

MINUTES of the meeting of General Overview & Scrutiny Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 6 January 2014 at 10.00 am

Present: Councillor A Seldon (Chairman)
Councillor EPJ Harvey (Vice-Chairman)

Councillors: EMK Chave, BA Durkin, JW Hope MBE, TM James, Brig P Jones CBE, RL Mayo, R Preece and DB Wilcox

Education co-optees: P Burbidge and E Lowenstein

In attendance: Councillors ACR Chappell, MAF Hubbard, AW Johnson, JW Millar and AJW Powers

Officers: C Baird (Assistant Director Education and Commissioning), G Dean (Scrutiny Officer), A Hough (Interim Head of Service), G Hughes (Director for Economy, Communities and Corporate), B Norman (Solicitor to the Council) and M Robertson (Interim Lead for Improvement).

45. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor GR Swinford.

46. NAMED SUBSTITUTES (IF ANY)

No substitutes were present.

47. DECLARATIONS OF INTEREST

8. Fire and Rescue Service Consultation Response

Councillor Brig P Jones CBE, Non-Pecuniary, Hereford and Worcester Fire and Rescue Authority Member.

9. School Examination Performance

Councillor ACR Chappell, Non-Pecuniary, Governor of The Hereford Academy.
Councillor BA Durkin, Non-Pecuniary, Governor of King's Caple Primary School.
Councillor EPJ Harvey, Non-Pecuniary, Governor of Ledbury Primary School.
Councillor JW Hope MBE, Non-Pecuniary, Governor of Eardisley Primary School.
Councillor R Preece, Non-Pecuniary, Governor of St. Martin's Primary School, Hereford.
Councillor A Seldon, Non-Pecuniary, Governor of St. Peter's Primary School, Bromyard

48. MINUTES

The minutes of the meetings held on 11 November 2013 and 10 December 2013 were received.

The following amendments were proposed:

- 11 November 2013 Minute 35, replace reference to the 'Income and Charging Task and Finish Group' with 'Scrutiny Review of On-Street Parking'.
- 10 December 2013 Minute 44, third paragraph before resolution, voting numbers to be inserted.

RESOLVED: That, subject to the above amendments, the minutes of the meetings held on 11 November 2013 and 10 December 2013 approved as correct records and be signed by the Chairman.

49. SUGGESTIONS FROM THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

Attention was drawn to Supplement 2 to the agenda which contained a request from Dr. RB Williams, on behalf of CPRE Herefordshire, for the Committee to explore further the Council's position relating to the 5 Year Housing Land Supply (5YHLS). The supplement also included a comment from the Council's Team Leader Strategic Planning.

The Chairman noted that the matter had been discussed at the 11 November 2013 meeting of the Committee (minute 33 refers) and invited Dr. Williams to outline his concerns. Dr. Williams commented that: without an identified 5YHLS, the presumption in favour of development, contained in paragraph 14 of the National Planning Policy Framework, could leave greenfield sites vulnerable; there was concern about the Council's strategy, especially as no figures had been published about the calculations used by the authority; and there was a need for transparency about how the 5YHLS would be progressed.

The Chairman noted the importance of this issue within the planning system and considered that further clarification was needed about the definition of the 5YHLS and the methodologies applied. The Chairman questioned whether a Task and Finish Group should review the issues. A Committee Member noted that an Inspector's decision was awaited on a recent planning inquiry and suggested that any further work be held in abeyance pending the findings and associated outcomes.

The Director for Economy, Communities and Corporate explained the relevance of the planning inquiry to inform the position on the 5YHLS in Herefordshire and said that a further written response would be given to Dr. Williams, along with the calculations used; it would also be established whether the calculations had been published to the Council's website.

The Chairman invited a member of the public to comment. Mrs. Morawiecka noted that, at the 11 November 2013 meeting, the Chairman had requested that the calculations be circulated to the Committee and to town and parish councils by the end of November 2013. The Chairman requested that an information report be prepared for a future meeting.

The Chairman invited further suggestions from the members of the public present. Mrs. Morawiecka said that, at the 11 November 2013 meeting, she had requested that an indication be provided of when a new Local Transport Plan would be available but a response had not been received. The Director said that he would speak to the Assistant Director Economy, Environment and Commercial in order to obtain an up-to-date position.

