

MEETING:	CABINET
MEETING DATE:	19 SEPTEMBER 2013
TITLE OF REPORT:	DEVOLVED SERVICES
REPORT BY:	DIRECTOR FOR ECONOMY, COMMUNITIES AND CORPORATE SERVICES PROJECT DIRECTOR
CABINET PORTFOLIO:	CORPORATE AND ASSETS

1. Classification

Open

2. Key Decision

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

NOTICE has been served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

3. Wards Affected

County wide but with particular effect on wards encompassing the following urban areas: Bromyard, Ledbury, Leominster, Kington, Hereford, Ross-on-Wye.

4. Purpose

For Cabinet to agree the process of local management of services by town councils / city council (the local councils) through a programme of devolved services, outlining priority areas and related asset transfers.

5. Recommendations

THAT:

- (a) **the Director for Economy, Communities and Corporate Services in consultation with the Cabinet Member for Corporate and Assets, Enterprise and Culture and relevant portfolio leads as appropriate, be authorised to conclude negotiations with the town councils and city council on priority areas for the first phase of devolved services within a three month period.**

6. Alternative Options

That the devolved services programme focuses on community asset transfer. This would create a concentrated effort on progressing capital transfer, but would limit the potential for increasing local delivery of services and for generating budget efficiencies.

7. Reasons for Recommendations

- 7.1 A three month period of negotiations is suggested to enable opportunities and risks to be assessed by the town councils. This approach sets a time scale whilst giving local councils first opportunities on services and assets in accordance with existing powers to operate services. As part of a wider approach to devolved services if after the three month period negotiations are inconclusive opportunities for services management and asset transfer to be pursued with community groups or private sector where relevant.

8 Key Considerations

Background

- 8.1 The approach to devolve services is reflective of the new way of working within local authorities - specifically more localised delivery of services where relevant to that community. The approach also enables the local authority to focus on core services in meeting the needs of residents who most need public sector intervention / support. Local councils are a route for devolved services because of their existing powers, current operation of some services and part of the democratic structure with representatives elected from residents. Notwithstanding community groups / organisations are also other routes for devolved services.
- 8.2 A number of focus groups were held with local councils during the winter of 2012/13 to discuss two issues: 1) support for local councils and 2) devolved services.
- 8.3 Both of these issues were raised considering the changing nature of local delivery of services (with reference to the Localism Act 2011), but also in the context of pressure on Herefordshire Councils budgets.
- 8.4 The notes from those sessions are available from the parish council pages of Herefordshire Council's website <https://www.herefordshire.gov.uk/government-citizens-and-rights/democracy/council-parish-town-council-and-councillors/>
- 8.5 In terms of devolved services there was generally a difference in view between the more rural parish councils and the town councils.
- 8.6 Whilst the rural parish councils were generally keen on schemes such as lengthsman and "added" services, the town councils expressed an interest in directly managing services and assets.
- 8.7 Consequently a series of packages have been developed with each of the town councils and the city council that reflect areas of interest. These areas tend to be considered "place" based services and services that can net an income. Also part of the consideration was services at risk of budget reduction, such as museums and public toilets, which are valued by the community.
- 8.8 The package concept is based on local councils operating services that have a cost, balanced with services that generate an income. When this was looked at for each area the opportunity for income generation was not high compared with expenditure with the potential for councils needing to increase their precept.
- 8.9 In terms of devolved services, this would mean that local councils have responsibility for running services, including for liabilities and risks. This is in exchange for local control and potential for income. How services have been operated by Herefordshire Council in the past does mean that the local councils need to operate in the same way – alternative ways of working can include re-contracting, partnership with a third partner, or increased charging.

8.10 Areas of focus have been:

Markets – income generation opportunity adding to the vibrancy of a town.

Open spaces – additional events and income potential, though expenditure in maintenance. The open spaces are currently managed through the Public Realm contract and would need to be extracted through negotiation.

Cemeteries – Ledbury cemetery is already in control of the town council, and other sites in the county could be locally managed - though the sites do have liabilities.

Public Toilets – Herefordshire Council has introduced a Community Toilet Scheme which has been implemented in parts of the county and will roll out to other areas. The local areas have been very keen to retain the current level of service. An option for the WCs is to be operated on the “Pembridge model” where the amenity is run by a trust with costs met by the parish council.

Museums – Asset transfer and transfer of the operation of the Old House in Hereford; and the Market Hall Museum in Ross reflecting existing discussions to operate the venue.

