

Council

Monday 26th November
2012
7.00 pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

**If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact
Ivor Westmore
Committee Support Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH
Tel: (01527) 64252 (Extn. 3269) Fax: (01527) 65216
e.mail: ivor.westmore@bromgroveandredditch.gov.uk**

Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency **Assembly Area** is on **Walter Stranz Square**.



Council

26th November 2012

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:	Alan Mason (Mayor)	Carole Gandy
	Wanda King (Deputy Mayor)	Adam Griffin
	Joe Baker	Bill Hartnett
	Roger Bennett	Pattie Hill
	Rebecca Blake	Roger Hill
	Michael Braley	Gay Hopkins
	Andrew Brazier	Phil Mould
	Juliet Brunner	Brenda Quinney
	David Bush	Mark Shurmer
	Michael Chalk	Yvonne Smith
	Simon Chalk	Luke Stephens
	Greg Chance	Debbie Taylor
	Brandon Clayton	Derek Taylor
	John Fisher	Pat Witherspoon
	Andrew Fry	

1. Welcome	The Mayor will open the meeting and welcome all present.
2. Apologies	To receive any apologies for absence on behalf of Council members.
3. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
4. Minutes Chief Executive	To confirm as a correct record the minutes of the meeting of the Council held on 15 th October 2012. (Minutes circulated in Minute Book 6 - 2012/13)
5. Announcements	To consider Announcements under Procedure Rule 10: a) Mayor's Announcements b) Leader's Announcements c) Chief Executive's Announcements. (Oral report)

<p>6. Questions on Notice Chief Executive</p>	<p>No questions have been submitted to date under Procedure Rule 9.2.</p>
<p>7. Motions on Notice Chief Executive</p>	<p>No Motions have been submitted under Procedure Rule 11.</p>
<p>8. Executive Committee (Pages 1 - 56) Chief Executive</p>	<p>To receive the minutes and consider the recommendations and/or referrals from the following meetings of the Executive Committee:</p> <p><u>16th October 2012</u></p> <p>Matters requiring the Council's consideration include:</p> <ul style="list-style-type: none">• Local Development Scheme; and• Localism Act – Community Right to Bid. <p>(Reports and decisions attached)</p> <p><u>20th November 2012</u></p> <p>Matters requiring the Council's consideration may include:</p> <ul style="list-style-type: none">• Sickness Absence Policy and Disciplinary Policy Review; and• Access to Information Rules – Update. <p>(Reports attached – Minutes to follow)</p> <p>(Minutes of the meeting on 16th October 2012 circulated in Minute Book 6 – 2012/13)</p>
<p>9. Regulatory Committees Chief Executive</p>	<p>To formally receive the minutes of the following meetings of the Council's Regulatory Committees:</p> <p>Audit & Governance Committee - 26th September 2012</p> <p>Planning Committee - 31st October 2012</p> <p>Standards Committee - 22nd October 2012</p> <p>There are no outstanding recommendations for the Council to consider.</p> <p>(Minutes circulated in Minute Book 6 – 2012/13)</p>

<p>10. Regulation of Investigatory Powers Act - Scheme of Delegations - and Amendment to the Planning Code of Practice</p> <p>(Pages 57 - 62)</p> <p>Head of Legal, Equalities and Democratic Services</p>	<p>To consider an update to the Council's Scheme of Delegations to Officers in the light of recent changes to the Regulation of the Investigatory Powers Act. This report also proposes an addition to the Planning Code of Practice to recognise shared service arrangements beyond the Redditch and Bromsgrove agreement.</p> <p>(Report attached)</p> <p>(No Direct Ward Relevance);</p>
<p>11. Urgent Business - Record of Decisions</p> <p>(Pages 63 - 72)</p> <p>Chief Executive</p>	<p>To note the following decision taken in accordance with Paragraph 5 of Part 6 of the Constitution since the last ordinary meeting of the Council:</p> <p><u>Greater Birmingham And Solihull Business Rate Pool - Draft Governance Arrangements.</u></p> <p>(Executive Director, Finance and Resources)</p> <p>Agreement was sought on delegation for the approval of draft Governance Arrangements for the Greater Birmingham and Solihull LEP to the Chief Executive and Section 151 Officer. The grounds for urgency was that the final version of these draft arrangements was only completed on Monday, 5th November and there was a Government deadline of Friday, 9th November for sign off by participating Councils' Chief Executives and S151 Officers.</p> <p>It was therefore RESOLVED that</p> <p>authority be delegated to the Chief Executive and Section 151 Officer to approve the Governance Arrangements for the Greater Birmingham and Solihull Business Rates Retention Scheme Pooling Arrangement on behalf of Redditch Borough Council.</p> <p style="text-align: right;">(Council Decision)</p> <p>(Governance Arrangements attached)</p>
<p>12. Urgent Business - general (if any)</p>	<p>To consider any additional items exceptionally agreed by the Mayor as Urgent Business in accordance with the powers vested in her by virtue of Section 100(B)(4)(b) of the Local Government Act 1972.</p> <p>(This power should be exercised only in cases where there are genuinely special circumstances which require consideration of an item which has not previously been published on the Order of Business for the meeting and/or on the Leader's Work Programme.)</p>

13. Exclusion of the Public

Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:

“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (*to be specified*) of Part 1 of Schedule 12 (A) of the said Act, as amended.”

[Subject to the “public interest” test, information relating to:

- **Para 1 – any individual;**
- **Para 2 – the identity of any individual;**
- **Para 3 – financial or business affairs;**
- **Para 4 – labour relations matters;**
- **Para 5 – legal professional privilege;**
- **Para 6 – a notice, order or direction;**
- **Para 7 – the prevention, investigation or prosecution of crime;**

may need to be considered as ‘exempt’.]

(Note: Anyone requiring copies of any previously circulated reports, or supplementary papers, should please contact Committee Services Officers in advance of the meeting.)

REDDITCH BOROUGH COUNCIL

COUNCIL

26th November 2012

82. LOCAL DEVELOPMENT SCHEME

RECOMMENDED that

the timescales within the Local Development Scheme No. 5, attached at Appendix A to the report, be agreed and published.

**EXECUTIVE
COMMITTEE**

16th October 2012

LOCAL DEVELOPMENT SCHEME NO. 5

Relevant Portfolio Holder	Councillor Greg Chance
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Key Decision

1. SUMMARY OF PROPOSALS

A Local Development Scheme (LDS) is a statutorily required project plan for producing Development Plans. The current Local Development Scheme for Redditch - LDS No.4, sets out what plans the Council intends to produce and the timescales for producing them for the period of July 2010 to February 2014. Local Development Scheme No.5 (Appendix A) has been produced to update these timescales.

2. RECOMMENDATIONS

The Committee is asked to RECOMMEND that

the timescales detailed within Local Development Scheme No. 5 for the production of Development Plans be agreed and published.

3. KEY ISSUES**Financial Implications**

- 3.1 Production of Local Development Scheme No.5 will be funded from existing Development Plans Budgets.
- 3.2 Local Plan No.4 listed within the LDS as part of the Development Plan may require additional funding in the future to enable delivery; however these documents would be the subject of further committee reports once these costs are known.

Legal Implications

- 3.3 Redditch Borough Council is required to produce a LDS under the Localism Act 2011. The requirement to submit the LDS to the Secretary of State has been removed.

**EXECUTIVE
COMMITTEE**

16th October 2012

Service / Operational Implications

- 3.5 The current LDS for Redditch was approved in September 2009 by Government Office for the West Midlands. This LDS is now out of date, for the reasons set out below therefore a revised LDS is required.
- 3.6 The following paragraphs detail the key changes made to the revised Local Development Scheme No.5 (Appendix A).
- 3.7 Since LDS No.4 was produced, the Core Strategy has been changed to reflect a new style Local Plan, therefore the previous references to the Core Strategy now refer to Local Plan No.4.
- 3.8 Local Development Scheme No.5 proposes to alter the Submission of the Local Plan to December 2012 and adoption to September 2014. This is to allow for a joint consultation with Bromsgrove District Council on Redditch cross boundary growth in February/March 2013 and consultation on Local Plan No.4 to take place in June/July 2013. While this LDS is proposing an additional consultation for Redditch, the timescales for the Borough of Redditch Local Plan No.4 and Bromsgrove Core Strategy remain aligned. In line with the Government's ambition to speed up the planning process, the Local Planning Authority will bring forward the timetable should an opportunity arise. Any changes to the timetable will be advertised on the Council website.
- 3.9 LDS No.4 referred to a Site Allocations and Policies Development Plan Document. Since then a Council resolution was passed to drop the production of this Document and focus resource on the Local Plan instead. It does not therefore feature in LDS No.5.

Customer / Equalities and Diversity Implications

- 3.7 The Local Development Scheme has no direct impact on the Councils Equalities and Diversity policies. The publication of the LDS will inform the public and stakeholders of the documents that will make up the Development Plan (currently just the Local Plan), the timescales they can expect for the preparation of these documents and the opportunities for involvement.

4. RISK MANAGEMENT

- 4.1 The Localism Act 2011 requires the Council to prepare and maintain an LDS. Without an up to date LDS, the Council would not be fulfilling its statutory obligations and risks the Development Plan being found

**EXECUTIVE
COMMITTEE**

16th October 2012

unsound. The LDS is critical to the successful programme management of the Local Plan.

5. APPENDICES

Appendix A - Local Development Scheme No.5

6. BACKGROUND PAPERS

Local Development Scheme No.4 July 2010 to February 2014

7. KEY

Core Strategy/Local Plan DPD – sets out how we want Redditch Borough to be by the end of the plan period and how this will be achieved. It does not allocate land, but it is one of the most important planning documents at the local level, as it provides a framework approach for the spatial growth of the Borough.