50. QUESTIONS FROM THE PUBLIC

The Chairman reported that Mrs. Morawiecka had submitted some questions immediately before the start of the meeting on the item on 'Freedom of Information and Arm's Length Companies - An Update'. As these questions had not been received within the required timeframe (no later than two working days before the meeting),

responses could not be provided at the meeting and they had been passed to the Solicitor to the Council.

Mrs. Morawiecka asked when the related questions she had asked at the 11 November 2013 meeting would be answered. The Solicitor to the Council commented that the report, deferred in November 2013 and resubmitted to this meeting, primarily addressed how the Freedom of Information Act 2000 applied to arm's length companies, such as Hereford Futures Ltd. However, it was now clear that a broader report was needed to address the outstanding points. Therefore, a further report would be prepared for the 10 March 2014 meeting of the Committee.

Mrs. Morawiecka commented that her concerns were not just about value for money but were also related to: the definition of arm's length companies; the guarantees made by the Council to Hereford Futures Ltd and ongoing liabilities; and the operation and governance of such companies.

The Chairman noted that many people had concerns, both locally and nationally, about how public money was being accounted for.

51. DRAFT WORK PROGRAMME

The Chairman suggested the commissioning of an additional Task and Finish Group to consider the hand-over of public realm services from Amey to Balfour Beatty.

It was noted that there was a Committee scheduled for Monday 12 May 2014; it was incorrectly listed as 2 May 2014 on the Work Programme.

The Vice-Chairman noted that a key decision was to be considered by the Cabinet Member Infrastructure on or after 17 January 2014 in respect of the Hoople Contract. In view of this, it was suggested that a briefing note be circulated to Members, to inform when a report on Hoople would be presented to the Committee.

In response to a question from a co-opted member, it was reported that the Council's approach to consultation processes remained an area of interest for both scrutiny committees and there was an intention to convene a joint Task and Finish Group on this issue in due course.

52. FIRE AND RESCUE SERVICE CONSULTATION RESPONSE

Further to a Notice of Motion at Council on 18 October 2013 which requested the Committee to consider the impacts of the Fire and Rescue Service proposals, the Chairman presented the report of the Task and Finish Group that had been convened to prepare a consultation response; the report was circulated in Supplement 2 to the agenda. He added that the proposals were not ideal but recognised that the service faced significant financial pressures.

The Committee considered the report, the principal points included:

- a. Members were reminded that the Fire and Rescue Authority was an autonomous body.
- b. A Committee Member suggested a further recommendation about the need for good collaboration not only between fire and rescue authorities but also with the other emergency services; in particular, to explore the potential for further savings through the co-location of fire and police stations. Another Committee Member commented that discussions with other authorities and bodies were taking place.

The Chairman acknowledged the point but considered this to be outside the scope of this particular consultation.

- c. A Member in attendance expressed concern that reductions in the numbers of both wholetime and retained fire fighters would have a detrimental impact, especially the consequential loss of skills and experience. The Chairman advised that the Task and Finish Group had explored related issues with the Chief Fire Officer and noted that resources were frequently transferred between Herefordshire and Worcestershire.
- d. A Member in attendance said that a number of firefighters had commented on the need for management savings rather than reducing frontline provision.
- e. A Committee Member questioned whether one of the recommendations could be amended to reflect the need to maintain appropriate levels of training for retained firefighters. Another Committee Member did not feel this necessary given the statutory training requirements that the service had to adhere to.
- f. Referring to the 'To Whom Did We Speak?' section in the report, a Committee Member questioned why other interested parties had not been consulted, such as the Fire Brigades Union. The Chairman acknowledged that a broader range of views might have been obtained but emphasised the time pressure to provide a consultation response and noted that other bodies would submit their own responses to the consultation.
- g. Referring to paragraph 5.2 of the report (the position regarding Ledbury), the Vice-Chairman commented that she did not welcome the proposals from a county perspective, as the reduction in the number of fire engines would have an impact on the service's ability to respond to fire, rescue and road traffic collision incidents throughout Herefordshire, particularly when crews were deployed to support incidents outside the county. The Vice-Chairman said that assurance should be obtained about the balance of resources in Herefordshire when compared with Worcestershire. She expressed further concerns about response times in the county, especially given current problems with flooding, and the level of cover that would remain if the proposals were implemented.
- h. The Chairman advised that the Task and Finish Group had made strong representations to the Chief Fire Officer and assurances had been provided about the pre-deployment of resources to respond to predictable flooding events. The ability to respond to unpredictable incidents was an important issue and the Council should be informed of any consequential impacts of the proposals on performance. However, the Chief Fire Officer had indicated that he was satisfied with the level of cover that would remain.
- i. A Committee Member commented that the deployment of fire engines from particular stations should not be perceived as leaving an area devoid of cover, as there were statutory requirements for Fire and Rescue Authorities to maintain cover.
- j. A Member in attendance commented that the rules concerning response times had changed recently, thereby enabling these proposals to come forward but this could be to the detriment of provision in Herefordshire.
- k. A Committee Member commented that resources belonged to the Hereford and Worcester Fire and Rescue Service, under the command of the Chief Fire Officer, and would be deployed as necessary.