Car Parks – car parking earns income for the local authority which is then used to sustain services. However, there is opportunity to transfer the car parks in cases where the local council is compensated for loss of income or where there is no existing charge.

Asset Transfer – Herefordshire Council has an existing programme of asset transfer and has seen schemes successfully materialise.

8.11 **Local Response**

Each market town and the city council have entered into discussions with Herefordshire Council on likely devolved services. The councils have identified priority areas for which more information can be formed and gathered and shared.

8.12 It will be up to the local councils to manage their respective governance and levels of local engagement.

8.13 The local councils have a range of existing powers which means they already have the ability to directly run services – and many do (see Appendix 1 for Powers of Local Councils). For example Ledbury runs their own markets; Ross pays for additional street cleaning; Bromyard operates their own car park; Leominster contributes to the running of the tourist information centre; Kington has joint arrangements on running markets with the local Chamber of Commerce; and Hereford contributes to additional community protection.

8.14 Each area will have its own motivation for operating services, and each package is emerging as different.

8.15 In terms of individual packages, in principle and subject to further information, the authorities are interested in pursuing devolvement of the following services.

Hereford

The Buttermarket – transfer of the asset and management of the market as a going concern, including responsibility for development of the site.

The Old House – asset transfer and continued management of the site as a museum subject to clarification of staffing, property management, on-going works and operational details before a final decision is made.

A second phase of devolved services to explore a range of options which include the service areas mentioned in point 8.10.

Ross-on-Wye

Subject to feasibility study commissioned by the Town Council, areas of interest are the following:

Market Hall – transfer of asset and operation of the Visitor Centre / Heritage Centre.

Market – transfer of asset of ground floor of market hall (linked to Heritage Centre transfer) and operation of the market and market curtilage occupying pedestrianized area.

Old Chapel – community transfer of asset for public benefit.

Brook End Red Meadow Public Toilets – transfer of asset and operation of the WC.

Open space (Cross Fields, Rope Walk, Long Acre, Caroline Symonds Gardens, Wye Street Gardens) – interest in asset transfer and management.

Car parks - possible transfer as part of total asset transfer package or subject to compensation for loss of income.

Ledbury

Asset transfers - there are existing arrangements in place for a Multi Asset transfer including the Heritage centre and Burgage Hall.

Public Toilets Church Lane and Bye Street – transfer of the asset with management arrangements (Church Lane linked to existing multi asset transfer).

Market service – possible additional market management subject to confirmation on legal requirements to transfer licence to operate and practical and viability consideration around disaggregating markets i.e. European, currently managed on a county basis.

Open space – as a future consideration in asset transfer and management.

Car parks - possible transfer as part of total asset transfer package or subject to compensation for loss of income.

Bromyard and Winslow

Joining the Lengthsman scheme.

Car parks - possible transfer as part of total asset transfer package or subject to compensation for loss of income.

Public Toilets Church Street and Tenbury Road – a future consideration in transfer of the asset with management arrangements.

Kington

Old Police Station – transfer of the asset with tenants.

Market Hall, Place Des Marines and Coach House (incorporating Public Toilets) – transfer of the asset and management of the market as a going concern (Town Council currently run Saturday markets through local Chamber of Trade, Tuesday markets run by Herefordshire Council).

Public Toilets Mill Street – transfer of the asset to operate locally (see above).

Museum (currently on long lease to Museum Trust) – transfer asset to Town Council with tenants.

Car parks - possible transfer as part of total asset transfer package.

Open Spaces - interest in asset transfer and management, alongside general green-up of town.

Cemetery – as a future consideration of transfer of asset and management.

Leominster

Markets – transfer management and operation of the markets as a going concern.

Public Toilets - Central Area and Broad Street - transfer of the asset with management arrangements.

Open space – The Grange and play area, interest in asset transfer and management.

Remaining open space –asset transfer and operation of services as a future phase

Cemetery – asset transfer and operation of services as a future phase

8.17 Policy Context

The Localism Act 2011 contains a wide range of measures to devolve more powers to councils and neighbourhoods, giving local communities greater control over local decisions.

Devolvement of services is consistent with Herefordshire’s Sustainable Community Strategy (June 2010) which states that across the county: “We will develop stronger, vibrant, more inclusive communities in which people enjoy a good quality of life and feel they have influence over decisions that affect them”.

The Herefordshire Charter of 2011 sets out a framework on how Herefordshire Council and local councils work together to deliver better and more effective services for communities.