Local Development Scheme (LDS) – A project plan detailing the timescales for producing Development Plans.

AUTHOR OF REPORT

Name: Emma Greenfield
email: emma.greenfield@redditchbc.gov.uk
Tel: 01527 64252 Ext 3034

Contents

Introduction	1
Borough of Redditch Planning Policy Framework Current Planning Policy Documents Emerging Planning Policy Documents	2
Delivering the Development Plan Evidence Base, Adoption, Monitoring, Resources and Risk Assessment	4
Timetable	5

Introduction

The Local Development Scheme (LDS) is a three year project plan for the production and review of the planning policy documents that will make up the Development Plan for Redditch Borough. This is the fifth LDS for Redditch which covers the period from November 2012 to November 2015.

Redditch Borough Council is required to produce a LDS in order to comply with Section 15 of the Planning and Compulsory Purchase Act 2004. It provides residents and stakeholders information on the documents that will make up the Development Plan, the timescales they can expect for the preparation of these documents and the opportunities for involvement. Local Planning Authorities may revise their LDS at a time they consider appropriate or when directed to do so by the Secretary of State.

Since LDS No. 4 was produced, the Core Strategy has been changed to reflect a new style Local Plan, therefore previous references to the Core Strategy now refer to Local Plan No.4. LDS No. 4 also referred to a Site Allocations and Policies Development Plan Document. Since then a Council resolution was passed to discontinue the production of this document and focus resource on the Local Plan instead.

In producing this LDS, Redditch Borough Council has undertaken detailed discussions with its Planning Advisory Panel. It has also been prepared in close consultation with neighbouring authorities and the timescales for the Borough of Redditch Local Plan No.4 and Bromsgrove District Plan have been aligned.

The timetable for the preparation of the Development Plan can be found on page 5.

Borough of Redditch Planning Policy Framework

Current Planning Policy Documents

The planning policy documents listed below make up the current planning policy framework for the Borough of Redditch.

The West Midlands Regional Spatial Strategy (WMRSS)

The Secretary of State intends to remove regional spatial strategies. The precise timeframe for this process is not yet known, but the programme set out in this document has been developed on the basis that the WMRSS will be revoked before the Local Plan is submitted for examination.

Worcestershire Structure Plan 1996-2011

The Worcestershire Structure Plan 1996-2011 was adopted by the County in June 2001. It identifies the key strategic policies for the County in terms of planning and development control and provides a framework for development plans. Similarly to the WMRSS, the Worcestershire Structure Plan will be revoked by the Secretary of State. The saved Worcestershire County Structure Plan Policies can be found [here](#).

Borough of Redditch Local Plan No.3 (2001-2011)

The Borough of Redditch Local Plan No.3 (2001-2011) was adopted 31st May 2006. The Local Plan is saved for a period of three years from adoption; therefore its policies remained in force until May 2009. As it was not possible to replace Local Plan No.3 by May 2009 Redditch Borough Council had permission from the Secretary of State to save and continue to use policies and proposals contained in Local Plan No.3 beyond May 2009. A list of the saved policies can be found [here](#). Since the publication of the National Planning Policy Framework (NPPF) in March 2012, due weight can be given to the saved local plan policies according to their degree of consistency with the NPPF.

Adopted Local Development Documents

The Council has adopted a number of planning policy documents, which can be used as material considerations in the determination of planning applications, including:

- Affordable Housing Provision Supplementary Planning Document
- Church Hill District Centre Development Brief
- Edward Street Supplementary Planning Document
- Land to the rear of the properties 1 – 11 Auxerre Avenue, Greenlands, Development Brief
- Prospect Hill, Town Centre Supplementary Planning Document
- Land to the rear of Alexandra Hospital Development Brief
- Church Road, Town Centre (formally known as the North West Quadrant)
- Open Space Provision Supplementary Planning Document
- Designing for Community Safety Supplementary Planning Document

Emerging Planning Policy Documents

Borough of Redditch Local Plan No.4

Local Plan No.4 will set out the Strategic Vision, objectives and policies for the Borough of Redditch up to 2030. It will comprise of the policies that were included in the emerging Core Strategy as well as other development management-style policies. The plan is underpinned by an evidence base, some of which can be viewed [here](#).

Borough of Redditch Local Plan No.4 Proposals Map

The Council will also prepare a proposals map covering the geographical area of Redditch Borough alongside the Local Plan. The proposals map will illustrate the core policies of Local Plan No.4 and when appropriate indicate proposed land use policies.

Waste Core Strategy for Worcestershire

The Waste Core Strategy will replace the waste planning policies set out in the Structure Plan and will be used by Worcestershire County Council (WCC) to determine applications for waste management development. The Waste Core Strategy was found sound on 20th July 2012 and WCC Full Council will consider whether to adopt the Waste Core Strategy in November 2012.

Minerals Local Plan for Worcestershire

The emerging Minerals Local Plan will replace the existing Minerals Local Plan and minerals policies set out in the Structure Plan and will be used by the County Council to determine applications for minerals development. Consultation on the emerging Minerals Local Plan is expected to begin in autumn 2012.

Delivering the Development Plan

This section details how the Council will produce its Development Plan.

Evidence Base

A range of technical studies and research will underpin the preparation of the Development Plan. Some of the key studies and research areas are listed below:

- Sustainability Appraisal
- Strategic Housing Land Availability Assessment (SHLAA)
- A Strategic Housing Market Assessment
- Employment Land Review
- Open Space Needs Assessment

Adoption of Planning Policy Documents

All planning policy documents are taken to Executive Committee and Full Council to obtain Member approval. In the case of the Development Plan, these are subsequently submitted to the Planning Inspectorate for examination. PINS will report back to the Council after the examination to report on the Plans soundness for adoption.

Monitoring

The Council will regularly monitor and review the progress of the Development Plan against the LDS timetable (set out on page 5).

Resources and Risk Assessment

The Local Plan will be central to the Council's vision and strategy for Redditch Borough and will influence a wide range of policy and investment decisions, it therefore critical that there are adequate resources for the production of the Development Plan. While most resources required for the production of Local Plan No.4 can be met through Redditch Borough Council based budgets, it is important to note that comprehensive evidence also needs to be in place to justify particular approaches and to demonstrate that the Plan is sound at examination. Budget bids will be required to fund the Examination.

There will always be a level of uncertainty associated with a document such as this LDS. It is therefore considered worthwhile to ask how reasonable and achievable the targets are and what issues may affect the overall delivery of this LDS:

Capacity of the Planning Inspectorate (PINS). We have made assumptions about the ability of PINS to service the requirements from this LDS. If PINS cannot meet the requirements of this LDS, then there will be some slippage in the programme. The Development Plans Team will adhere strongly to the advice and schedules provided by PINS and PAS with regard to Local Plan production.

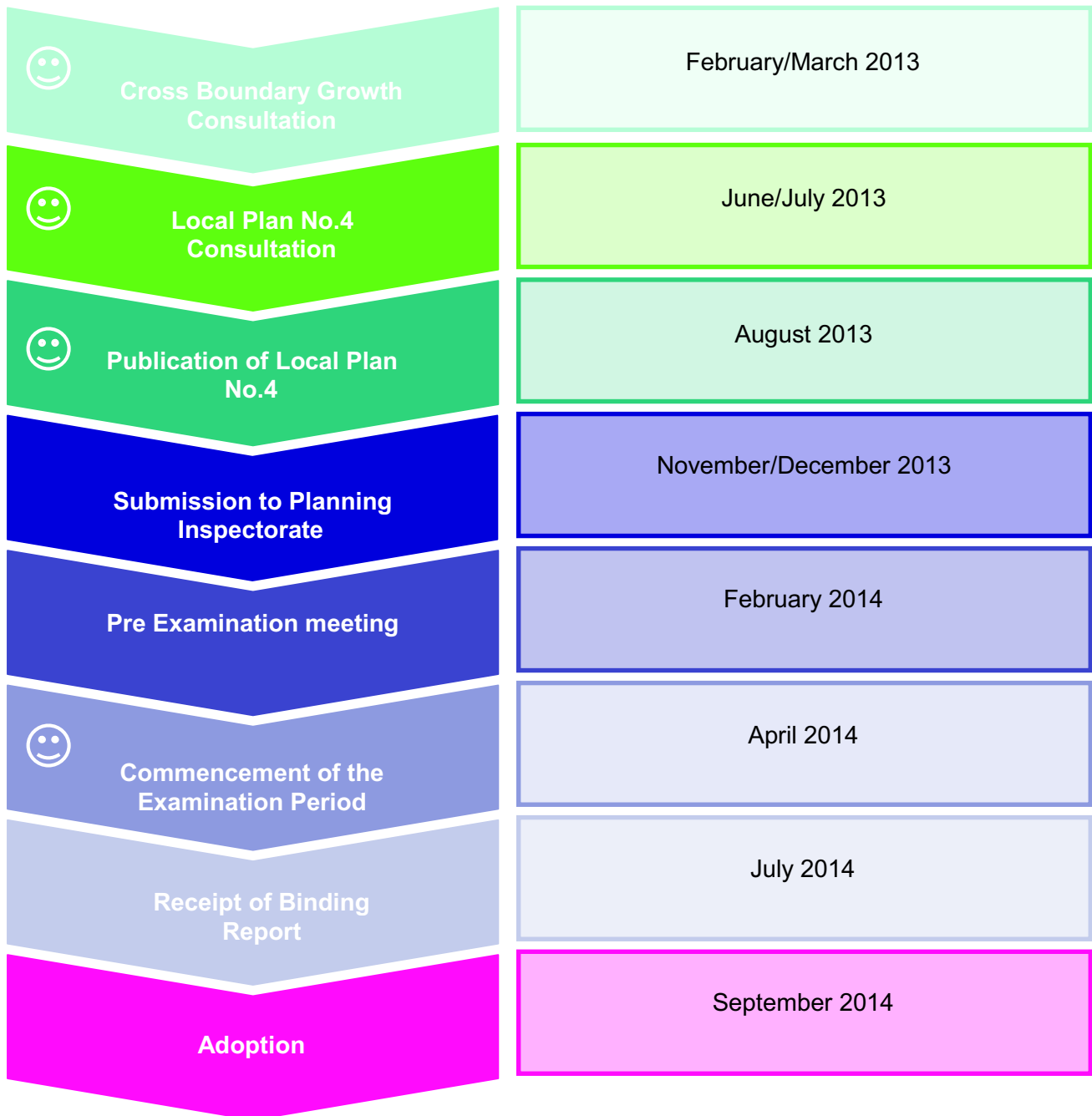
The alignment of the Plan's LDS timetable with a neighbouring district creates risks as there could be unforeseen issues with the progression of their plans that could impact on Redditch's LDS. Alignment with Bromsgrove also means there is no room for slippage between the consultation and publication of Local Plan No.4.