- l. The Chairman said that the Task and Finish Group had been informed that Herefordshire had more appliances per head of population than other areas and the proposals would bring the resources into line with similar conurbations in the rest of the country. The Chairman added that, whilst the proposals should not have a critical impact, he remained concerned about overall resilience within the service.
- m. A Member in attendance expressed further concerns about the ability of the service to respond to incidents adequately in the future given the rural nature of the county and issues with the local road network.
- n. A Member in attendance identified that the Notice of Motion published as an appendix to the report was an initial draft and requested that the final version be submitted with the consultation response. In response to a question, the Chairman advised that, due to the rescheduling of the next Council meeting to 17 January 2014, the report would need to be submitted as the Committee's response to the consultation; the deadline for submissions was 10 January 2014.
- o. The Vice-Chairman proposed a further recommendation to require that a written assurance be provided that, despite the removal of fire appliances as proposed for Herefordshire, the necessary cover would be retained given the rural nature of the county. Another Committee Member felt that, as a separate authority, it would not be appropriate for the Council to require such an obligation as part of a consultation response.
- p. The Chairman suggested that, given the extent of the changes proposed, Fire and Rescue Service performance could become a regular item for the Committee's work programme, at least annually.
- q. The Vice-Chairman commented that statistics indicated that the service was not meeting response targets within the county, particularly for incidents where back-up appliances were required.
- r. A Committee Member commented that the rural nature of the county and the distances involved meant that response times were likely to be below the average level; adding that this was likely to remain the case unless more fire stations were constructed but this was not an option available.

The recommendation proposed at paragraph o. above was not approved but it was suggested that the Fire and Rescue Authority be asked, rather than required, to provide a response.

RESOLVED: That, with the above amendment, the Fire and Rescue Service Consultation Response be approved for submission to the Fire and Rescue Authority.

53. SCHOOL EXAMINATION PERFORMANCE

The Chairman commented that, despite recent legislative changes regarding free schools and academies, local authorities were still expected to monitor school performance and drew attention to the report 'Back to school: Ways for scrutiny to influence local education and support school leaders to improve results' published by the Centre for Public Scrutiny and the Local Government Association.

The Assistant Director Education and Commissioning, Children's Wellbeing introduced the report, the key points included:

- i. The role of the local authority had changed but the Council still had an overall responsibility around education, including the quality and sufficiency of education and as an advocate for children and young people. The role of, and demands on, school governors had also changed.
- ii. It was noted that the 'Back to school report' suggested topics for scrutiny of performance and it was commented that school performance could form part of the annual work programme of the Committee.
- iii. A number of headline figures were good, with some outstanding performance by individual schools and by individual pupils. However, other figures were not where the authority or schools would wish them to be, particularly in relation to overall attainment at different key stages which were at or below national averages, and the progress of vulnerable groups compared to their peers where Herefordshire was in the bottom quartile in the country.
- iv. Attention was drawn to Appendix 1 to the report, 'Herefordshire School Improvement Partnership Strategy and Framework to Improve Outcomes for Learners in Herefordshire 2013/14'. It was reported that the Herefordshire School Improvement Partnership (HSIP) had been established in autumn 2013 and included representatives from Herefordshire Council, the Diocese of Hereford, the Archdiocese of Cardiff, and school leaders, governors and staff. The strategy and framework set out a risk based approach, with schools assessed on a number of factors. This facilitated dialogue with and between schools about actions to improve pupil performance.
- v. Attention was also drawn to the 'Closing the Gap' project which was an initiative to address the significant variations between groups of pupils, including pupils eligible for free school meals and pupils with English as an additional language.
- vi. The resources available for school improvement had reduced over a number of years, with the service cut by 60%, partly due to the overall budget position but also because of the changing role of the local authority. The HSIP provided an opportunity to generate a mutual approach to school improvement.