9. Community Impact

9.1 The town councils and city council have been approached in terms of devolved services as a tier of local government based on democratic principles. The councils also have existing powers to operate a wide range of services. The councils will consider the operation of services based on balancing community need with available resources and consideration of the liabilities / risks.

If local councils do not wish to pursue devolved services then community groups / organisations may wish to consider the operation of services. In terms of asset transfer the process will follow a similar process in being first offered to local councils and then the wider community for buildings no longer needed by the local authority that could be subject to community asset transfer.

10. Equality and Human Rights

Where a service will see a reduction in operation an impact assessment will be produced for each case. Any public authority is liable for equalities duties.

In the case of devolved services the discussions with local councils have been based on transfer of services as is or with minor impact on people who use the services.

11. Financial Implications

11.1 During the course of the final negotiations the financial implications for each party will be established. The principle is that overall Herefordshire Council cannot be “out of pocket” considering the existing pressure on the local authority’s finances. Similarly, the local councils will not want to be in the same position.

The devolve service approach does not involve the transfer of operational / revenue

budgets from the local authority. Also, a cost benefit consideration will need to be part of the decision making process demonstrating a financial saving to Herefordshire Council. For this assessment to include an understanding of the loss of income and the value of potential asset transfers. For savings to be reinvested in core services to meet budget pressures facing the local authority.

12. Legal Implications

- 12.1 The powers of town and parish councils to accept transfer of assets from the council and undertake services currently delivered by the council are set out in Appendix 1.

13. Risk Management

- 13.1 The below table is based on risks to Herefordshire Council, the local councils will establish their own risks. The rating is after mitigation.

Risk No.	Risk	Mitigation	Likely rating	Impact rating
DS.1.	Loss of revenue income for Herefordshire Council.	1. To be balanced with services that require a subsidy as part of a "package of services" or compensated by the local councils.	3	3
DS.2.	Loss of future income or potential savings.	1. These need to be considered in terms of services in the packages to local councils.	4	3
DS.3.	Loss of income via transfer of asset with assets sold on the open market.	1. Asset transfer is part of Herefordshire Council's policy approach to sustainable communities. 2. A three month deadline after this report for local councils to decide on asset transfer.	4	3
DS.4.	Cost of implementation including legal considerations and staff requirements to see through the transfers.	1. Understand the benefits to balance with the initial resource investment.	4	3
DS.5.	Non progression of transfer with local councils deciding not to proceed.	1. Support the local councils to make an informed decision. 2. A three month deadline after this report on the first phase on setting up of transfers.	3	4

Key:

LIKELIHOOD	IMPACT
5 Certain	5 Catastrophic
4 Likely	4 Major

3 Possible	3 Moderate
2 Unlikely	2 Minor
1 Rare	1 Insignificant

14. Consultees

14.1 The original set of focus groups consisted of:

- 20th and 21st November 2012 clerks focus group (23 parish clerks representing 39 parish councils)
- 4th December 2012, rural parish councillors attended a focus group (38 attendees)
- 11th December 2012, town council focus group (9 attendees)
- Local Council questionnaire to clerks (57 Questionnaires were returned from 102 parish clerks mailed, a 56% response rate)

Ross discussions: 10 June 2013

Ledbury discussions: 4 June, 18 July 2013

Kington discussions: 18 June, 19 August 2013

Bromyard discussions: 8 July 2013

Leominster discussions: 17 June 2013

Hereford City discussions: 17 July 2013

Herefordshire Quality of Life Survey 2012

Field work for the 2012 survey took place between May and July 2012 in which time 1,346 responses were received, giving a responses rate of 33%. Regarding devolved services, the point was made: "The most common suggestion for how things could be done differently centred around devolving power, responsibility and resources to parish and town councils, to enable them to deliver local services more efficiently. The range of services that it was felt could be delivered in this way were public toilets, car parks, hedge cutting, parks maintenance, road repairs and ditch clearing through an extension to the lengthsman service, street cleaning, dog wardens, libraries and in some cases the provision of affordable decent housing."