Additional unforeseen pressures on staff time can never be predicted in advance.

Timetable

The timetable for the production of the Development Plan is set out below.

In line with the Government's ambition to speed up the planning process, the Local Planning Authority will bring forward the timetable should an opportunity arise. Any changes to the timetable will be advertised on the Council website.



 Opportunity for public involvement

REDDITCH BOROUGH COUNCIL

COUNCIL

26th November 2012

82. **LOCALISM ACT: COMMUNITY RIGHT TO BID – ASSETS OF
COMMUNITY VALUE**

RECOMMENDED that

**delegation to the S. 151 Officer to make provision in the Medium
Term Financial Plan for compensation sums (£20,000) be approved.**

**EXECUTIVE
COMMITTEE**

16th October 2012

COMMUNITY RIGHT TO BID – ASSETS OF COMMUNITY VALUE

Relevant Portfolio Holder	Councillor Greg Chance
Portfolio Holder Consulted	
Relevant Head of Service	Ruth Bamford, Head of Planning and Regeneration
Wards Affected	All

1. SUMMARY OF PROPOSALS

- 1.1 The report outlines the provisions relating to the 'Community Right to Bid' and the implications for the council resulting from the requirement to hold a 'List of Assets of Community Value'. The report also proposes a decision making process for the listing of community assets.
- 1.2 It is anticipated that this aspect of the Localism Act will come into force in October 2012.

2. RECOMMENDATIONS

The Executive Committee is asked to RESOLVE subject to any comments:

- a) **the process for compiling the 'list of assets of community value';**
- b) **the process for the internal review of the listing decisions; and,**
- c) **the proposal that compensation decisions are undertaken by the Executive Director of Finance and Resources in liaison with the Head of Planning & Regeneration.**

3. KEY ISSUES

- 3.1 The intention of the 'Community Right to Bid' is to give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being so that if it comes up for sale there is a six month period within which they can prepare their bid to buy the asset. The property in question can then be sold on the open market. Community groups have the same rights as any other bidders but there is no preference given to the local community bid.
- 3.2 Through the proposed regulations it is anticipated that:
- i) The provisions give communities a right to identify a building or other land that they believe to be of importance to their community's wellbeing.

**EXECUTIVE
COMMITTEE**

16th October 2012

- ii) If the nominated asset meets the definition of an asset of community value, the local authority will list it.
 - iii) The owner of the asset will have a right to an internal review by the council, and a right of appeal to an independent tribunal against the result of the internal review.
 - iv) If the asset comes up for sale the community will be given an equal opportunity to make a bid to buy it on the open market.
 - v) Following a six month moratorium the owner is free to sell to whomever they choose.
 - vi) The provisions have an impact on the rights of private property owners, therefore there will be a compensation scheme enabling owners to claim for costs or loss incurred as a direct result of complying with the procedures. It is understood that claims will be made to the local authority but compensation will be paid by the Secretary of State.
 - vii) There will be a right of internal review of a compensation decision and of appeal to an independent tribunal on a point of law against the review decision.
- 3.3 A key point is that the community right to bid does not restrict who the owner of the asset can sell his property to or at what price.

Financial Implications

- 3.4 The provisions have an impact on the rights of private property owners, therefore there will be a compensation scheme enabling owners to claim for costs or loss incurred as a direct result of complying with the procedures. The current regulations state that any individual or total payments of over £20k in a financial year will be funded by the Government. In addition a New Burdens grant is to be allocated to all administering Councils to cover the costs associated with implementing the new scheme. The funding for 2012/13 has been advised at £4873. It is anticipated that, subject to Government approval, further payments will be made in 2013 and 2014.

Legal Implications

- 3.5 The Council has a statutory responsibility to implement the provisions as defined within the Localism Act and the relevant Community Right to Bid legislation.

**EXECUTIVE
COMMITTEE**

16th October 2012

Service / Operational ImplicationsProcess for Listing Community Assets

- 3.6 The key steps for considering a nomination to the List of Community Assets are set out in Appendix 1.
- 3.7 Only voluntary and community organisations with a local connection, and the parish council, will have the right to make community nominations of community assets to be included on the list.
- 3.8 There are some exemptions from listing such as residential premises (but not living quarters which are an integral part of a pub or shop which are otherwise eligible for listing – these could still be listed as assets of community value).
- 3.9 The provisions require a local authority to maintain a list of assets of community value and to notify the owner(s), occupier, nominator(s) and other interested parties (as set out in the regulations). The local authority is also required to maintain a list of unsuccessful community nominations. The local authority must determine a nomination for listing within eight weeks.
- 3.10 An owner is to have a right of internal review of a listing decision by the local authority. The owner will have eight weeks from notification to request a review. The review must be completed within eight weeks (unless otherwise agreed with the owner). The owner will have the right to request an oral hearing and to be represented by whomever they wish. There is a right of external appeal by an owner who is dissatisfied with the outcome of an internal review. This is will be heard at an independent Tribunal.

Process for the Sale of a Community Asset

- 3.11 The purpose of identifying assets of community value is to ensure that a local community has the opportunity to form a bid for the property if it comes up for sale. The key steps to be undertaken should an asset of community value be sold are set out in Appendix 2.

**EXECUTIVE
COMMITTEE****16th October 2012**

- 3.12 The moratorium on the sale of a community asset would normally be triggered by the owner notifying the local authority of their intention to dispose of the community asset. This is the point at which the six week interim moratorium (to state the intention to bid) and the six month full moratorium (to formulate a bid) commence. A relevant disposal of a listed community asset is considered to be the sale of the freehold, or the grant or assignment of a lease for twenty five years or more, but only where the disposal will give the new owner a hundred percent vacant possession.
- 3.13 Some disposals are exempt and can take place unimpeded by the community right to bid. Such disposals include transfer made by gift, transfer within a family, transfer due to inheritance or transfer where the listed community asset forms part of a larger estate.
- 3.14 Where a community group wishes to purchase a community asset and is able to pay the price determined by the owner, the owner will have the option of disposing of the community asset to that group without waiting until the end of the moratorium to do so.
- 3.15 It is proposed that all owners, other than public authorities, will be entitled to claim compensation for loss or expense incurred as a result of their property being on the List of Assets of Community Value and complying with any of the procedures required by the scheme.
- 3.16 In order to limit any unintentional non-compliance, listing of a property is to be a local land charge. A clear enforcement regime is to be set out in the regulations. A non-compliant disposal of property would be ineffective from the outset (i.e. void).

Internal processes

- 3.17 The council will be responsible for notifying owners and occupiers of listings and receipt of notices, and for publicising the possible sale of a listed asset. The council will also administer the compensation scheme. A proposed process is set out in Appendix 3 to manage this process.
- 3.18 Officers would receive a nomination and make initial checks (nomination from valid community group/ Does the property seem to fit the criteria etc). If the nomination is clearly a non-starter, or incomplete, the applicant would be informed with the reasoning for the decision.
- 3.19 A period of consultation would then commence involving the owner and other interested parties who would be given a specified time to respond. Local ward members would also be consulted at this stage.
- 3.20 Following the completion of the consultation process, the Head of Planning and Regeneration will provide a recommendation to the

**EXECUTIVE
COMMITTEE****16th October 2012**

Executive (or other member group) as to whether the nomination should be accepted. The recommendation would take into account comments received from the consultation. The recommendation would seek a view from the Committee to inform the final decision made by the Head of Planning and Regeneration in consultation with the Portfolio Holder for Planning and Regeneration.

