, enabling match funding of £10.1m to be brought into the county. The project is one element of the overall programme supporting delivery of superfast Broadband to the county and would be directed to those areas (primarily rural) of the county where deployment of broadband technologies is not commercially viable. The Borders Broadband project covers Herefordshire and Gloucestershire and is one of four national pilot projects to address the challenge of poor broadband coverage in rural areas. The project is a key element of the county economic development strategy and also a vital element in helping people retain their independence through greater choice and control. The related decision to exclude the public for part of the discussion of this item was taken under urgency procedures in accordance with the Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which came into force on 10th September.

Other Issues

9. In addition, the Executive has considered the following issue:

a) *Local Authority Governor Appointments* – The Cabinet Member Education & Infrastructure has approved refreshed processes for the recruitment & nomination of local authority school governors, strengthening governance in support of local schools.

10. Finally, as this will be the Chief Executive's last Council meeting, I would like to place on record my thanks to Chris Bull for the dedication and commitment he has shown both to public services and to Herefordshire during his time as Chief Executive, and also for the support he has offered to me; I am sure colleagues will join me in wishing him well for the future.



MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	THE ANNUAL COUNCIL MEETING
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To consider amending the business to be discussed at the Annual Council meeting.

Recommendation(s)

THAT: on the recommendation of the Audit and Governance Committee, which met on 21 September and subject to any amendments made at that meeting Council adopts the following recommendations:

- (a) the business to be discussed at the Annual Council meeting in May be amended as shown in appendix 1; and
- (b) the Monitoring Officer be authorised to make any consequential amendments to the Constitution.

Key Points Summary

- The current arrangements for the Annual Council meeting provide for it to consider a mix of ceremonial and normal business.
- There is a concern that this approach means that justice is not done to the civic and ceremonial role of the Annual Council meeting and that there is the potential for the consideration of normal business to be adversely affected.
- It is proposed that the annual reports from Committees and the Leader of the Council; and questions from members of the public and from Councillors are no longer considered at the annual meeting but instead are considered at a subsequent meeting of Council.

Alternative Options

1 The principal alternative options considered were:

- to maintain the existing arrangement, or
- to hold an annual Council meeting where the focus is primarily ceremonial and then to hold an additional Council meeting within two weeks of the annual meeting to consider formal business that would previously have been considered at the annual meeting.

Further information on the subject of this report is available from
John Jones, Head of Governance on (01432) 260222

Reasons for Recommendations

- 2 The recommendations propose changes to the way in which Council operates to place a greater emphasis on Council's civic and ceremonial roles and to ensure appropriate consideration of the Council's normal business.

Introduction and Background

- 3 The current arrangements for the Annual Council meeting provide for it to consider a mix of ceremonial and normal business.
- 4 The Chairman considers that this approach means that justice is not done to the civic and ceremonial role of the Annual Council meeting and that there is the potential for the consideration of normal business to be adversely affected
- 5 At the Council meeting in May 2012 the need to accommodate ceremonial considerations meant that some significant matters forming part of the normal business were agreed without the level of debate to which they would otherwise have been subject.

Key Considerations

- 6 Paragraph 4.1.5.2 of the Constitution specifies what is to be considered at the Council's Annual meeting. This is attached at Appendix A showing the proposed revisions to the business to be conducted at that meeting.
- 7 The changes proposed are that the following business should no longer be considered at the annual meeting of the Council but should be considered at the next scheduled ordinary meeting of Council following the Annual Meeting:
 - the annual reports from Committees and the Leader of the Council; and
 - questions from members of the public and from Councillors.

Community Impact

- 8 The proposed change would raise the profile of Council. It would also assist in ensuring that Council can give its undivided attention to the normal business put before it.

Equality and Human Rights

- 9 The proposal does not have an impact on the way in which the Council discharges its equality and human rights duty.

Financial Implications

- 10 The proposal entails no additional cost. Additional cost would be incurred if it was decided to schedule an additional council meeting.

Legal Implications

11. The Local Government Act 1972 requires the Council to hold an annual meeting and to conduct certain specified business at that meeting. The proposal meets the legal requirements.

Risk Management

12. There is a risk if the proposals are not agreed that the business considered at the Annual Council will continue to be difficult to manage. Further discussions would have to take place to consider how to address this risk

Appendices

Proposed amendments to the business to be considered at the Annual Meeting of Council

Background Papers

- None identified.

Proposed amendments to the business to be considered at the Annual Meeting of Council

Paragraph 4.5.5.2 of the Constitution (with proposed amendments)

The Annual Meeting will:

- a elect a person to preside if the Chairman or Vice-Chairman of the Council is not present
- b elect the Chairman of the Council
- c appoint the Vice Chairman of the Council
- d receive any declarations of interest
- e approve the minutes of the last meeting
- f receive any announcements from the Chairman and/or the Chief Executive
- g elect the Leader of the Council
- h appoint the Chairmen (and Vice-Chairmen) of Committees and other bodies
- i appoint at least one Scrutiny Committee, ~~a Standards Committee~~ and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet Functions
- j decide the size and terms of reference of those Committees
- k decide the allocation of seats to political or other groups in accordance with the political balance rules
- l receive nominations of Councillors and co-opted members to serve on each Committee and outside body or in the absence of nominations agree that the Chief Executive may make such appointments on receipt of nominations from the Political Group Leaders in accordance with its decision to allocate seats to political or other groups; and
- m appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet
- n agree the functions of those committees set out in Part 3 of this Constitution
- o approve a programme of Ordinary Meetings of the Council for the year (if not already agreed)
- p instruct the Monitoring Officer to make the necessary consequential amendments to the Constitution to give effect to these decisions.
- ~~q receive annual reports from Committees to Council except in the year of election when reports will be made to the March meeting~~
- ~~r receive an annual report from the Leader of the Council except in the year of election when reports will be made to the March meeting~~
- ~~s receive any questions from, and provide answers to, the public; [See 4.1.15.11]~~
- ~~t receive any questions from and provide answers to Members of the Council [See 4.1.15.11]~~
- u consider any other business specified in the summons to the meeting

MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	REVIEW OF OVERVIEW AND SCRUTINY STRUCTURE
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To consider proposed changes to the Overview and Scrutiny Structure.

(These changes involve alternative arrangements for the purposes of the Local Authorities (Committees and Political Groups) Regulations 1990.)