In response to a question from the Chairman, the Assistant Director advised that there were national descriptors of vulnerable groups, enabling comparisons to be made. The authority had broadened the scope locally to look at any pupil that was at risk of not making the level of progress expected.

The Interim Head of Service gave the presentation 'Summary Education Performance Herefordshire' (as provided in Supplement 1 to the agenda) which provided an overview of performance against key measures. The principal points of the presentation included:

Key Stage (KS) 5 (18 year olds)

1. Average Points Scores by students achieving all Level 3 qualifications: Herefordshire establishments had performed well, consistently in the top quartile of local authorities in England.
2. Percentage of children entering and achieving equivalent to at least 2 A level passes (A*-E): this measure was below the England average.

End of KS4 (end of secondary school, 16 year olds)

3. Percentage of children achieving 5+ A*-C at GCSE: performance was in the top quartile and above the England average.

4. Percentage of children achieving 5+ A*-C at GCSE including English and maths: performance had been in the third quartile in 2011-12, comparative data for 2012-13 was expected at the end of January 2014.
5. Percentage of children making expected progress in English between KS2 and KS4: performance had been in the top quartile in 2010-11 but this had dropped to the fourth quartile in 2011-12. It was noted that there had been significant issues with the English papers which contributed to shifts in performance nationally, with Herefordshire particularly affected.
6. Percentage of children making expected progress in maths between KS2 and KS4: performance had been consistently in the second quartile.
7. Free school meals gap children achieving 5+ A*-C at GCSE including English and maths: performance in 2012 was in the fourth quartile, significantly below the England average.
8. Percentage of children whose first language is other than English achieving 5+ A*-C including English and maths: performance in 2012 was at the bottom of the fourth quartile, again significantly below the England average.
9. It was reported that the gap calculations involving vulnerable groups were complicated by the relatively small numbers of pupils involved, both within individual schools and in overall terms in Herefordshire compared to other authorities.

End of KS2 (end of primary school, 11 year olds)

10. Percentage of KS2 achieving level 4 or above reading: performance in 2013 was in the third quartile, slightly below the England average.
11. Percentage of KS2 achieving level 4 or above writing: performance in 2013 was in the fourth quartile, below the England average.
12. EAL (English as an additional language) gap 2012 and 2013 for percentage pupils achieving level 4+ reading, writing and maths: it was commented that performance was one of the worst in the country, although initial data for 2013/14 showed some improvement.
13. FSM (free school meals) gap 2012 and 2013 for percentage pupils achieving level 4+ reading, writing and maths: the gap was in the third quartile in 2012 and in the fourth quartile in 2013.

End of KS1 (7 year olds)

14. Percentage of KS1 achieving level 2 in reading: performance had varied in previous years but was near to the England average in 2013.
15. Percentage of KS1 achieving level 2 or above in writing: performance had recovered from the fourth quartile in 2012 to the third quartile in 2013 but it was still below the England average.
16. Percentage of KS1 achieving level 2 or above in maths: there was similar trend to the position with writing.

17. Percentage of KS1 achieving level 2b or above (2b was the level thought to be needed to achieve level 4 at KS2) in reading, writing and maths: performance was in the fourth quartile, significantly below the England average.

End of Foundation Stage (5 year olds)

18. Percentage of 5 year olds achieving the expected level of development: performance had been in the third quartile in 2011 and 2012 but the position had improved in 2013, to above the England average; it was noted that definitions had changed in 2013, resulting in a narrowing of the gap between local authorities.
19. Percentage achieving a good level of development in 30% most deprived areas of the local authority: performance was in the third quartile, lower than other areas.