- 3.21 Once the decision is made the owner and nominator are informed accordingly.
- 3.22 An owner is to have the right to have the decision to list a property reviewed by the council. The request for the review has to be made within eight weeks and the review determined within eight weeks (unless otherwise agreed with the owner). The provisions indicate that the review is to be undertaken by a Senior Officer not involved in the initial decision. Similarly it is suggested that no elected member involved in the decision to list should be part of the review process.
- 3.23 It is proposed that the Executive Director Planning and Regeneration undertakes the review in consultation with the Leader.
- 3.24 There is no provision within the legislation for review of an unsuccessful community group nomination. It would not therefore be within the council's powers to make provision for such a review as this would be unenforceable and open to challenge by an owner.
- 3.25 The outcome of a review of the listing decision or a compensation decision can be appealed but such an appeal is handled externally to the council. It is not clear what might constitute a claim for compensation but as the DCLG has stated that it will fund the cost of compensation over £20k (either individual or total in a financial year). The regulations will clarify this matter regarding the criteria that will enable a valid claim. It is proposed that Officers assess the compensation claims and decisions on eligible costs and levels of compensation are made by the Executive Director Finance and Resources in liaison with the Head of Planning and Regeneration.
- 3.26 It is possible that not all potential assets of community value will be identified and listed from the outset and that a community group may only become concerned about a particular property when the sale of it is proposed. There is no suggestion in the provisions that a proposed sale can be held up by a nomination by a community group.
- 3.27 There is no reason why council owned property should be treated any differently to privately owned property. Members should note that the Executive Director of Finance and Resources has a potential conflict in these matters due to property ownership. We would expect community groups etc to approach the council informally if they are minded to

EXECUTIVE COMMITTEE

16th October 2012

nominate a council owner property as there may be a better solution to meet community aspirations.

- 3.28 After an asset has been on the list for five years the council must remove it by default. However, prior to this Officers will need to write to interested community organisations to inform them of this, and allow them to make a case for keeping the asset on the list.

Customer / Equalities and Diversity Implications

- 3.29. The process will be fair and consistent for all members of the community and therefore it is not anticipated that there will be any direct impact on individual community groups or members.

4. RISK MANAGEMENT

The main risk is related to the need to have a manageable process for compiling and managing a list of assets of community value. The processes as attached at the Appendices reflects the processes that are to be put in place to mitigate the risks associated with the implementation of the Act.

5. APPENDICES

Appendix 1: Proposed Process for Listing Community Assets

Appendix 2: Proposed Process for the Sale of Community Assets

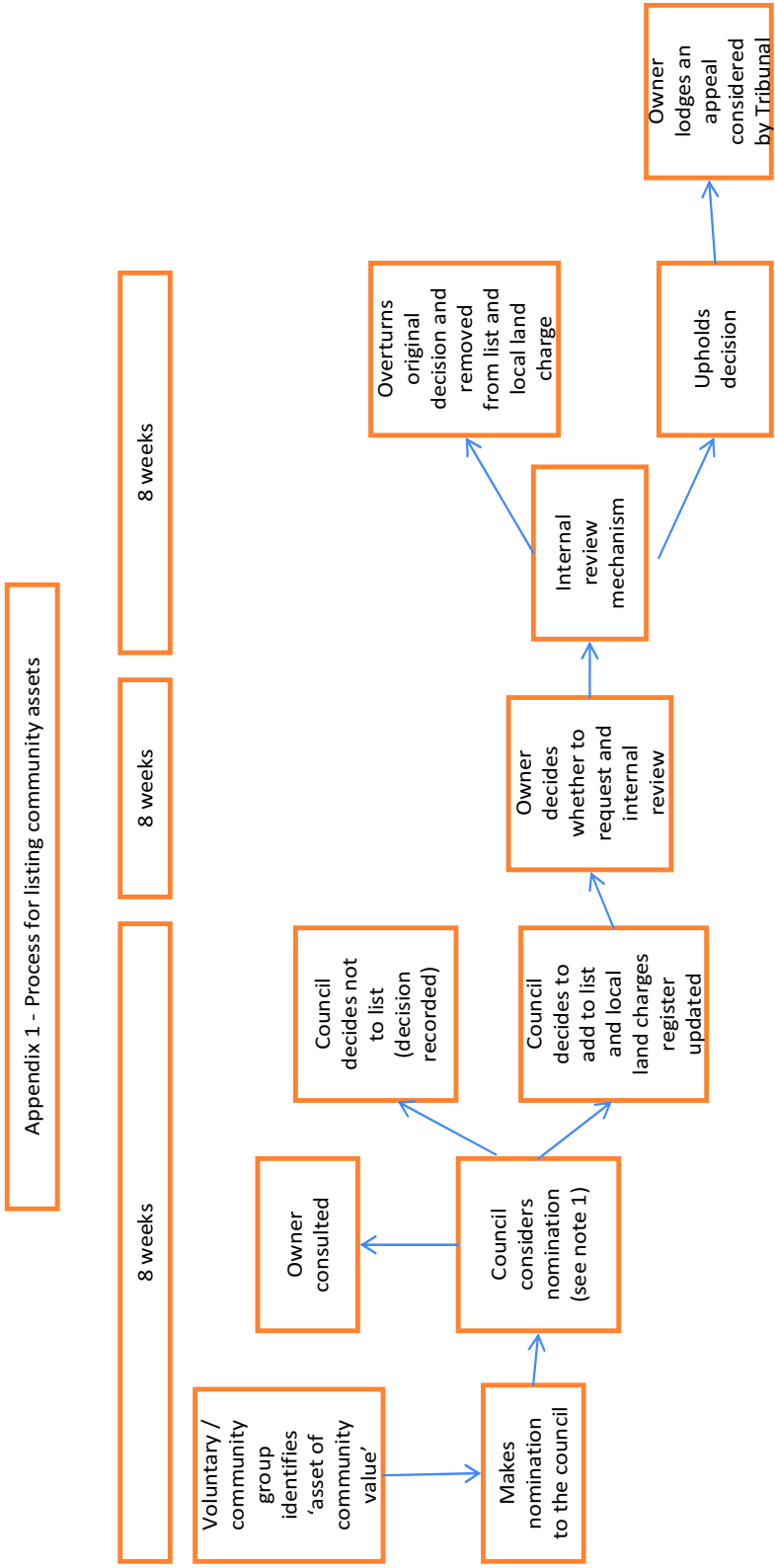
Appendix 3: Proposed Internal Process for Listing Community Assets

6. BACKGROUND PAPERS

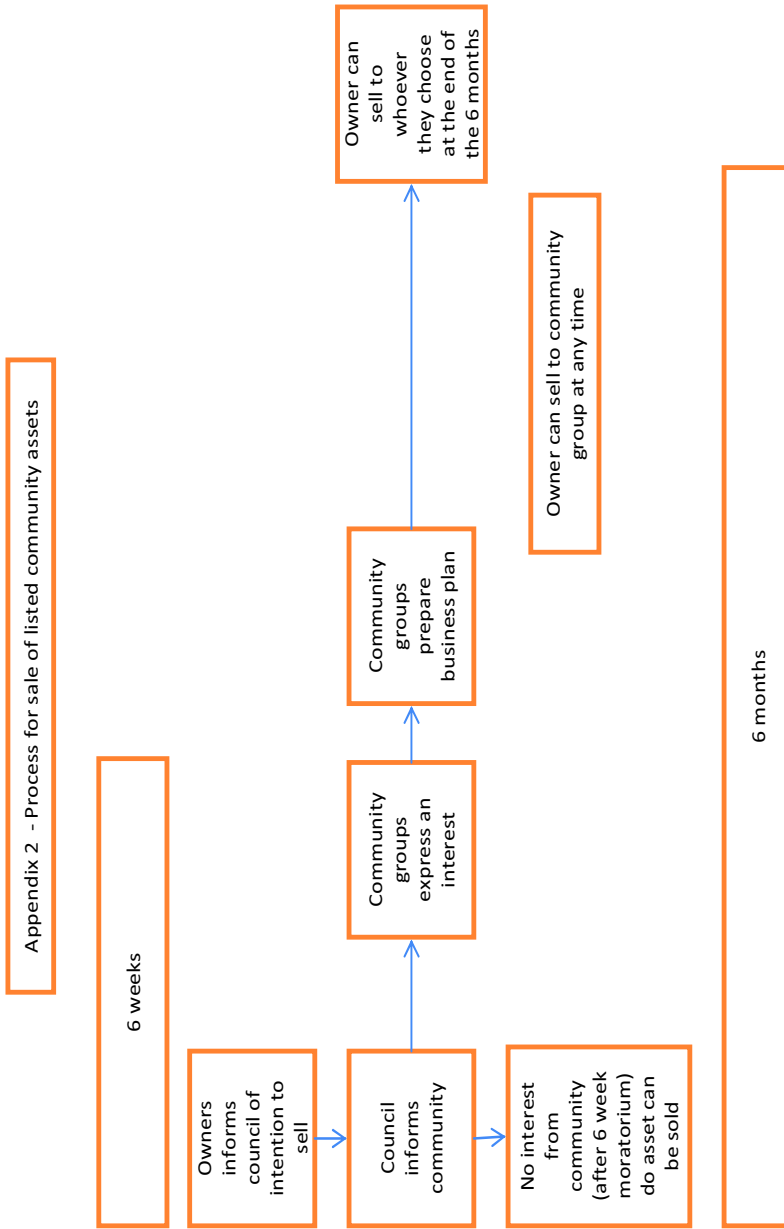
Various documents in relation to the Localism Act and legislation / regulations for Assets of Community Value.