Recommendation(s)

THAT: on the recommendation of the Audit and Governance Committee, which met on 21 September and subject to any amendments made at that meeting Council adopts the following recommendations:

- (a) the recommendations of the report on the Overview and Scrutiny (O&S) Function as set out at pages 3-4 of appendix 1 to this report be adopted:
- (b) the authority to exercise the Authority's statutory health scrutiny functions be delegated to the Health and Social Care Overview and Scrutiny Committee;
- (c) the Terms of Reference of the General Overview and Scrutiny Committee and the Health and Social Care Overview and Scrutiny Committee be as set out at paragraph 23 of the report ;
- (d) each Overview and Scrutiny Committee consists of 13 Councillors and seats on each Committee be allocated by political proportionality as set out at paragraph 13 of the report appointments to those seats to be confirmed by Group Leaders;
- (e) the change to two Overview and Scrutiny Committees takes effect from Monday 15 October 2012;
- (f) Council approves the appointments to the offices of Chairman and Vice-Chairman of the General Overview and Scrutiny Committees and the Health and Social Care Scrutiny Committee;

Further information on the subject of this report is available from
John Jones, Head of Governance (01432) 260222

- (g) **statutory co-optees serve on the General Overview and Scrutiny Committee;**
- (h) **the operating principles set out at paragraph 18 of the report form the basis of the new scrutiny model;**
- (i) **the rules of proportionality are not applied to Task and Finish Groups appointed by either of the two Overview and Scrutiny Committees;**
- (j) **the Head of Governance be designated as the Authority's statutory Scrutiny Officer; and**
- (k) **the Monitoring Officer be authorised to make any consequential amendments to the Constitution.**

Key Points Summary

- Council in May 2011 agreed a revised Structure for the Overview and Scrutiny Function. At Council in July 2011 the Leader committed to ensuring a review of the effectiveness of the new scrutiny model was undertaken after twelve months of operation.
- Members of the Overview and Scrutiny Committee have expressed a number of concerns about the new model over the first year. .
- The principal proposal is that two Overview and Scrutiny Committees are established each with a Chairman and Vice-Chairman. The proposed Committees are: a Health and Social Care Overview and Scrutiny Committee and a General Overview and Scrutiny Committee that deals with all other matters.
- The report outlines a number of other measures to give effect to the principal proposal above.
- To ensure a smooth transition to a new scrutiny model it is proposed that this takes effect on 15 October 2012.
- It is proposed to designate the Head of Governance as the Authority's Scrutiny Officer.

Alternative Options

- 1 A number of alternative structures could be considered.

Reasons for Recommendations

- 2 The recommendations have been put forward following a review of the effectiveness of the new scrutiny model that it was agreed would be undertaken after twelve months of operation. The recommendations respond to concerns by Members of the Overview and Scrutiny Committee that the current system is proving impractical given the complexity and volume of Scrutiny work and the findings of an external review.

Introduction and Background

- 3 Council in May 2011 agreed a revised Structure for the Overview and Scrutiny (O and S) Function.
- 4 Under the structure in place prior to May 2011 O and S was undertaken by the Overview and

Scrutiny Committee (OSC), supported by a number of themed Scrutiny Committees.

- 5 The structure approved in May 2011 consists of one politically proportionate O and S Committee with the power to set up task and finish groups, with six vice-Chairmen each responsible for a particular themed area. The Statutory Education Co-optees sit on the O and S Committee.
- 6 At Council in July 2011 the Leader committed to ensuring a review of the effectiveness of the new scrutiny model was undertaken after twelve months of operation.

Key Considerations

- 7 Members of the OSC have expressed a number of concerns about the new scrutiny model during its first year of operation. They held a Scrutiny workshop on 27 April 2012 at which a proposal for structural change and the establishment of three scrutiny Committees emerged.
- 8 Members and Officers were informed of the issues raised at the workshop (including the proposed new scrutiny structure) and invited to comment.
- 9 Subsequently the Chairman and Vice-Chairman of the Committee supported a model based on two scrutiny committees and this formed the basis of an external review undertaken by Mr John Lamb. The report of this review (Update Report on the O and S Function in Herefordshire Council 2012 is appended. Mr Lamb had conducted a previous review of the Council's scrutiny function (December 2008) and recommendations in that review had underpinned the decision by Council to change its scrutiny model in May 2011. This report is available on the Council's website alongside the agenda papers.

Membership of Committees

- 10 The Localism Act 2011 (Schedule 2 part1) continues the provision in the Local Government Act 2000 that O&S Committees should be politically proportionate by virtue of the insertion of Section 9FA into the 2000 Act.
- 11 In determining the allocation of seats on a politically proportionate basis the Council must apply the following four principles as far as reasonably practicable:
 - (a) that not all the seats on the body are allocated to the same political group;
 - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
 - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
 - (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
- 12 An arithmetic calculation of the number of seats allocated to a particular group is unlikely to result in a set of whole numbers. The 1989 Act gives no guidance on the correct approach in these circumstances, leaving authorities to follow the principles "as far as reasonably practicable". For the purposes of this report, it is assumed that part numbers of 0.5 and above

will be rounded up, while part numbers below 0.5 will be rounded down

- 13 Under the Council's current composition, if all four Political Groups on the Council were to be represented on each O and S Committee, the minimum size a Committee can be is 13. This would mean each Committee having 7 Conservative Group Members, 3 Independent Group Members, 2 It's Our County Group Members and 1 Liberal Democrat Group Member.
- 14 The Constitution provides that Council must appoint the Chairmen and Vice-Chairmen of the Committees.

Statutory Co-optees

- 15 The Council is required to include diocesan and parent governor representatives with voting rights on an O and S Committee dealing with education functions. The Council has two diocesan representatives and three parent governor representatives.
- 16 It is acknowledged that the move to a single O and S Committee has made the role of the statutory co-optees less attractive than it was when there was a dedicated Children's Services Scrutiny Committee. Under the proposal above education matters would fall to be dealt with by the General OSC and it is proposed that the statutory co-optees would therefore sit on that Committee with voting powers on educational matters only.

Operating Principles

- 17 The recommendations in the Lamb 2012 Update Report identified the need for further work on the detailed arrangements and proposed the establishment of a working party to consider how to implement the recommendations.
- 18 The following operating principles are proposed at this stage:
- To minimise bureaucracy the two Committees would be independent of each other. Each Committee would have the authority to make recommendations direct to the Executive, Council and others.
 - Each Committee would approve its own work programme.
 - Call-ins would be heard by the relevant Overview and Scrutiny Committee on the basis that this will provide the most effective challenge as the Members of each Committee develops its specialist knowledge.
 - The Chairmen of the General Overview and Scrutiny Committee and the Health Overview and Scrutiny Committee would by agreement manage any potential overlap between the two Committees and with the work of the Audit and Governance Committee.
 - Each Committee would have a Chairman and a Vice-Chairman.
 - Task and Finish Groups would be established by each Committee drawn from the Committee membership and the wider non-executive membership of the Council. As appropriate, people with specialist knowledge and or expertise could be co-opted to support the task. Co-opted members of Task and Finish Groups would not have voting powers. The relevant Overview and Scrutiny Committee would seek someone to lead a Task and Finish Group as and when each one is established. The nature of the work of Task and Finish Groups is that they are advisory and the rules of proportionality apply unless the Council makes alternative arrangements. Council would be required to approve this proposal with no Member voting against it.