OfSTED Comparisons

20. Percentage of good or better primary schools: Herefordshire was in the middle of the local authorities in the West Midlands but below the England average.
21. Percentage of good or better secondary schools: Herefordshire was at the top of the local authorities in the West Midlands, significantly above the England average.
22. Where is Herefordshire?: despite positive inspection outcomes, KS2 and KS4 attainment was still at the lower end of the local authorities in the West Midlands and below the England average.

The Assistant Director reported that the authority had been working with OfSTED and had held a conference for all school leaders in 2013 to look at the issues collectively. It was also reported that OfSTED had a new inspection framework for local authorities in relation to the discharging of roles around educational improvement. Therefore, although schools were responsible for improvement, the local authority had a role in challenging and supporting schools.

The Vice-Chairman noted that there had been significant variations year on year, perhaps partly due to changes in assessments having disproportionate effects. The Vice-Chairman also noted that only a snapshot had been provided, without data showing a particular cohort at different points in their development, and asked officers to identify key issues of concern. The Interim Head of Service said that a major issue was that performance at Foundation Stage was key, as the gap was often maintained at the same level through later stages. The Interim Lead for Improvement added that all the evidence nationally showed that the earlier the intervention, the more effective it was at reducing the gaps.

In response to a question from the Vice-Chairman about addressing issues before children reached schools, the Cabinet Member Young People and Children's Wellbeing reported that: the authority was part of an initiative to extend early education places for disadvantaged two year olds; and, with impetus from budget reductions and OfSTED feedback, resources in Children's Social Care were being reprioritised to focus on the front end. Further to the point made at 9 above, the Cabinet Member noted school leaders, teachers and governors needed to be aware that concentrated effort to support vulnerable pupils could help to make radical changes in performance.

In response to questions and comments from Committee Members, officers made a number of points including:

- It was acknowledged that the remit of Sure Start had widened over time and a broader range of families had taken up services than initially intended.

- Budget reductions provided an opportunity to reaffirm the focus of the service on the outcomes being achieved, particularly for vulnerable groups. It was noted that taking information to early years groups and schools was helping to raise awareness about performance issues.
- There was a formal co-ordination network between health and local authority services but it was recognised that there was further work to be done. The Cabinet Member added that Public Health and Children's Social Care were working together to explore responsibilities in terms of health visitors and school nurses. It was noted that this would be an area of interest to the Health and Social Care Overview and Scrutiny Committee.

A Member in attendance commented on a number of issues, including: the development of children and young people was not just an issue for schools but also for the wider community; the lives of many pupils outside schools, particularly in deprived areas, were difficult and parents often did not have the facilities to be as supportive as they might wish to be; in view of these circumstances, there needed to be realistic expectations of teachers; the benefits achieved by the South Wye Education Action Zone and the South Wye Regeneration Partnership were outlined, including the provision of adult education classes; and it was considered that health and local authority services were not doing as much as they could within deprived communities.

A co-opted member spoke on a number of issues, including: the meaning of school improvement was a key question, it should not just be about examination performance but should also include measurable indicators reflecting factors that influence learning; the strategy document was described as an 'expected report', a more innovative approach would be to involve psychologists to gain a better understanding of emotional intelligence and child development; it was questioned how the authority was measuring wellbeing; rather than a risk assessment, a needs based approach was needed; the HSIP should help schools to question the reasons behind the gaps; teachers should be expected to do more, supported by training which enabled teachers to engage with pupils on broader issues; vulnerable children had to be given the same chances as their peers and the authority and schools needed to find ways of applying limited resources more effectively; and a more holistic view was needed about the whole child, not just around performance.

The Assistant Director explained that: the information presented was only part of the picture, the Closing the Gap initiative looked at individual pupils in a more holistic way, including the factors that were present in their lives and what could be done to support the narrowing of the gap; OfSTED had challenged the authority and schools about why children from similar backgrounds were making better progress and reaching higher levels of attainment in other parts of the country; and there were variances locally, Marlbrook Primary School had almost no gap between pupils eligible for free school meals and those that were not. It was acknowledged that there were things to learn and share about different approaches from both outside and inside the county. The Interim Lead for Improvement said that conversations with schools were not just about exam results but also the experience that they provided and a wider range of outcomes. It was noted that part of the aims of the HSIP was to share good practice.