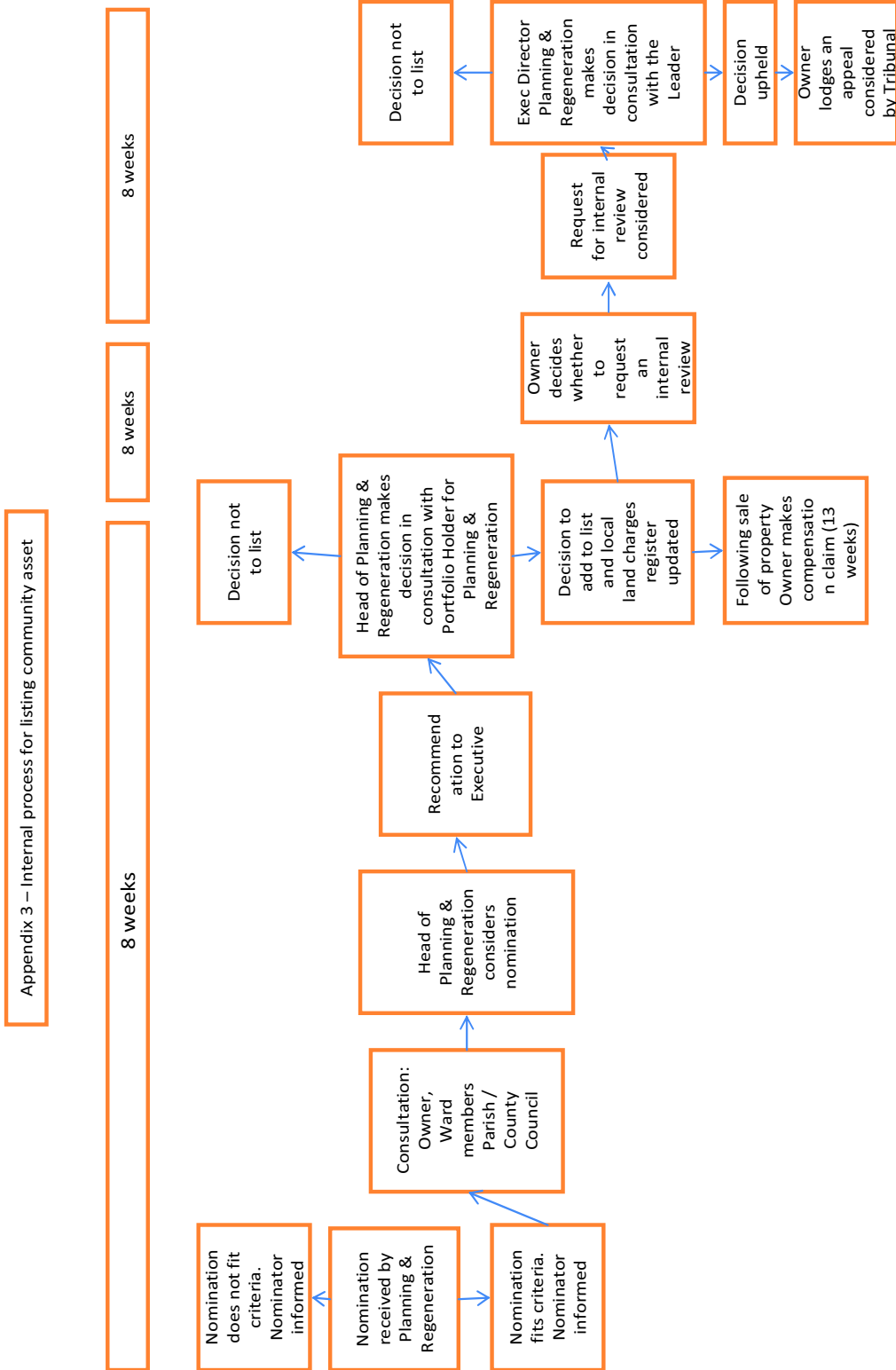
AUTHORS OF REPORT

Name: Ruth Bamford
E Mail: ruth.bamford@bromsgroveandredditch.gov.uk
Tel: 01527 64252 Ext 3219



Note 1
 A building or other land should be considered an asset of community value if:
 its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so; and
 that the use is not an ancillary one; and
 for land in current community use it is realistic to think that there will continue to be a use which furthers the social wellbeing and interests, or
 for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (in either case,
 whether or not that use is exactly the same as the present or past); and
 it does not fall within one of the exemptions e.g. residential premises and land held with them.
 'Social interests' includes cultural, recreational and sporting interests.





**EXECUTIVE
COMMITTEE**

20th November 2012

SICKNESS ABSENCE POLICY & DISCIPLINARY POLICY REVIEW

Relevant Portfolio Holder	Councillor Phil Mould – Portfolio Holder for Corporate Management
Relevant Head of Service	Teresa Kristunas, Head of Finance and Resources
Wards Affected	None
Ward Councillors consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

To seek the Committee's approval of the revisions to the Sickness Absence Policy and Disciplinary Policy that have been developed and provisionally agreed by the Corporate Management Team (CMT) and Trade Union Representatives.

2. RECOMMENDATIONS

The Committee is asked to RECOMMEND that

- a) **the revisions to the Sickness Absence Policy and Disciplinary Policy attached to the report at Appendix 1 and 2, and detailed at 3.7 and 3.9 be approved and adopted;**
- b) **the additional procedural guidance proposed for inclusion in the Sickness Absence Policy as detailed in the report at 3.8 be noted; and**
- c) **authority is delegated to the Head of Legal & Democratic Services to make the necessary changes to the scheme of delegations required to implement the proposed changes.**

3. KEY ISSUES

- 3.1 Human Resources and Organisational Development is in the process of reviewing policies in order to establish a consistent approach across the service. As part of this process it is proposed that revisions are made to both the Sickness Absence Policy and the Disciplinary Policy.
- 3.2 This report includes details of the proposed procedural changes primarily focused on the Sickness Absence Policy. However these proposals have also necessitated a concurrent review of the Disciplinary Policy.

**EXECUTIVE
COMMITTEE**

20th November 2012

- 3.3 The proposed changes to the Sickness Absence Policy are aimed at supporting employees experiencing absence due to sickness, and Managers in the effective handling of both short-term and long-term absences. The recognised Trade Unions have had the opportunity to comment on the proposals as part of the development process.
- 3.4 The majority of employees will at some point during their employment with the Council be unable to attend work due to sickness. This type of occasional absence may be considered as practically inevitable and employees are not encouraged to attend work if they are not fit to do so. However, it is important that individuals, together with their Line Managers, understand what is expected of them during any period of absence and also what the process will be in supporting a return to work, together with the potential consequences of unacceptable levels of absence.
- 3.5 The Council's sickness absence policy, incorporating the changes proposed in this report, should above all be regarded as a supportive policy, recognising the importance of and promoting wellbeing amongst Council employees. It must also act as a tool for Line Managers to address issues and concerns they have in relation to absence in a fair and transparent way.
- 3.6 The proposed changes, whilst giving clarity to employees on the support available to them, also provide a more robust framework for Managers to manage sickness absence effectively within their teams.
- 3.7 **Key changes to the existing Sickness Absence Policy:**
- a) Procedural changes, as detailed in Appendix 1, including the introduction of a staged process for the management of long-term absence, providing clearer, more consistent timescales.
 - b) The removal of target setting for the management of short-term absence, instead establishing tolerance levels on a case-by-case basis.
 - c) Heads of Service able to dismiss at Stage 4, with any subsequent appeals against dismissal continuing to be heard by a Member panel.
- 3.8 Additional procedural guidance to be included:
- a) As part of the long-term absence process, Line Managers are to ensure that the employee is aware of how to access the Employee Assistance Programme (EAP) and the benefits of doing so.

**EXECUTIVE
COMMITTEE**

20th November 2012

- b) Additional guidance concerning information provision as part of review meetings for long-term absence, including departmental and organisational updates.
- c) Introduction of vacancy notifications for those on long-term sickness, with consideration given to what appropriate redeployment options may exist at Stages 1, 2 and 3 as a precursor to consideration at Stage 4.
- d) Guidance concerning the exploration of suitable alternative vacant roles which may assist in the employee's return to work.
- e) Doctor's notes should be sent to Line Managers allowing them to monitor the reason and duration of the absence, enabling more appropriate case handling.
- f) Inclusion of guidelines for Line Managers to undertake risk assessments for all disabled employees and to undertake ongoing reviews.
- g) Development of guidance for Line Managers in how to support employees diagnosed with cancer, as well as how to support their colleagues.

3.9 Key changes to the existing Disciplinary Policy:

- a) Heads of Service to have the authority to suspend employees, with guidance from Human Resources, and where there is clear justification.
- b) Heads of Service to act as Hearing Officer with the authority to give sanctions up to and including dismissal.
- c) Executive Directors to hear appeals against sanctions up to and including final written warning.
- d) All appeals against dismissal to be heard by a Member panel, in line with the Sickness Absence Policy.

3.10 Should the proposals detailed within this report be approved, Officers will then incorporate these changes into revised policies ready for adoption.

3.11 Human Resources are developing a programme of briefing sessions relating to employment policies and procedures. These changes will be incorporated into these sessions to ensure staff awareness.

**EXECUTIVE
COMMITTEE**

20th November 2012

Financial Implications

- 3.12 None as a direct result of this report. However, there is the potential for sickness absence cases to be resolved more efficiently leading to potential savings in respect of sickness scheme and staff cover costs.

Legal Implications

- 3.13 All proposed changes to employee related policies have been developed in conjunction with Union representatives in accordance with employment legislation. In addition Officers have considered the following in developing the proposals:

- a) Working Time Regulation 2007.
- b) National agreement on pay and conditions of service for Local Government Services.
- c) Employment Rights Act 1996.
- d) Employment Relations Act 2004.
- e) Trade Union and Labour Relations (consolidation) Act 1992.
- f) Equality Act 2010

Service / Operational Implications

- 3.14 The proposed revised policy has been discussed with Union representatives.

Customer / Equalities and Diversity Implications

- 3.15 Assessments have been made across all proposed policies to identify any equality issues. These have been discussed with the Union representatives and further analysis of impact has been undertaken where required.