Future Operating Model

- 19 With the introduction of an amended scrutiny model will come a requirement to review how scrutiny is approached within the Council. The previous approach to scrutiny has been based on a very much all encompassing model, whereby the Committee and the Task and Finish Groups have tried to cover a very wide area of work and have not been strategically focused. An extensive work programme has therefore evolved on an ad hoc basis and without clearly defined outcomes. This has been difficult to resource effectively. It has also required an enormous amount of Members time and commitment.
- 20 The future operating model will need to be much more strategically focused and the Committee will need to clearly define their purposes from the outset.

Training and Development

- 21 It is recognised that a training and development programme needs to be developed to support Members in their O and S role.

Member Allowances

- 22 If accepted the proposals will require the Independent Remuneration Panel to meet to consider the appropriate level of special responsibility allowances.

Constitutional Changes required

- 23 Under the Functions Scheme at Part 3 of the Constitution Council is responsible for setting the terms of reference of Committees, deciding on their composition and allocating seats on them.
- 24 The Functions Scheme will require slight amendment to reflect the roles of the two Committees.
- 25 Draft terms of reference for the two Committees are as follows:

Committee	Remit
General Overview and Scrutiny Committee	<p>Functions conferred on or exercisable by the Council in its capacity as a local education authority;</p> <p>Budget and Policy Framework Issues</p> <p>Any other matter not reserved to the Health and Social Care Scrutiny Committee.</p>
Health and Social Care Overview and Scrutiny Committee	<p>To discharge the Council's statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services affecting the area and to make reports and recommendations on these matters.</p> <p>Overview and scrutiny of:</p>

	<ul style="list-style-type: none"> • Children and Adult Safeguarding • Social care functions relating to children • the Health and Wellbeing Board • any other matters relating to health and social care
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Transitional Arrangements

- 26 Meetings of the current O and S Committee are scheduled to take place on 3 and 12 October. If the proposals in this report are accepted, some further preparatory work needs to be undertaken to establish the two new Committees. It is therefore proposed that the meetings on 3 and 12 October are conducted by the O and S Committee as currently constituted and that the introduction of a new scrutiny model should take effect from 15 October 2012.

Designation of Scrutiny Officer

- 27 The Local Democracy, Economic Development and Construction Act 2009 required the Council to formally designate one of their officers as the authority's statutory "scrutiny officer". In May 2010 Council approved a number of changes to the Constitution including the designation of the Deputy Chief Executive as Statutory Scrutiny Officer.
- 28 The Localism Act 2011 (Schedule 2 part1) continues this provision by virtue of the insertion of Section 9FB into the Local Government Act 2000. The designated officer is required to discharge the following functions:
- (a) to promote the role of the authority's O and S committee or committees;
 - (b) to provide support to the authority's O and S committee or committees and the member of that committee or committees
 - (c) to provide support and guidance to : (i) members of the authority, (ii) members of the Executive of the authority, and (iii) Officers of the authority – in relation to the functions of the authority's O and S committee or committees.
- 29 Although the post of the authority's Scrutiny Officer is a statutory post it is not subject to the same recruitment and discipline procedures as the Council's other statutory posts. The statutory scrutiny officer role must, however, be recognised within the council's constitution and designated to a post.
- 30 The authority may not designate the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer as the authority's Scrutiny Officer.
- 31 The role has to date sat with the Deputy Chief Executive. It is proposed that the Head of Governance be designated as the authority's Scrutiny Officer.

Community Impact

- 32 One of the recommendations in the update report identifies the need for the scrutiny function to identify and prioritise the issues and concerns of the people of Herefordshire and the strategic issues which are key to the Council's delivery of its corporate objectives and

concentrate on these.

Equality and Human Rights

33 The proposals in this report have no particular implications for equality and human rights.

Financial Implications

34 The financial implications of the proposals in this report will be met from within existing budgets.

Legal Implications

35 The Localism Act 2011 requires local authorities, which are operating executive arrangements to set up one or more O and S committees. The proposals in the report are consistent with that requirement. The Health and Social Care Act 2012 confers health scrutiny functions on the local authority itself, rather than on an O and S committee specifically. It is for the full council of each local authority to determine which arrangement is adopted. The Health and Social Care Scrutiny Committee would be an appropriate place for the Council to delegate its statutory health scrutiny powers.

Risk Management

36 The Council is required to have an O and S function. The proposals in this report are designed to ensure that this will operate effectively.

Consultees

37 The following have been consulted: All Councillors; Statutory Co-optees, Leadership Team, the Cabinet Team, Group Leaders and the Overview and Scrutiny Committee.

Comments from Leader's Briefing

The Cabinet Team considered a copy of the review report on 6 September. It was noted that the decision on the future of O&S activity would be a matter for Council. In forming its recommendation to Council, Audit & Governance Committee would take into account the comments of consultees such as the Executive and the current O&S Committee, both of which had participated in the review itself. The Cabinet Team suggested that, to aid consideration of members, and in particular those who had not been involved in the pre-2011 O&S arrangements, it would be helpful to include in the report to Council a simple chart setting out the pro's and con's of the previous, current and proposed arrangements.

This is attached as an appendix to the report.

Group Leaders

Group Leaders were briefed on the outcome of the review on 12 September. The Group Leaders broadly support the recommendations being made to the Audit and Governance Committee. However, they consider that there should be a transitional period from 15 October until Christmas during which training should be provided for Members. This training should offer an opportunity for Members to specialise in subject areas in which they are most interested. The establishment of a separate Health and Social Care Overview and Scrutiny Committee provides particular scope for specialisation.

Comments from Overview and Scrutiny Committee

The Committee agreed on 14 September to recommend to the Audit and Governance Committee that recommendation (e) of the draft Audit and Corporate Governance Report to Council on 28 September 2012 be amended from: the change to two Overview and Scrutiny Committees takes effect from Monday 15 October 2012 to: the change to two Overview and Scrutiny Committees should begin to take effect from Monday 15 October 2012 with the final roll out of the two Committee from 1 January 2013.

Appendices

Update Report on the Overview and Scrutiny Function in Herefordshire Council – John Lamb August 2012

A chart setting out pros and cons of a multiple scrutiny committee model and a single scrutiny committee model.

Background Papers

- Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 by John Lamb and Mari Davis

Update Report on the Overview and Scrutiny Function in Herefordshire Council

August 2012

Herefordshire Council Update Report on the Overview and Scrutiny Function

1. Introduction and Background

During 2008 a review of the overview and scrutiny function was carried out at Herefordshire Council (Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – herein-after referred to as the 2008 Review) . The Council has since commenced implementation of some of the key recommendations of the report and has also carried out an internal review of the effectiveness of the scrutiny function. Following the 2011 elections changes were made to the structure of overview and scrutiny and further changes are now proposed. This Update Report has been commissioned by the Council and its purpose is to provide commentary on how the current proposals are viewed by councillors, review progress that has been made since the 2008 report and make recommendations on the most effective way of taking scrutiny forward in Herefordshire. It is recommended that this Update Report is read in conjunction with the 2008 Review since some of the recommendations of the Update Report are supported by findings outlined in the 2008 Review. The recommendations from the 2008 Review are shown at Appendix 1.