15. Appendices

15.1 Appendix 1 - Powers of local councils

16. Background Papers

16.1 None identified.

Appendix 1 – Powers of Local Councils

Powers and duties of parish councils Function	Powers & Duties	Statutory Provisions
Access land	Power to enforce byelaws made by another authority	Countryside and Rights of Way Act 2000, s. 17
Allotments	Duty to provide allotments. Power to improve and adapt land for allotments, and to let grazing rights	Small Holdings & Allotments Act 1908, ss. 23, 26, and 42
Baths and washhouses	Powers relating to provision of public baths, washhouses and bathing huts	Public Health Act 1936, ss. 221 - 223 and 225 - 227
Burial grounds, cemeteries and crematoria	Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, Ss 9 and 10; Local Government Act 1972, s. 214; Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s. 1 Local Government Act 1972, s. 214(6)
Bus shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provisions) Act 1953, s. 4
Bye-laws	Power to make bye-laws in regard to pleasure grounds Cycle parks Baths and washhouses Open spaces and burial grounds Mortuaries and post-mortem rooms Public Conveniences	Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s.57(7) Public Health Act 1936, s.223 Open Spaces Act 1906, ss.15 and 12 Public Health Act 1936, s.198 Public Health Act 1936, s. 87
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed churchyards	Powers as to maintenance	Local Government Act 1972, s.215
Commons	Power for parish council to contribute to expense relating to scheme for the regulation and management of a common	Commons Act 1899, s.5
Common pastures	Powers in relation to providing common pasture	Smallholdings and Allotments Act 1908, s.34
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Community centres	Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives	Local Government (Miscellaneous Provisions) Act 1976 s.19
Crime prevention	Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime	Local Government and Rating Act 1997, s.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Financial assistance	Duty to require information	Local Government Act 1972, s.137A
General powers	Power to incur expenditure for certain purposes	Local Government Act 1972, s.137
Gifts	Power to accept	Local Government Act 1972, s.139

Further information on the subject of this report is available from
Natalia Silver, Project Director on Tel (01432) 260732

Highways	<p>Power to maintain footpaths and bridle-ways</p> <p>Power to light roads and public places</p> <p>Provision of litter bins</p> <p>Powers to provide parking places for bicycles and motor-cycles, and other vehicles</p> <p>Power to enter into agreement as to dedication and widening</p> <p>Power to provide roadside seats and shelters</p> <p>Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway</p> <p>Power to complain to highway authority as to unlawful stopping up or obstruction of highway or unlawful encroachment on roadside wastes</p> <p>Power to provide traffic signs and other objects or devices warning of danger</p> <p>Power to plant trees and lay out grass verges etc. and to maintain them</p>	<p>Highways Act 1980, ss.43,50</p> <p>Parish Councils Act 1957, s.3;</p> <p>Highways Act 1980, s.301</p> <p>Litter Act 1983, ss.5,6</p> <p>Road Traffic Regulation Act 1984, ss.57,63</p> <p>Highways Act 1980, ss.30,72</p> <p>Parish Councils Act 1957, s.1</p> <p>Highways Act 1980, ss.47,116</p> <p>Highways Act 1980, s.130</p> <p>Road Traffic Regulation Act 1984, s.72</p> <p>Highways Act 1980, s.96</p>
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	<p>Power to acquire by agreement, to appropriate, to dispose of</p> <p>Power to accept gifts of land</p>	<p>Local Government Act 1972, ss.124, 126, 127</p> <p>Local Government Act 1972, s.139</p>
Litter	Provision of receptacles	Litter Act 1983, ss.5,6
Lotteries	Powers to promote	Lotteries and Amusements Act 1976, s.7
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Open spaces	Power to acquire land and maintain	<p>Public Health Act 1875, s.164</p> <p>Open Spaces Act 1906, ss.9 and 10</p>
Parish documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Public buildings and village hall	Power to provide buildings for public meetings and assemblies	Local Government Act 1972, s.133
Public conveniences	Powers relating to provision of public conveniences	Public Health Act 1936, s.87
Recreation	<p>Power to acquire land for or to provide public walks, pleasure grounds and open spaces and to manage and control them</p> <p>Power to provide gymnasiums, playing fields, holiday camps</p> <p>Provision of boating pools</p>	<p>(see Local Government Act 1972, Sched.14 para.27)</p> <p>Public Health Act 1875, s.164</p> <p>Public Health Acts Amendment Act 1890 s.44</p> <p>Open Spaces Act 1906, ss.9 and 10</p> <p>Local Government (Miscellaneous Provisions) Act 1976, s.19</p> <p>Public Health Act 1961, s.54</p>
Town and country planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sched.1, para.8
Tourism	Power to encourage visitors and provide conference and other facilities	Local Government Act 1972, s.144
Traffic calming	Powers to contribute financially to traffic calming schemes	Highways Act 1980, s.274A
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and	Local Government and Rating Act 1997, s.26, 28 and 29

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	information about transport Powers to make grants for bus services	Transport Act 1985, s.106A
War memorials	Power to maintain, repair, protect and alter war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water from them	Public Health Act 1936, s.125