4. RISK MANAGEMENT

The proposals reflect the changes required to ensure a consistent approach to employee related matters.

5. APPENDICES

Appendix 1 – Sickness Policy Review – Comparison of changes.
Appendix 2 – Disciplinary Policy Review – Comparison of changes.

**EXECUTIVE
COMMITTEE**

20th November 2012

6. **BACKGROUND PAPERS**

N/A

AUTHOR OF REPORT

Name: Mark Stanley
E Mail: m.stanley@bromsgroveandredditch.gov.uk
Tel: 01527 881673

APPENDIX 1 - SICKNESS ABSENCE POLICY REVIEW - COMPARISON BETWEEN CURRENT AND PROPOSED

SHORT TERM SICKNESS

	REDDITCH BOROUGH COUNCIL	PROPOSED
TRIGGER POINTS	3 occasions in a 12 months period or 7 working days during a 12 month period.	3 or more separate absences or a continuous absence of 6 days or more within a 12 month rolling period.
NUMBER OF STAGES	5 Stages	4 Stages Employees have the right to be accompanied by either a Trade Union representative or work colleague at all formal stages.
STAGE 1	Returning To Work Discussion No Targets Set No review period given	Sickness Absence Meeting Reasons for absence discussed. Occupational Health support where appropriate. Tolerance levels agreed. 3 month review period set.
STAGE 2	Welfare And Attendance Review Set Targets No review period given	Sickness Absence Review Meeting - (after 3 month review period or sooner if tolerance levels exceeded) Reasons for ongoing poor attendance discussed. Further tolerance levels agreed. Occupational Health support. 3 month review period set.

<p>STAGE 3</p>	<p>Formal Absence Review If there are 2 more absences in the following 3 months after stage 2, or more than 3 working days lost then the issue should be referred to the Service manager for a Formal Review Set Targets Review period of no more than 3 months from this meeting</p>	<p>Final Sickness Absence Review Meeting - (after 3 month review period or sooner if tolerance levels exceeded) Further tolerance levels agreed. 3 month review period set. Employee advised that next stage is hearing which may result in formal action up to and including dismissal. Following review or sooner if tolerances exceeded move to Stage 4 Hearing.</p>
<p>STAGE 4</p>	<p>Final Review This is when the Hearing takes place and dismissal is considered. Only a Director can make a decision on dismissal</p>	<p>Case Review Hearing Manager presents case. Employee presents views/response. Head of Service hears case and considers options. Head of Service may dismiss employee.*(See note)</p>
<p>STAGE 5</p>	<p>Dismissal Decision</p>	
<p>APPEALS</p>	<p>The employee will have the right to appeal against their dismissal in accordance with the Appeals procedure outlined in the council's Disciplinary Procedure.</p>	<p>Right of Appeal at Stage 4 which will be heard by a Member panel.*(See note)</p>

LONG TERM SICKNESS

	REDDITCH BOROUGH COUNCIL	PROPOSED
TRIGGER POINTS	If employee is absent for a month and there is no likelihood of return then the manager needs to complete occupational health referral form and notify the employee of this.	After 2 weeks of absence – manager contacts employee for a welfare chat and arranges a Stage 1 meeting for the 4 th week of absence. This may be a home visit, where agreed and appropriate, or at a suitable venue.
NUMBER OF STAGES	No set stages in place in this policy	4 Stages
STAGE 1	Maintaining Contact and Wait and See.	Welfare and Review Meeting - (Week 4) Discuss absence and prognosis. Update on work as appropriate. Referral to occupational health or other suitable support service.
STAGE 2	Maintaining Contact and Wait and See	Sickness Absence Review Meeting - (begin Week 8 – 10) One or several review meetings to review situation in accordance with occupational health guidance/other medical reports. Timescales for meetings should be every 4-6 weeks as a minimum.

STAGE 3	Maintaining Contact and Wait and See	Final Sickness Absence Review Meeting - (Week 12 onwards as appropriate) Review ongoing absence. Must seek and consider medical advice. Discuss redeployment options. Is continued employment feasible? Consider referral to Stage 4 Hearing. Advise employee that next stage may result in dismissal.
STAGE 4	Hearing Led by the director and who can make the decision to dismiss.	Long-term Sickness Case Hearing Case presented by Manager. Employee presents views/response. Occupational Health in attendance, with the provision of medical reports. Head of Service hears case and considers options. Head of Service may dismiss employee.*(See note)
APPEALS	The employee has the right to appeal against their dismissal in accordance with the Appeals procedure outlined in the council's Disciplinary Procedure	Right of Appeal at Stage 4 which will be heard by a Member panel.*(See note)

*Where the employee being managed through the Sickness Absence Policy is at Head of Service level or above, the procedure for hearings and appeals will apply as detailed in the Conditions of Service for JNC Chief Officers. Namely a Designated Independent Person will investigate and make recommendations, a politically-balanced Member Investigating and Disciplinary Committee will hear the case and a further Member Appeals Committee will hear any resulting appeals. Where appropriate, a recommendation to dismiss will be referred to the Council for a final decision.

APPENDIX 2 - Disciplinary Policy Review

The disciplinary policy applies to staff below Head of Service level on NJC terms and conditions. The procedure for Heads of Service and above is as detailed in the JNC terms and conditions of service.

	Current RBC	Proposed
Suspension	<p>Suspension may take place: Where an allegation could constitute gross misconduct; where relationships have broken down or where it is considered that there are risks to the councils property or responsibilities to other parties Only Directors have the authority to suspend staff.</p>	<p>Suspending Officer: Head of Service, or in their absence, Executive Director. Employee notified in writing.</p> <p>It is proposed that suspension is agreed by Head of Service or their designated officer based on where an allegation could constitute gross misconduct; where relationships have broken down or where it is considered that there are risks to the Council's property or responsibilities to other parties.</p>
Investigation	<p>Investigation: carried out by Director/alternative manager who are appropriately trained Line manager should be investigating manager (time off normal duties to carry out investigation)</p>	<p>Investigation Officer to be appointed by Hearing Officer.</p> <p>Investigating Officer to be from a different service area to the Hearing Officer and the individual being investigated.</p>
Hearing Officer	<p>Head of Service or, in the instance of gross misconduct, where dismissal is a potential outcome, an Executive Director.</p>	<p>Head of Service</p>
Actions/Sanctions	<p>Informal action: Head of Service/Directors can issue an informal oral warning</p>	<p>Informal Warning: This should be given by Line Manager and documented but not held on personnel file.</p>

	Oral Warning – held on file for 6 months	Verbal Warning: held on file for 6 months
	Written warning – 12 months	Written Warning: held on file for 12 months
	Final written warning – 24 months	Final Written Warning: held on file for a minimum of 12 months (in exceptional circumstances can be extended up to a maximum of 24 months)
	Demotions/loss of seniority – permanent (file record disregarded after 12 months) Loss in increment/suspension without pay – 12 months	Sanction short of dismissal: Permanent demotion/loss of seniority. Guidance on consideration of sanction to be included in revised policy. For disciplinary purposes record to be held on file for 12 months, with option of up to 24 months
	Dismissal	Dismissal
Appeals	Appeals to be heard by panel of elected members for all sanctions.	Appeal Hearing Officer for sanctions up to and including final written warning: Executive Director Appeals against dismissal heard by panel of elected Members.

EXECUTIVE COMMITTEE**20TH NOVEMBER 2012****ACCESS TO INFORMATION RULES – UPDATE**

Relevant Portfolio Holder	Councillor Phil Mould
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non-key

1. SUMMARY OF PROPOSALS

- 1.1 This report proposes changes to the Access to Information Rules in the Council's Constitution. These are needed to comply with recent Regulations issued under the Localism Act.
- 1.2 The Executive Committee is being asked to consider the proposals in advance of the Council since many of the changes directly affect the governance of the Executive.
- 1.3 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations came into force in September. They are issued under the Localism Act but were unexpected and did not include any transition arrangements.
- 1.4 The main changes introduced by the Regulations are:
- a) The Executive is no longer required to produce a Forward Plan (of Key Decisions published 4 months in advance) or publish details of consultation being carried out for any items;
 - b) This is replaced by a requirement to give 28 days' notice of Key Decisions, including a notice about any key decision items where it is intended for the decision to be taken in private (exempt and confidential items). Members of the public can make representations if they feel an item should be considered in public and the Executive has to give notice of any such contact and its response to the request 5 clear days before its meeting;
 - c) Where 28 days notice of key decisions has not been given or key decisions are submitted with less than 5 clear days' notice then certain notices have to be published giving reasons for this;
 - d) A new requirement for officers making executive decisions to publish a notice of the decision, reasons for it and any conflicts of interest declared by the officer or a consultee;

EXECUTIVE COMMITTEE**20TH NOVEMBER 2012**

- e) A requirement to publish background papers for reports to the Executive Committee – currently these are simply listed and made available on request. In future these must be published at the same time as the report and remain accessible to the public for 4 years via the website and in paper form.
- 1.5 The enclosed Access to Information Rules have been updated to take account of the legal requirements. In drafting these we have gone beyond the minimum requirements of the Regulations. For example, we suggest that the replacement for the Forward Plan (the “Work Programme”) continues to include non-key decisions and items due more than 28 days’ after publication. This is transparent and helps plan the business of the Executive, Overview and Scrutiny Committee and Council.
- 1.6 We are seeking clarity about the definition of Officer decisions that are required to be recorded under the legislation. At face value the Regulations appear to imply that all decisions identified in the Council’s Scheme of Delegation as Executive functions would be recorded. This would include day-to-day management decisions about the running of departments such as ordering stationery which are already set out in the Council’s scheme of delegations and details of expenditure over £500 are already published in the Council’s website.
- 1.7 A reasonable approach would be to require officers to record and publish Executive decisions that are either delegated from meetings of the Executive for specific items or relate to expenditure or savings over £50,000. This figure is consistent with where tenders have to be obtained for procurement purposes and with the financial cut-off for determining key Executive decisions.