The co-opted member suggested that the wider factors should be identified in the strategy document, particularly to encourage a more standardised approach to avoid variable responses by schools. In response to a question, the Interim Head of Service confirmed that Closing the Gap was about those pupils not reaching an expected level at a particular point in time, not just about the vulnerable groups identified in the data presented. He added that, whatever the background of children, schools should not be

complacent about potential levels of attainment and should consider accelerated learning to enable pupils to catch up with their peers.

Another co-opted member considered that there needed to be focus on education in order to improve the performance issues identified in the presentation, particularly on the quality of teaching in Reception and Year One. He also considered that schools needed to direct funding from the pupil premium and other sources to support the small numbers of vulnerable pupils more effectively. The Chairman commented that early years set the foundations upon which schools could build upon.

A Member in attendance felt that there was potential contradiction between the collaborative approach being promoted through the HSIP and the degree to which schools were in competition with each other, particularly given that there was some overprovision in the county. The Interim Lead for Improvement advised that the HSIP was being driven by a group of head teachers that had a broad perspective of education in the county and had a desire to work with the local authority and other schools. The Member also questioned how much the authority knew about various structures and groups being developed by schools and the effectiveness of each approach. The Interim Lead for Improvement acknowledged that there were a number of models developing and part of the work of the HSIP would be to identify effective partnership working.

The Assistant Director noted that: competitiveness was now part of the educational landscape, to a greater or lesser degree depending on certain issues and locations; there were examples of leadership programmes and collaborative working both nationally and locally, for example Wigmore School was part of a Teaching School Alliance; to be rated as 'outstanding' by OfSTED, schools needed to demonstrate that they were working with and supporting the improvement of other schools; the HSIP was considered the best way to make sense of some of the dichotomies and to make use of the talents within Herefordshire educational establishments; and the HSIP was at an early stage.

In response to questions from the Vice-Chairman:

- The Interim Head of Service advised that Herefordshire was in the bottom quartile in terms of the proportion of 16-18 year olds who were not in education, training or employment. The authority was working on a strategy in this area. The need for many young people to obtain employment at 18 was recognised. The authority was now tracking young people post-16 and this improved understanding would inform the deployment of resources and would help education and training providers to focus on needs.
- The Interim Lead for Improvement commented that schools viewed the changing role of the local authority in different ways; some still expected the authority to provide lots of support and were surprised about the limited resources now available, whereas others emphasised their independence and autonomy. In general terms, schools were more critical of Council input and the authority had to demonstrate how it could add value.
- The Assistant Director noted that local authority appointed governors could provide a wider perspective than those immediately involved in a school but recognised that the service had not been as active with such governors as it could have been in recent years. He acknowledged the point made by the Vice-Chairman that the flow of information could be improved both ways.

The Assistant Director made a number of points, including: with the risk based approach, involvement would be 'light touch' for those schools identified as low risk/need; it was heartening that a number of academies were involved in the HSIP; the skills,

connections and experiences that joint working could bring; and the need to revisit the approach around schools' sustainability.

In response to a question from the Vice-Chairman, the Assistant Director confirmed that the HSIP did not just engage with schools that were in difficulty, it was interacting with other schools to identify and share best practice. The Vice-Chairman commented on some of the good work being undertaken by schools, such as the values framework developed by Ledbury Primary School which had positive throughput to John Masefield High School and was being considered as a model to be adopted by the Town Council.

In response to a question from the Vice-Chairman about gifted and talented children, the Interim Lead for Improvement advised that part of the dialogue with schools was about identifying and supporting the individual needs of all children to enable them to reach their full potential. The Vice-Chairman suggested that the Committee would welcome statistics on high-end achievement.

A Committee Member questioned how schools were making use of the pupil premium. The Interim Head of Service advised that the pupil premium did not just cover children eligible for free school meals but also looked after children and the children of parents serving in the armed forces. He also advised that schools were required to publish key information online and the service had a programme for monitoring this. It was commented that there were some good examples of how the premium was being accounted for and the HSIP would explore how this could be maximised.