2. Acknowledgements

The review was carried out with the very full and excellent co-operation of the Council at member and officer level and the author of this report would like to place on record thanks to all those who contributed to the process in such an open way. Organisational help and assistance was provided by Mr Tim Brown and for this the author is grateful.

3. Methodology and Approach

The update review was carried out in three phases: a short document review, on site meetings and discussions with individuals and groups and finally the ‘write up’ phase. The people who contributed to individual and group discussions during phase two of the update review is shown in Appendix 2 to this report. Responses from the on-site meetings and discussions have been used to inform the commentary and observations contained in this report and fall into four broad areas:

- Role and Purpose of Overview and Scrutiny
- Proposed Structure
- Managing Changes to the Overview and Scrutiny arrangements and relationship with Cabinet.
- Overview and Scrutiny’s Vision, the Annual Work Programme and Protocols

Where appropriate this report contains references to and extracts from the 2008 Report and are only included where this re-enforces a point or avoids the need to repeat an argument.

4. Executive Summary / Recommendations

A good understanding of the role and purpose of overview and scrutiny in the context of the overall governance arrangements of the Council is fundamental to good progress. Arguably, the structure of the overview and scrutiny function matters less. With the right approach it is possible to make the existing structure work well but a ‘flawed’ understanding of the purpose of scrutiny will always act as a barrier to progress.

The current proposals for structural changes are in line with the original recommendation and the reasons set out in the 2008 Report and should be welcomed. The establishment of a health and social care scrutiny committee recognises the huge changes occurring in the sector and would be the natural place for the Council to delegate its statutory health scrutiny powers. The emphasis on ‘task and finish’ groups is in line with good practice and would enable councillors to join a group working on a particular topic according to personal motivation, interest and perhaps prior or current expertise.

The proposals for further changes to the scrutiny structure should be made more widely available and consideration given to the establishment of a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support to work out what needs to happen to implement the recommendations of this Update Report.

During interviews both councillors and officers commented that scrutiny appeared to have lost its way. There is a sense that there is no clear vision for Scrutiny and that councillors are not clear about where scrutiny is ‘heading for’. None of this is surprising given the ‘tension’ that exists between those who wish to revert to the thematic committee arrangements covering the breadth of council services and those who wish to see the scrutiny function doing far less but what is done, done very well. These two different approaches are difficult to reconcile but a resolution is crucial to making good progress.

The Recommendations:

- 1. That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements. (from 2008 Review)**
- 2. That methods, outside the overview and scrutiny arrangements, be developed to ensure that all councillors have opportunities to gain an understanding of the way the Council and its partners function.**
- 3. That the proposals for the establishment of two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and finish groups’ as required**

- to undertake more detailed projects identified from the approved work programme be accepted.**
- 4. That further work be undertaken to work out and agree the detailed arrangements for the proposed overview and scrutiny structure e.g. political proportionality etc.**
 - 5. That a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support be established to work out what needs to happen to implement the recommendations of this Update Report and the relevant recommendations of the 2008 Review.**
 - 6. That the working party established at recommendation 5 consider and agree the appropriate arrangements for on-going regular Scrutiny / Cabinet liaison.**
 - 7. That the Scrutiny function leads an annual process to identify and prioritise the issues and concerns of the people of Herefordshire and the strategic issues which are key to the Council’s delivery of its corporate objectives and concentrate on these.**
 - 8. That existing processes and protocols are reviewed and/or developed that support a disciplined approach to the delivery of the Annual Overview and Scrutiny Work Programme (e.g. topic selection criteria, scoping, terms of reference, variations etc.)**

5. Findings

5.1 Role and Purpose of Overview and Scrutiny

Scrutiny – a simple definition

To look at the quality of council services and other issues that affect the lives of people in Herefordshire.

Scrutiny will listen to the concerns of local people to check out how the council and other organisations are performing and where necessary recommend improvement.

(from a training session for Herefordshire Council 2009)

The 2008 Report found that “There are some good examples of scrutiny review work that has been of value, interest and concern to the communities served by the Council (Day care services review, younger people’s transition from younger people’s services to adult social care). Members of the public are always given an opportunity to ask questions at the commencement of each formal meeting of O&S committees. These practices need to be built upon. Chairs and Vice chairs of O&S committees need to reflect on whether the

Herefordshire Council – Update Report on the Overview and Scrutiny Function FINAL

current approach to O&S agendas, which tends to very much mirror the work of the Cabinet, is diverting energy and attention away from addressing the concerns of the people of Herefordshire. Are members giving ‘voice’ to the issues that matter most to residents on an everyday basis? A theme that emerged from interviews and group discussion was that O&S need to “do less better”.

(Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 10)

A good understanding of the role and purpose of overview and scrutiny in the context of the overall governance arrangements of the Council is fundamental to good progress. Arguably, the structure of the overview and scrutiny function matters less. With the right approach it is possible to make the existing structure work well but a ‘flawed’ understanding of the purpose of scrutiny will always act as a barrier to progress.

From interviews with councillors, while some are very keen to see changes to the way scrutiny is conducted in the council there is still a strong sense that there is a need for an approach that ensures that all aspects of the work of the cabinet is ‘shadowed’. During interviews the view was expressed that councillors need to understand how the council works and that it is important that councillors gain service specific knowledge. The rationale for this is that only then can effective scrutiny be carried out. Frequently mentioned was the need for ‘thematic’ committees as the vehicle for both ensuring councillors gain the necessary knowledge and the means by which scrutiny is undertaken. There remains a tendency for councillors to request reports and information in pursuit of a ‘monitoring’ role. Some councillors seem to be concerned that unless this wide ranging monitoring and questioning of decisions is carried out then they may miss something serious but this is to misunderstand the role and purpose of the overview and scrutiny function.

The Local Government Act of 2000, provided for, among other governance arrangements, a cabinet system supported by overview and scrutiny arrangements. Decision making service committees were abolished. Herefordshire Council opted for the cabinet system whereby decision making is limited to a number of councillors appointed to the cabinet with limited referrals to full Council. A challenge for all councils, opting for the cabinet system, was the development of effective and meaningful scrutiny to be carried out by ‘non-executive’ councillors. By definition the adoption of the cabinet system means that ‘non-executive’ councillors are considerably less involved in decision making when compared to the pre-2000 Act arrangements i.e. decision making service committees. The Council’s constitution prescribes the decisions that need to be made by full Council – approval of the Council’s annual budget being one of these. The question raised by councillors about how they and especially new councillors learn about local government is a valid one and is asked in many local authorities. Indeed it is one of the criticisms of the cabinet system but scrutiny should not be seen as the place where councillors gain their general knowledge. The Council needs to think about how this requirement can be better met.