2. RECOMMENDATIONS

The Committee is asked to RECOMMEND that

the revised Access to Information Rules be approved for inclusion in the Council’s constitution.

3. KEY ISSUES**Financial Implications**

- 3.1 There are no financial implications arising from this report.

Legal Implications

- 3.2 The proposed changes to the Access to Information Rules result from the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Service / Operational Implications

- 3.3 Most of the requirements of the Regulations can be accommodated within our existing administrative arrangements for the appropriate meetings. However, the new requirement to record executive decisions made by officers has the potential to increase the bureaucracy around day-to-day administrative decision-making. The proposals take account of this by restricting this to decisions made on matters involving expenditure above £50,000.

Customer / Equalities and Diversity Implications

- 3.4 We are proposing to achieve the changes required by the Regulations without introducing extra bureaucracy so that the information produced is accessible to the public.

4. RISK MANAGEMENT

- 4.1 There is a risk of less information being available to Councillors and the public if the Regulations are implemented to the letter (for example, there would be less than 4 months' notice of key decisions if the 28 days' notice of items was adhered to). The proposals continue the Council's current approach which is more transparent.
- 4.2 As with all governance items, if our processes do not comply with the law then there is a risk that decisions of the Council will be challenged.

5. APPENDICES

Appendix 1 - Access to Information Rules – proposed new rules for part 5 of the Constitution.

6. BACKGROUND PAPERS

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

<http://www.legislation.gov.uk/2012?title=access%20to%20information>

EXECUTIVE COMMITTEE

20TH NOVEMBER 2012

AUTHOR OF REPORT

Name: Sheena Jones

email: sheena.jones@bromsgroveandredditch.gov.uk

Tel.: 01527 548240

ACCESS TO INFORMATION PROCEDURE RULES

Proposed changes are shown in bold lettering in italics

1. SCOPE

These rules apply to all meetings of the Council, the Executive Committee, the Overview and Scrutiny Committee, the Standards Committee, Area Committees and other formal Committees, Sub-Committees and Panels, unless a statutory exemption applies. Overview and Scrutiny Task and Finish Groups are not covered by these Rules.

These rules also apply to Executive Decisions made by individual officers.

2. ADDITIONAL RIGHTS TO INFORMATION

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

4.1 The Council will give at least 5 clear days' notice of any meeting by posting details of the meeting on the Council website.

4.2 However, in cases of exceptional urgency the Chief Executive, having consulted with the Mayor or the Chair of the relevant Committee, Sub-Committee or Panel, may convene a meeting giving less than 5 clear days' notice. The agenda and minutes of the meeting shall specify the nature of the exceptional urgency.

4.3 For the avoidance of doubt, where the term "clear days" is used, this does not include statutory and concessionary holidays, the day on which notice is given, the day of the meeting or any Saturday or Sunday.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

5.1 Copies of the agenda and reports for all meetings will be provided electronically to all members of the Council at least 5 clear days before the meeting.

The Council will make copies of the agenda and reports open to the public

available for inspection on the Council's website and at the Town Hall at least 5 clear days before the meeting.

- 5.2 Items will only be added to an agenda less than 5 clear days before the date of the meeting in cases of exceptional urgency and only if the officer or member presenting the item has, before the meeting, submitted to the Head of Legal, Equalities and Democratic Services a form signed or approved by the Mayor or the relevant Committee Chair as appropriate giving reasons why:
- (a) the item could not have been included on the agenda; and
 - (b) the item required a decision before the next scheduled meeting of the Council or Committee.
- 5.3 If an item is added to the agenda less than 5 clear days before the date of the meeting, the revised agenda will be open to inspection from the time the item was added to the agenda.
- 5.4 In cases of exceptional urgency where less than 5 days' notice of a meeting is given, copies of the agenda and reports will be made available and shall be open to inspection from the time the meeting is convened.

6. **SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. **WITHDRAWAL OF ITEMS FROM AN AGENDA**

Items on the agenda for meetings of the Council, Executive Committee, Audit and Governance Committee, Overview and Scrutiny Committee will not be withdrawn less than 3 clear calendar days before the date of the meeting except in exceptional circumstances and only when the Mayor, the Leader or the Committee Chair, as appropriate, has agreed to the item being withdrawn at that time.

8. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Executive Committee, excluding any part of the minutes of proceedings which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. BACKGROUND PAPERS

9.1 List of background papers

The Chief Executive will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report of an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11), and in respect of Executive Committee reports, the advice of a political adviser.

9.2 Public inspection of background papers

When a report for a meeting is made available for Executive Committee meetings the Council will also make available at the Town Hall and on its website, one copy of each of the background papers referred to in the list prepared under rule 9.1 above.

These ***background papers*** will be available for public inspection for **4** years after the date of the meeting. Copies of background papers will be supplied to any person on payment of a charge for postage and any other costs.

For all other Council, Committee and Sub-Committee meetings, the Council will make available for public inspection for 4 years after the date of the meeting one copy of each of the documents on the list of background papers.

Copies of these background papers will be supplied on payment of a charge to cover postage and any other costs.

10. **SUMMARY OF THE RIGHTS OF THE PUBLIC**

These Rules constitute a summary of the rights of the public to attend meetings and to inspect and copy documents.

These Rules will be made available to the public on the Council's website and kept at the Town Hall, Redditch.

11. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

11.1 **Confidential information - requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

11.2 **Exempt information - discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

11.3 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

11.4 **Meaning of exempt information**

Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission

Category	Condition
	<p>pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>2. Information which is likely to reveal the identity of any individual.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>"Financial or business affairs" includes contemplated, as well as past or current, activities.</p> <p>Information falling within paragraph 3 is not exempt by virtue of that paragraph if required to be registered under:</p> <ul style="list-style-type: none"> a) the Companies Act 1985 b) the Friendly Societies Act 1974 c) the Friendly Societies Act 1992 d) the Industrial and Provident Societies Acts 1965 to 1978 e) the Building Societies Act 1986 f) the Charities Act 1993. <p>"Registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning</p>

Category	Condition
	<p>of that Act).</p> <p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>"Employee" means a person employed under a contract of service.</p> <p>"Labour relations matter" means:</p> <ul style="list-style-type: none"> a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or b) any dispute about a matter falling within paragraph (a) above; <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority.</p> <p>"office holder", in relation to the authority means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or</p>

Category	Condition
	<p>by any person who holds any such office or is an employee of the authority.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes:</p> <p>(a) to give, under any enactment, a notice under, or by virtue of, which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.</p> <p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken, or be taken, in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

In some cases the Council may consider an item in public although the report it is discussing contains some exempt information. In all cases a public summary of the item will be provided after the meeting, usually as part of the minutes of the meeting.

The Executive Committee will indicate on its Work programme where it is likely to exclude the public from a meeting or part of a meeting. Members of the public can make representations to the Council if they feel that the item should be considered in public. Rule 15 below refers to this in more detail.

13. APPLICATION OF RULES TO THE EXECUTIVE COMMITTEE

Rules 14-24 apply to the Executive Committee and its Sub-Committees. If the Executive Committee or its Sub-Committees meet to take a Key Decision then it must also comply with Rules 1-12 unless either Rule 16 (General Exception) or Rule 17 (Special Urgency) applies. A Key Decision is as defined in Article 13.3 of this Constitution.

14. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a **Work Programme**) has been published in connection with the matter in question;
- (b) at least **28** days have elapsed since the publication of the **Work Programme**; and
- (c) where the decision is to be taken at a meeting of the Executive Committee or its Sub-Committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

15. THE WORK PROGRAMME

15.1 Period of Work Programme

Work Programmes will be prepared by the Leader to cover a period of **at least 28 days**. They will be prepared on an **approximately** monthly basis

and ***published at least 28 days before the first meeting of the Executive Committee to which Key decisions on the Programme relate.***

15.2 Contents of ***Work Programme***

The ***Work Programme*** will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Executive Committee, a Sub-committee of the Executive Committee, individual members of the Executive Committee, officers or under joint arrangements in the course of the discharge of an Executive function during the period covered by the ***Programme***. It will describe the following ***items*** in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a ***key*** decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) ***a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made;***
- (e) ***the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;***
- (f) ***that other documents relevant to those matters may be submitted to the decision maker; and***
- (g) ***the procedure for requesting details of those documents (if any) as they become available.***
- (h) ***which of the key decisions outlined may involve the consideration of exempt or confidential information, the reasons why and how the public may make representations when they consider the item should be considered in public.***

The ***Work Programme*** must be published at least ***28*** days before the start of the period covered.

Exempt information need not be included in the ***Work Programme*** and confidential information cannot be included.

16. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the **Work Programme**, then subject to Rule 17 (Special Urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next **Work Programme**;
- (b) the Chief Executive has informed the Chair of the Overview and Scrutiny Committee, or in his/her absence **each member of the Committee**, by notice, of the matter **about** which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and **published it on the Council's website; and**
- (d) at least 5 clear days have elapsed since the Chief Executive complied with (a) and (b).

The notice should include reasons why it has not been possible to include the item on the Work Programme.