A co-opted member made further points, including: the importance of learning opportunities for all parties involved; the local authority should not just be involved when things go wrong; it was recommended that there should be an emphasis within the HSIP on broader learning, not just intervention; more work was needed on the relationship between the local authority and the schools, to emphasise the new approach and to ensure that autonomy did not lead to isolation; some values were needed to provide direction and a common frame of reference; there was no reference in the strategy to the student voice and it was recommended that the partnership involve students from different backgrounds, not just those that might naturally engage with student councils; and it was noted that various groups had been established within the HSIP but it was questioned whether a single group would be more effective.

In response, the Assistant Director advised that the strategic group comprised representatives of the sub groups and, given the amount of work and business transacted, it would be impractical to have a single group. He said that officers would take away the points about the student voice and noted that there was an element of this already in that the strategic group convened at different schools and began each meeting with a discussion with parents and students.

A Committee Member recommended that a list be prepared of local authority governors and other key educational links, particularly to support improved communications. It was also recommended that a report be prepared on the purpose and effectiveness of different collaborative groupings and arrangements; this was supported by other Members subject to limit on the amount of resource required to prepare the report. The Committee Member supported earlier comments about the importance of focussing on needs rather than risks and suggested that specific expertise, in subjects such as music and languages, could help to close gaps between pupils by introducing new experiences to all students.

The Vice-Chairman made further recommendations in respect of: the need for a joined up view on where money spent on education was connecting with other Council activities, particularly from the point of view of having a presence in the community and opportunities for connectivity between services, such as library provision; and requested

the circulation to Committee Members of the latest figures, with updated histograms, when they became available.

In response to a question from the Chairman, the Interim Head of Service confirmed that sixth form colleges were involved in the work on post-16 provision.

RESOLVED: That, with the recommendations identified above, the report be noted.

54. FREEDOM OF INFORMATION AND ARM'S LENGTH COMPANIES - AN UPDATE

The Chairman reminded the Committee that this item had been carried forward from the last meeting (minute 36 refers). He commented that, although specifically about advice previously given to the Committee about Hereford Futures Ltd, the associated issues were relevant to other arm's length companies set up by councils.

The Solicitor to the Council commented on the following:

- a) The matter went back to at least March 2013, when the Committee received a report entitled 'Freedom of Information and Arm's Length Companies' (minute 53 of 2012/13 refers);
- b) The current report provided an opinion on the narrow technical question as to whether the Freedom of Information Act (FOIA) applied to Hereford Futures Ltd and, for the reasons set out in the report, it was concluded that it did not.
- c) It was noted that, from the questions received and comments made, there were still issues about governance and accountability.
- d) It was proposed that a further report be presented to the 10 March 2014 meeting, primarily focussing on Hereford Futures Ltd but also picking up matters of general applicability to other companies. Issues would include: Council money invested in Hereford Futures Ltd; the support provided in terms of officer time, as far as it was quantifiable; Council liabilities going forward; and what had been achieved through mechanism of Hereford Futures Ltd.

The Vice-Chairman expressed concerns about the lack of clarity regarding the ownership and accountability of Hereford Futures Ltd. In response to questions, the Solicitor to the Council explained that:

- i) the Chief Executive of Hereford Futures Ltd had indicated that the current members were directors of the company (further research would be undertaken to inform the next report);
- ii) companies limited by guarantee did not have shares and were owned by the members;
- iii) he did not have access to the company's own records to enable a definitive answer to be given about ownership but it seemed that, where a council did not have a majority of directors on a company limited by guarantee, FOIA did not apply;
- iv) it was appropriate for councillors to seek assurance that public money had been properly accounted for; and
- v) the benefits of Hereford Futures Ltd would be explored in the next report. It was noted that companies limited by guarantee in other areas had been successful in

securing external funding that might not otherwise have been available to councils or council controlled companies.

The Vice-Chairman said that the latest registered accounts for Hereford Futures Limited suggested that, for the last two years, the company had been almost entirely, if not entirely, funded by money from Herefordshire Council. She requested that the next report consider the proportion of the funding received by the company from Herefordshire Council and from outside bodies. The Solicitor to the Council said that details of Council funding could be provided and he would endeavour to obtain information from the company about other sources of funding.