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Councillors, including cabinet members, need to develop their thinking about the fundamental purpose of overview and scrutiny and this needs to be done in the light of the reality of the governance arrangements that the council has adopted.

The 2008 Report made the following recommendation “ *ii) That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements.*”

It appears that this remains a fundamental issue and the recommendation still stands but should be pursued in the light of the comments above. For clarity, it is not the responsibility of overview and scrutiny to provide a comprehensive performance monitoring role. What would be more appropriate is for scrutiny to check out what arrangements the Council and cabinet have in place for monitoring performance (seeking assurance) rather than actually doing it. That is not to say that there is no role for scrutiny in monitoring because that is not the case. Scrutiny has a key role to play in budget monitoring. Scrutiny needs to be very selective about the work it undertakes. Scrutiny does not have regulatory responsibilities. Ultimate accountability for the effective delivery of services is with the Cabinet in the case of Herefordshire Council and its partner organisations such as the NHS, Police and so on.

Recommendations:

- 1. That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements. (from 2008 Report)**
- 2. That methods, outside the overview and scrutiny arrangements, be developed to ensure that all councillors have opportunities to gain an understanding of the way the Council and its partners function.**

5.2 Proposed Structure

The proposed structure further develops changes to the Overview and Scrutiny structure that was approved by the Council in May 2011. It is proposed that the current structure of a single scrutiny committee supported by thematic ‘task and finish’ groups is replaced by two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and groups’ as required to more detailed projects identified from the approved work programme.

A number of councillors expressed concerns about the proposed structure which is explored in section 5.1 above and a suggestion was made to create further ‘thematic’ committees. However there was also support for the proposed arrangements and a

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comment was made that ‘let’s leave things as they are and just make scrutiny work better’.

The 2008 Review made the following recommendation: v) *That the Member organisation of O&S be reviewed with an emphasis on moving more towards Task and Finish groups and away from the existing formal committee structure. (a phased approach may be helpful here perhaps with an annual review to evaluate the effectiveness of changes made)*

This recommendation was mindful of the then structure in place (Strategic Monitoring Committee supported by thematic scrutiny committees). The recommendation was supported in the 2008 Report with the following:

“ The format and organisation of O&S committees has an impact on how business is conducted. For example, formal committee style meetings will tend to lead to formal committee style approaches to how business is conducted (officer reports, minutes, requests to officers for more information, monitoring etc.). On the other hand Task and Finish groups consisting of a smaller number of members and officers with a specific task and a short time scale will tend to operate in a very different way to that of a committee. The Task and Finish approach usually leads to research, interviewing of witnesses / specialists, focused discussion, deeper understanding and with members heavily involved in the production of the report. We heard comments from members that when they have worked in a ‘task and finish’ format they found this approach much more rewarding and productive.” (Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 11)

The current proposals are in line with the original recommendation and the reasons set out in the 2008 Report and should be welcomed. The establishment of a health and social care scrutiny committee recognises the huge changes occurring in the sector and would be the natural place for the Council to delegate its statutory health scrutiny powers.

The emphasis on ‘task and finish’ is in line with good practice and would enable councillors to join a group working on a particular topic according to personal motivation, interest and perhaps prior or current expertise. As the work of the ‘task and finish’ groups concludes then the group can be dissolved then ‘re-constituted’ according to the next new topic. This would enable the more agile moving ‘quickly and lightly’ from topic to topic as described by one councillor during the interviews. It is more likely that the proposed structure will result in more satisfying roles for scrutiny councillors as the ‘task and finish’ group focuses on a topic and is able to get under the surface of issues and gain deeper and better understanding of the subject resulting in better and clearer recommendations to cabinet and other partner organisations.

The proposals are at an early stage but were questioned by some councillors around the working detail and this should be addressed before full Council approval is sought. For example, are the Chairs of the two main committees of equal standing? Whilst it was accepted that there would be a need for political proportionality on the main committees

does this apply to the task and finish groups? Delegation of the Council’s health scrutiny powers (the Council may wish to be mindful of the current Department of Health Local Authority Health Scrutiny Consultation proposals published on 12th July 2012)

Recommendations:

- 3. That the proposals for the establishment of two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and finish groups’ as required to undertake more detailed projects identified from the approved work programme be accepted.**
- 4. That further work be undertaken to work out and agree the detailed arrangements for the proposed overview and scrutiny structure e.g. political proportionality etc.**

5.3 Managing Changes to the Overview and Scrutiny arrangements and relationship with cabinet.

A number of councillors commented on the way the changes to the scrutiny structure had been made following the 2011 elections. There was a sense that the new arrangements had been quickly imposed thereby removing the opportunity to comment. It is helpful that a review after 12 months was promised and this Update Report forms part of that review. The proposals for further changes to the scrutiny structure should be made more widely available and consideration given to the establishment of a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support to work out what needs to happen to implement the recommendations of this Update Report.

Recommendation:

- 5. That a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support be established to work out what needs to happen to implement the recommendations of this Update Report and the relevant recommendations of the 2008 Review.**

The internal Herefordshire Council report (Review of the Overview and Scrutiny Structure page 5) draws attention to the relationship between scrutiny and cabinet. There are many ways in which this can be carried out from an informal monthly meeting between the Chair of Scrutiny and the Leader of the Council to a more formal meeting of a larger group representing Scrutiny and the Cabinet. The ‘rolling programme’ appears to offer an opportunity for Cabinet to inform and discuss with Scrutiny future challenges facing the Council and what opportunities there might be for Scrutiny input to policy development [as long as this does not become the norm (see boxed extract below) i.e. Scrutiny must be selective about the areas it chooses to engage with].

The 2008 Review commented:

Cabinet members do involve O&S and invite early participation in the development of policy. This is a good approach since many O&S members complain that by the time they get involved with a major policy area, very often it is too late to influence the outcome. However, care needs to be taken that by involving O&S in policy development and “getting too close to the decision making” that O&S then finds it difficult to effectively challenge.

(Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 6)

It is good practice to periodically review the effectiveness of scrutiny, against agreed criteria (the Centre for Public Scrutiny has such a tool) and such reviews should involve all councillors and chief officers of the Council.

Recommendation:

- 6. That the working party established at recommendation 5 consider and agree the appropriate arrangements for on-going regular Scrutiny / Cabinet liaison.**

5.4 Overview and Scrutiny’s Vision, the Annual Work Programme and Protocols

During interviews both councillors and officers commented that scrutiny appeared to have lost its way. There is a sense that there is no clear vision for Scrutiny and that councillors are not clear about where scrutiny is ‘heading for’. None of this is surprising given the ‘tension’ that exists between those who wish to revert to the thematic committee arrangements covering the breadth of council services and those who wish to see the scrutiny function doing far less but what is done, done very well. These two different approaches are difficult to reconcile. To the ‘Thematic Committee’ lobby the annual work programme with the associated restriction on what is included will never make complete sense while to the ‘Less is More’ lobby there will be continual frustration as colleagues call for reports and further information in an effort to monitor the work of the Cabinet. There is a need for the Political Leadership of the Scrutiny Function to be clear and firm and provide direction. To a large extent councillor and officer resources will determine how much scrutiny work can be practically covered in any twelve month period. The Scrutiny function is not able to do all that it might wish to. By necessity there is a need for focus on the things that really matter to the delivery of services to the people of Herefordshire and this implies the need for very careful selection and prioritisation of topics. Once the annual work programme is agreed the Chairs of the scrutiny committees need to be very disciplined about any additions / variations to the topic scope.

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The 2008 Review made the following two recommendations in this connection: *i) That the SMC and thematic O&S committees continue to review the business they regularly deal with and identify the strategic issues which are key to the Council's delivery of its corporate objectives and concentrate on these. (This recommendation is concerned with 'internally' facing issues such as budget and performance management – see recommendation vi for 'externally' facing issues)*

And *vi) That a process be developed for determining and reviewing the annual programme for each O&S that captures the concerns of residents and communities of Herefordshire (sources could include the Councils own complaints recording system, matters arising during councillors surgeries, councillors own knowledge of issues. The PACT meetings will be a source of community concerns as will be the 'Leadership of Place' work proposed for the Council. A very effective method of capturing issues is by getting members into groups to identify the issues that matter to their constituents. (This recommendation is concerned with 'externally' facing issues that matter to communities – see recommendation i for 'internally' facing issues)*

The 2008 recommendations remain valid but are now updated as follows:

Recommendation:

- 7. That the Scrutiny function leads an annual process to identify and prioritise the issues and concerns of the people of Herefordshire and the strategic issues which are key to the Council's delivery of its corporate objectives and concentrate on these.**

If the Scrutiny function is to remain focused and deliver its work programme then the function needs to be supported by a robust set of protocols. The 2008 Review in recognising this made the following recommendation: *vii) That any existing protocols for developing O&S recommendations be reviewed for clarity and effectiveness and that a process be agreed between O&S and the Cabinet which covers timescales for, responses to, reaching consensus and monitoring of recommendations.*

In addition to this recommendation and in support of a more disciplined approach in support of delivering a focused work programme the following recommendation is made:

Recommendation:

- 8. That existing processes and protocols are reviewed and/or developed that support a disciplined approach to the delivery of the Annual Overview and Scrutiny Work Programme (e.g. topic selection criteria, scoping, terms of reference, variations etc.)**

Appendix 1

Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 - Recommendations

- i) That the SMC and thematic O&S committees continue to review the business they regularly deal with and identify the strategic issues which are key to the Council's delivery of its corporate objectives and concentrate on these. (This recommendation is concerned with 'internally' facing issues such as budget and performance management – see recommendation vi for 'externally' facing issues)
- ii) That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements.
- iii) That protocols be enhanced or developed which clearly set out the role of O&S in the development of policy areas in a manner which does not compromise the ability of O&S to challenge effectively.
- iv) That O&S members be provided with training to improve the effectiveness of challenge through appropriate techniques such as questioning and analytical skills and improved understanding of the subject areas covered by the various O&S committees.
- v) That the Member organisation of O&S be reviewed with an emphasis on moving more towards Task and Finish groups and away from the existing formal committee structure. (a phased approach may be helpful here perhaps with an annual review to evaluate the effectiveness of changes made)
- vi) That a process be developed for determining and reviewing the annual programme for each O&S that captures the concerns of residents and communities of Herefordshire (sources could included the Councils own complaints recording system, matters arising during councillors surgeries, councillors own knowledge of issues. The PACT meetings will be a source of community concerns as will be the 'Leadership of Place' work proposed for the Council. A very effective method of capturing issues is by getting members into groups to identify the issues that matter to their constituents. (This recommendation is concerned with 'externally' facing issues that matter to communities – see recommendation i for 'internally' facing issues)
- vii) That any existing protocols for developing O&S recommendations be reviewed for clarity and effectiveness and that a process be agreed between O&S and the Cabinet which covers timescales for, responses to, reaching consensus and monitoring of recommendations.
- viii) That consideration be given to the appointment of a dedicated Overview and Scrutiny Manager at an appropriate grade and level within the organisational structure that reflects the value and importance attached to the O&S function by the Council.

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ix) That a Chairs and Vice Chairs Group (Overview and Scrutiny Committees) be established to discuss and debate and take forward and oversee the improvement agenda. (Chairs and Vice Chairs currently make up the SMC. The recommendation here is about that group meeting in a far less formal, facilitated style to encourage an exchange of views and deeper discussion about how the O&S function can be even more effective).

x) That the Councils own free publication contains, on a regular basis, articles about the work of overview and scrutiny related to outcomes with which the people of Herefordshire can identify.

Appendix 2

Those Interviewed

REVIEW OF HEREFORDSHIRE SCRUTINY MODEL

13-14 August 2012

Timetable

(Phone Call to Jo Davidson (Director of People’s Services) - 2 August)

(Phone Call from Dean Taylor (Deputy Chief Executive – Director of Corporate Services)- 10 August 2.00 pm)

Monday 13 August

Time	Interviewee (s)	Room
9.15	Tim Brown re administrative arrangements	
9.30 – 10.30	John Jones (Head of Governance)	19A
10.30-11.30	Councillor Bob Matthews (Leader of Independent Group)	19A
11.30-12.30	Councillor Jeremy Millar (Vice-Chairman Overview and Scrutiny Committee – with responsibility for Health and Wellbeing theme)	19A
Lunch		
1.30 – 2.30	Councillor Terry James (Liberal Democrat Group Leader)	19A
2.30-3.30	Phone call to Councillor Alan Seldon (Chairman of the Overview and Scrutiny Committee)	19A
3.30 – 5.30	Session with Members of Overview and Scrutiny Committee (Cllrs Andrew Atkinson, Phil Bettington, Sebastian Bowen, Mark Cooper, Mark Hubbard, Roger Hunt, Peter Jones, Jim Kenyon, and Jeremy Millar)	22A or Council Chamber depending on numbers