The Committee discussed the report and related issues, the principal points included:

- 1) A Committee Member commented that the position with regard to the ownership arrangements for companies limited by guarantee was relatively straightforward and should have been identified earlier. He added that there were dangers associated with such bodies, especially in terms of funders being unable to exert control over expenditure.
- 2) A Committee Member said that there was public concern about how public money was tracked, not just in terms of Hereford Futures Ltd but also other arm's length companies.
- 3) A Member in attendance commented that questions had been raised about whether the Committee had been misled in the past by contradictory or misleading information and it was wholly unsatisfactory that there had been an extended sequences of delays, potentially giving rise to a perception of prevarication.
- 4) The Chairman drew attention paragraph 7.1 of the report, where the Solicitor to the Council concluded that the advice given to the Committee on 4 March 2013 '...was correct in substance, but inaccurate in detail. I am very strongly of the opinion that it was not intended to mislead the Committee'.
- 5) A Committee Member emphasised that the key consideration was Council involvement with Hereford Futures Ltd and, although officers would attempt to do so, it might not be possible to obtain details of other sources of income.

The Solicitor to the Council responded to questions and comments, the key points included:

- The Financial Statements for the year ending March 2011 had been referred to in the context of demonstrating that historically there had been other sources of funding for Hereford Futures Ltd. However, it was acknowledged that in recent years the company appeared to be primarily, if not exclusively, funded by the Council or from assets derived from the Council.
- As indicated by a Committee Member at 5) above, Hereford Futures Ltd was a separate legal entity and, whilst information would be requested, it would be up to the company to provide information.
- There was no indication or evidence to demonstrate that anyone had sought to mislead the Committee, albeit there had been some unintended confusions about roles within companies limited by guarantee.
- The next report would seek to address the outstanding matters, including the liabilities for the Council going forward.

A Committee Member noted that: the two officers identified in the report, the former Governance Services Manager and the Head of Governance, were no longer in the employment of the Council; the Solicitor to the Council was relatively new to the authority and had to report in accordance with Law Society guidelines; a number of Members felt unable to comment until a comprehensive report was available; and it would be helpful if Members notified the Solicitor to the Council of any outstanding points, so that these could be addressed in the next report.

The Leader of the Council said that he looked forward to a comprehensive report and commented that there was no evidence to support the assertion that there had been any prevarication.

A Member in attendance re-iterated his concerns about the delays in the responses provided to the Committee, especially if Hereford Futures Ltd was wound up before answers were provided to the Committee's satisfaction.

Another Member in attendance estimated that, since 2007, the Council had provided £2.148 million to Hereford Futures Ltd in grants and Advantage West Midlands had provided £0.679 million. He said that companies funded by public bodies on this scale should comply with FOIA, whether technically required to or not. He emphasised the need to ensure openness, transparency and accountability for public money; he added that this would not preclude genuine commercial sensitivities from being protected.

The Vice-Chairman said that: the report before the Committee stated that 'Of the 13 directors of the company, only two may be nominated by the council: the Leader and the Chief Executive' but it was understood that the Chief Executive had not taken up his position on the board and it was questioned whether this meant that the Council was under-represented; she was concerned that the previous Monitoring Officer's advice had been 'inaccurate in detail' given the information that should have been available; and the Council should be mindful of the recommendations of the House of Commons' Justice Select Committee report on FOIA.

The Solicitor to the Council commented in general terms about the obligations of individuals appointed as directors by companies and the potential difficulties where, over time, the common interests of a company and of a nominating body were not wholly aligned.

The Chairman considered that there was a separate piece of work to be done on the responsibilities and accountability of Council nominated appointments to companies and outside bodies.

The Scrutiny Officer commented that Chairmen of both scrutiny committees intended to consider contract management in their respective work programmes.

RESOLVED: That a further report be prepared for the 10 March 2014 meeting.

55. DATE OF NEXT MEETING

It was noted that there would be special meetings of the scrutiny committees on Monday 13 January 2014 to consider the budget proposals.

The meeting ended at 1.25 pm

CHAIRMAN