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Tuesday 14 August

Time	Interviewee (s)	Room
9.30 – 10.30	Councillor Mark Hubbard (It's Our County Group Leader)	19A
10.30-11.30	Tim Brown/ Paul James/David Penrose	19A
11.30-12.00	Free	
12-1	Geoff Hughes (Director for Places and Communities)	19A
Lunch		
1.30 – 2.30	Councillor John Jarvis (Leader)	Leader's Office
2.30-3.30	Cabinet Members Russell B Hamilton (Environment Housing and Planning) Patricia Morgan (Health and Wellbeing) Graham Powell (Education and Infrastructure) Phillip Price (Corporate Services – Deputy Leader)	19A
3.30 – 4.30	Dean Taylor	19A

THE POTENTIAL ADVANTAGES AND DISADVANTAGES OF A MULTIPLE OVERVIEW AND SCRUTINY MODEL AND A SINGLE OVERVIEW AND SCRUTINY COMMITTEE MODEL

Potential Advantages and Disadvantages identified in Multiple Overview And Scrutiny Committee model	
From Office of the Deputy Prime Minister Report: The Development of Overview and Scrutiny in Local Government – September 2002	
Potential Advantage	Potential Disadvantage
Allows more Members to be involved in Overview and Scrutiny	Gaps or overlaps between the Committees
Allows Members to develop specialisms	Difficulty in making sense of cross cutting briefs
Encourages Members to concentrate on key cross cutting issues	Multiple committees can strain officer support resources
Can help to spread the potential high workload of scrutiny	Can reinforce retention of committee culture
Can help in relating to cabinet remits if mirroring cabinet portfolios	Can produce claims of inconsistency of approach
Allows Committees to experiment with different approaches	

Other Potential Advantages and Disadvantages identified in Multiple Overview And Scrutiny Committee model prior to May 2011	
Potential Advantage	Potential Disadvantage
Wide coverage of Services	A temptation to search for business to fill agendas for scheduled meetings.

	<p>Lack of focus on outcomes</p> <p>More demands on Cabinet Member Time</p> <p>Additional pressure on Member Diaries.</p> <p>Additional pressure on the corporate diary</p> <p>More Demands on Officer Time</p>
<p>Means of exchanging information and gaining knowledge of Service</p>	<p>Formal Committee meeting is not best forum for an exchange of information to allow Councillors to gain general knowledge. (Lamb 2012)</p> <p>Tendency for the degree of separation between the multiple Overview and Scrutiny Committees and Directorates to reduce over time, leading to them becoming an advocate for the Directorate rather than a critical friend and a temptation for Directorates to exploit this and undermine corporate policies</p>
	<p>Formal Committee style meetings tend to lead to formal committee style approaches to how business is conducted (officer reports, minutes, requests to officers for more information. Monitoring etc (Lamb 2008 (p11)</p>
	<p>Additional expenditure on Members Allowances</p>
<p>Potential Advantages and Disadvantages identified in Single Overview And Scrutiny Committee model</p> <p>From Office of the Deputy Prime Minister Report: The Development of Overview and Scrutiny in Local Government – September 2002</p>	

Provides high degree of flexibility	Can limit the number of members involved in scrutiny
Avoids creating an overly bureaucratic system	Cuts down the potential for Members to develop specialisms
Easier (and perhaps cheaper) to provide officer support to	Can be difficult to undertake a high workload
Can produce a cohesive scrutiny team	
Other Potential Advantages and Disadvantages of single Overview and Scrutiny Committee model with Task and Finish Groups post May 2011	
“Task and Finish approach usually leads to research, interviewing of witnesses/specialists, focused discussion, deeper understanding, and with Members heavily involved in the production of the report.” (Lamb 2008 p11)	The wide remit of a single O&S Committee means that Members have to participate in consideration of issues in which they may not have a strong interest
The emphasis on Task and Finish is in line with good practice and would enable Councillors to join a group working on a particular topic according to personal motivation, interest and perhaps prior or current expertise.” “It is more likely that the proposed structure will result in more satisfying roles for scrutiny councillors as the ‘task and finish’ group focuses on a topic and is able to get under the surface of issues and gain deeper and better understanding of the subject resulting in better and clearer recommendations to cabinet and other partner organisations.” Lamb 2012 p 7)	The abolition of the Children’s Services Scrutiny Committee has created difficulties for statutory co-optees for educational matters (Diocesan Representatives and Parent Governor Representatives).

<p>Selective focus</p>	<p>Statutory responsibility for Health scrutiny has led to a high proportion of Health Scrutiny items.</p> <p>The recent Government consultation paper of local authority health scrutiny stated that the Government's aim was to strengthen and streamline health scrutiny, and enable it to be conducted effectively, as part of local government's wider responsibility in relation to health improvement and reducing health inequalities for their area and its inhabitants.</p> <p>Lamb 2012 p3 notes: The establishment of a health and social care scrutiny committee recognises the huge changes occurring in the sector and would be the natural place for the Council to delegate its statutory health powers.</p>
<p>Reduced expenditure on Members Allowances</p>	<p>The need to accommodate other business alongside health business has led to some lengthy agendas, the alternative being to hold additional meetings, a number of which have in any event had to be scheduled.</p>

MEETING:	COUNCIL
DATE:	28 SEPTEMBER 2012
TITLE OF REPORT:	GRANT OF DISPENSATION UNDER THE LOCALISM ACT 2011
REPORT BY:	MONITORING OFFICER

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To delegate the power to grant dispensations in respect of participation in decision making where a member has a disclosable pecuniary interest and to amend the Council's Procedure Rules to exclude a member with such an interest from the meeting.

Recommendations

THAT: on the recommendation of the Audit and Governance Committee, which met on 21 September and subject to any amendments made at that meeting Council adopts the following recommendations:

- (a) the power to grant dispensations under Section 33 (2)(b)(d) and (e) Localism Act 2011 or any subsequent amendment be delegated to Audit and Governance Committee; and**
- (b) the power to grant dispensations under Section 33 (2)(a) and (c) Localism Act 2011 or any subsequent amendment be delegated to the Monitoring Officer with a right of appeal to Audit and Governance Committee; and**
- (c) Council Procedure Rules be amended by the addition of:**

“4.1.25 Exclusion of Members with Disclosable Pecuniary Interests

Where a member is prevented by virtue of a disclosable pecuniary interest from participating in a meeting, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted”

and the insertion of the words “clause 4.1.25” in clauses 4.1.2.1 and 4.1.22.1

Key Points Summary

- The Localism Act 2011 introduced a system of disclosable pecuniary interests. This has consequences for member participation in decision making. Dispensations can be granted and this report recommends appropriate delegations to the Monitoring Officer and Audit and Governance Committee for this power.
- Standing Orders may provide for the exclusion of members from meetings where they are prevented from participating by virtue of a disclosable pecuniary interest

Alternative Options

1. Dispensations could be granted solely to Audit and Governance Committee or the power could be exercised solely by Council. Either would be more cumbersome to administer and would create delay.

Introduction and Background

2. The Localism Act 2011 required members to notify the Monitoring Officer of any disclosable interests, which are then entered in a register. Disclosable interests are defined in the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012. All members have recently submitted their completed forms to the Monitoring Officer.
3. Where a member is aware that he has a disclosable pecuniary interest (DPI) in any matter to be considered at a meeting, he must disclose the interest to the meeting. If the interest is not entered in the register (or is subject to a pending notification) the member must notify the Monitoring Officer within twenty eight days from the date of disclosure.
4. The consequences of being aware as above are that the member may not participate in the discussion and may not vote. Where the function is being discharged by a member acting alone, that member may take no further steps, save to enable the matter to be handled by another member.

Key Considerations

5. The Localism Act 2011 further provides for the granting of dispensations. This power can be delegated by Council to a committee and/or an officer.
6. Dispensations are granted on written application on grounds which are summarised as follows:-
 - (a) So many members have DPis that it would impede the transaction of the business were a dispensation not to be granted
 - (b) Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter
 - (c) Without the dispensation, every member of Cabinet would be prohibited from participating
 - (d) The grant of the dispensation would be in the interests of the inhabitants of the authority's area
 - (e) It is otherwise appropriate to grant the dispensation

7. In (a) and (c) above the existence of grounds is purely factual whereas (b) (d) and (e) above require political judgement. It is suggested that (b) (d) and (e) be delegated to Audit and Governance Committee but that (a) and (c) are delegated to the Monitoring Officer. Delegation to an officer avoids the need to give five clear days' notice and convene a member meeting to grant the dispensation. The delegation to the Monitoring Office could be subject to a right of appeal to the Audit and Governance Committee.
8. Although the Council under its new arrangements will consider complaints about the conduct of members of parish councils, those councils will be responsible for the grant of their own dispensations.
9. The Localism Act 2011 also allows the Council to make standing orders to provide for the exclusion of members who are prevented from participating by virtue of a disclosable pecuniary interest. The recommendations in this report include such provisions.

Community Impact

10. Ethical and transparent governance is an important element of the Council's corporate governance arrangements and affects its standing within the community. Dispensations balance conflicts of interest with the need for the expeditious dispatch of the Council's business.

Equality and Human Rights

11. These proposals do not engage the obligations imposed by the Equalities Act 2010

Financial Implications

12. None

Legal Implications

13. These are explained in the report.

Risk Management

14. If an effective scheme for granting dispensations is not introduced, then decision making could be impaired.

Consultees

15. None

Appendices

16. None

Background Papers

None identified

MEETING:	COUNCIL
DATE:	28 SEPTEMBER, 2012
TITLE OF REPORT:	APPOINTMENT OF TEMPORARY COUNCILLORS TO OCLE PYCHARD PARISH COUNCIL
REPORT BY:	HEAD OF GOVERNANCE

CLASSIFICATION: Open

Wards Affected

Bromyard

Purpose

To seek Council's approval for the temporary appointment of three Councillors to Ocle Pychard Parish Council to allow it to progress urgent business until either an election has been held or Councillors have been co-opted to fill some of the current vacancies which would allow the Council to become quorate.

Recommendation(s)

THAT:

- (a) That Council agrees to the appointment of the following Councillors as temporary members of Ocle Pychard Parish Council until such time as an election has been held and the new Councillors have taken up office or failing enough nominations being received, the co-option of three Councillors:

**Councillor J Lester
Councillor A Seldon
Councillor P Morgan**

- (b) That the Assistant Director (Law, Governance and Resilience) be authorised to make the necessary Order with effect from 28 September, 2012.

Key Points Summary

- Eight of the nine Ocle Pychard Parish Councillors have resigned.
- The Parish Council is not quorate and therefore cannot conduct any business.
- This Council has the authority to appoint temporary Councillors to the Parish Council until enough Councillors have been elected or co-opted.

Further information on the subject of this report is available from
John Jones, Head of Governance on (01432) 260222

Alternative Options

- 1 If this Council fails to appoint temporary Councillors the Council will remain inquorate and will not be able to conduct any business, which includes paying staff and bills.
- 2 The Council can refuse to make temporary appointments and in which case the Parish Council will not be able to function.

Reasons for Recommendations

- 3 The Council has the power, under the Local Government Act 1972 to take action and appoint temporary Councillors to the Ocle Pychard Parish Council which will then allow the Parish Council to function.

Introduction and Background

- 4 Eight of the nine Ocle Pychard Parish Councillors have resigned leaving the Council without a quorum and not able to conduct any business. Herefordshire Council is authorised under Section 39 (4) of the Representation of the People Act 1983 to appoint temporary Councillors, sufficient for there to be a quorum for them to conduct urgent items of business in the interim period and, to assist in the notification of vacancies and election/co-option of new Parish Councillors.
- 5 Following the eight resignations at Ocle Pychard Parish Council, there are so many vacancies that it is unable to act. Its quorum is four members. It cannot co-opt new Councillors or exercise any of its functions in these circumstances. The Local Government Act 1972 gives this Council the power to take action in such cases. This Council pursuant to an Order made under Section 91 of the 1972 Act, can appoint persons to fill such of the vacancies on the Parish Council as is appropriate to allow it to progress its business, until such time as the Council becomes quorate.
- 6 The Parish Clerk has identified a number of residents who are prepared to be co-opted onto the Parish Council which would mean the that Council's appointments would only be required to attend one or two meetings.
- 7 Notice of vacancies have already been published within the Parish and no prospective candidate came forward.

Key Considerations

- 8 The key considerations in relation to this matter are already set out above.

Community Impact

- 9 If the Parish Council is not able to function, the interests of local residents are not being represented.

Equality and Human Rights

Under Section 149, the "General Duty" on public authorities is set out thus:

"A public authority must, in the exercise of its functions, have due regard to the need to -

- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

10 The action proposed in this report supports the rights of local people. Attempts have been made to call an election but no candidates came forward.

Financial Implications

11 There are no financial implications of adopting the recommendations set out in this report.

Legal Implications

12 The Council is authorised under Section 91 of the Local Government Act 1972 to take the action recommended. A copy of the Order made under this Section of the Act must be sent to the Secretary of State.

Risk Management

13 The interests of local people many not be effectively represented if the Parish Council is not able to function.

14 Staff employed by the Parish Council cannot be paid, neither can bills.

15 Reputational risks if the Council fails to use the powers to supports the Parish Council.

Consultees

16 Ward Members.

Appendices

17 None.

Background Papers

None.

EMPLOYMENT PANEL

To receive the recommendations of the Employment Panel. At its meeting on 13 September 2012 the Panel resolved to recommend to Council:

THAT:

- (a) the proposed remuneration for the post of Chief Executive be within a range of £140,000 to £145,000; and**
- (b) the Deputy Chief Executive fulfil the functions of the Chief Executive under the Constitution on an acting basis pending an appointment to the post of Chief Executive.**