17. SPECIAL URGENCY

If the date by which a decision must be taken **means that** Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee, or in his/her absence the Vice-Chair, that the taking of the decision **is urgent and** cannot be reasonably deferred.

If the Chair of the Overview and Scrutiny Committee, or in his/her absence the Vice-Chair, is unable to act, then the agreement of the Mayor, or in his/her absence the deputy Mayor, will suffice.

As soon as reasonably practicable after the decision-maker has agreement that the decision is urgent and cannot reasonably be deferred, they must publish a notice on the Council's website setting out the reasons why the meeting is urgent. The notice must also be available at the Council's offices for members of the public to see.

18. REPORT TO COUNCIL

18.1 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee considers that a Key Decision has been taken which was not:

- (a) included in the **Work Programme**; or
- (b) the subject of the general exception procedure (Rule 16); or
- (c) the subject of an agreement with the Mayor / Deputy Mayor of the Council under the Special Urgency procedure (Rule 17)

the Overview and Scrutiny Committee may, subject to Rule 18.2, require the Executive Committee to submit a report to the next available meeting of the Council. The power to require a report rests with the Overview and Scrutiny Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Committee when so requested by the Chair or Vice-Chair of the Overview and Scrutiny Committee or any three members of the Overview and Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

18.2 Executive Committee report to Council

The Executive Committee will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council falls within 7 days of receipt of the written notice or the resolution of the Overview and Scrutiny Committee, then the report may be submitted to the following meeting of the Council. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

18.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Executive Committee decisions taken in the circumstances set out in Rule 17 (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

19. RECORD OF DECISIONS

19.1 Meetings

After any meeting of the Executive Committee or any of its committees, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

- a statement of the reasons for each decision;
- any alternative options considered and rejected at that meeting;
- ***A record of any conflict of interest relating to the matter declared by any member of the decision-making body;***

- *For any declared conflict of interest, a note of dispensation granted by the Head of Paid Service (the Chief Executive).*

19.2 Officer Decisions

From time to time, Officers will make decisions that would otherwise be made at meetings of the Executive Committee. As soon as practicable after the decision is made the officer will provide a written statement which will include:

- *A record of the decision and the date it was made;*
- *The reasons for the decision;*
- *Details of alternative options considered and rejected when making the decision;*
- *Any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision;*
- *A note of dispensation granted by the Council's Head of Paid Service (the Chief Executive) relating to any declared conflicts of interest.*

The Decisions recorded will be those where a matter has been delegated to an officer/s at a meeting of the Executive Committee or involves expenditure above £50,000.

Where a decision has been delegated to an officer/s at a meeting of the Council or another decision-making body, the Officer will also make a report after the decision has been made.

19.3 Publication of Decisions

Once a decision is made under paragraphs 19.1 and 19.2 above, copies of the record of the decision will be published, as soon as reasonably practicable, on the Council's website. Copies will also be available for inspection by members of the public at the Council's offices.

20. EXECUTIVE COMMITTEE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

Meetings of the Executive Committee relating to matters which are not Key Decisions will be held in public and must comply with Rules 1-12.

21. ATTENDANCE AT MEETINGS OF THE EXECUTIVE COMMITTEE

- 21.1 All members of the Council are entitled to attend a meeting of the Executive Committee. Members of the Council who are not members of the Executive Committee may speak at meetings of the Executive Committee only with the consent of the person presiding. Only members of the Executive Committee may vote.

- 21.2 All members of the Council are entitled to attend a meeting of a Sub-Committee of the Executive Committee. Members of the Council who are not members of the Executive Committee and who are not members of the Sub-Committee may speak at such meetings only with the consent of the person presiding. Only members of the Sub-Committee may vote.
- 21.3 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive Committee and its Sub-Committees. The Executive Committee may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 21.4 A meeting of the Executive Committee or any of its Sub-Committees may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.
- 21.5 In all cases, the provisions of Rule 19 (Record of Decisions) will apply.

22. OVERVIEW AND SCRUTINY COMMITTEE - ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, a **member of** the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive Committee or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Executive Committee or its committees; or
- (b) any decision taken by an individual member of the Executive Committee.
- (c) ***Any decision made by an officer in accordance with executive arrangements.***

Subject to paragraph 22.2 below, the Executive Committee must provide the document requested as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

22.2 Limit on rights

The Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;

- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (b) the advice of a political adviser.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Executive Committee or its Sub-committees and contains material relating to any business previously transacted at a meeting or **to a decision made by an officer in accordance with Executive arrangements**, unless (a) (b) or (c) below applies:

- (a) it contains exempt information, **unless it is exempt under paragraphs 3 or 6 of the categories of exempt information. However, information which is exempt under paragraph 3 does not have to be disclosed if it related to terms proposed or to be proposed by or to the authority in the course of negotiations for a contract;**
- (b) it contains confidential information; or
- (d) it contains the advice of a political adviser.

The information set out above must be made available at the latest within 24 hours of the decision being made.

23.2 Material relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive Committee or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

23.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.

COUNCIL

26th November 2012

**REGULATION OF INVESTIGATORY POWERS ACT - SCHEME OF DELEGATIONS
AND AMENDMENT TO THE PLANNING CODE OF PRACTICE.**

Relevant Portfolio Holder	Councillor P Mould, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	No
Relevant Head of Service	Claire Felton
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 Council is asked to note the changes to the Regulation of Investigatory Powers Act (RIPA) affecting the Council and approve a delegation to the Head of Legal Services to authorise Officers to appear in Court proceedings on the Council's behalf, including for the purposes of the new RIPA requirements and approve the resulting amendment to the Scheme of Delegations which forms part of the Constitution; and
- 1.2 Approve an amendment to the Planning Code of Practice to reflect Shared Service arrangements beyond the Redditch Borough Council and Bromsgrove District Council agreement.

2. RECOMMENDATIONS

The Council is asked to RESOLVE that:

- 1) **the changes to how the Council conducts investigations under the Regulation of Investigatory Powers Act 2000 (RIPA) be noted;**
- 2) **the Head of Legal Services be delegated authority to authorise Officers to appear on the Council's behalf in Court proceedings, including as required as a result of the changes to RIPA procedures;**
- 3) **the addition to the Council's Planning Code of Practice as set out in Appendix 1 be approved; and**
- 4) **the Head of Legal Services be authorised to make the necessary changes to the Scheme of Delegations and the Planning Code of Practice within the Council's Constitution to reflect the decisions at 2) and 3), above.**

3. KEY ISSUES**Financial Implications**

- 3.1 There are no direct financial implications arising from this report.

Legal Implications

- 3.3 Sections 37 and 38 of The Protection of Freedoms Act 2012 introduced a requirement for a Justice of the Peace to approve authorisations and notices under the RIPA for the use of particular covert surveillance techniques before they can be given effect.
- 3.4 To obtain such approval, Officers of the Council will have to appear in the Magistrates Court and to do so such Officers will have to be appointed under Section 223 of the Local Government Act 1972.
- 3.5 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2012 restricts the use of directed surveillance under RIPA to serious offences (as defined) and for offences involving underage sale of alcohol and tobacco.
- 3.6 The Local Government Act 1972 (as amended) gives a general power to local authorities to discharge functions through Officers (s101). Local authorities are required by s100G (as amended) to maintain a list – the Scheme of Delegations – specifying those powers of the Council which for the time being are exercisable from time to time by Officers of the Council.
- 3.7 The Planning Code of Practice currently reflects the shared service arrangements between Redditch Borough Council and Bromsgrove District Council but does not include Officers now employed by other local authorities providing services to RBC and BDC. For example, Economic Development Officers are now employed by Wyre Forest District Council and Officers within the Audit Service are employed by Worcester City Council. This will ensure consistent and fair processing of planning applications made to BDC and RBC by Officers employed by those other authorities

Service / Operational Implications**RIPA**

- 3.8 The Regulation of Investigatory Powers Act (RIPA) 2000 enabled public authorities to authorise the conduct of certain types of surveillance to investigate crimes, strictly in compliance with the legislation itself and Codes of Practice.
- 3.9 The Policy was adopted on 24 November 2004 and delegated authority granted to the Head of Legal Services to carry out all necessary action to ensure that the

Office of the Surveillance Commissioner, which oversees surveillance activity, is satisfied with the Council's policy and procedures in respect of RIPA.

- 3.10 The Council has not exercised these powers very often. In the last five years there have been four authorisations under RIPA: To date in 2012 one authorisation has been granted; there was one authorisation in 2011 and 2010, none in 2009 and one in 2008.
- 3.11 However, a number of Local Authorities have over the years been criticised for disproportionate use of surveillance techniques and as a result two major changes to the regime came into force on **1 November 2012**:
1. Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2012 mean that a local authority can now only grant an authorisation under RIPA for the use of directed surveillance:
 - i) to prevent or detect serious criminal offences i.e. offences that are punishable by a maximum term of at least 6 months' imprisonment; or
 - ii) offences related to the underage sale of alcohol and tobacco.and
 2. The Protection of Freedoms Act 2012 provides that local authority authorisations and notices under RIPA for the use of particular covert techniques can only be given effect once an Order approving the authorisation or notice has been granted by a Justice of the Peace.
- The combined impact of these changes is likely to result in even fewer RIPA authorisations being sought by the authority.
- 3.12 To obtain an Order under the Protection of Freedoms Act, an application will have to be made to the Magistrates Court and an officer of the authority will be required to participate in the proceedings before the Magistrates for the consideration of the Authorisation by the Court. It is envisaged by the Government Guidance that the case investigator will be able to fulfil this role.
- 3.13 At present there is no delegation that enables officers to be appointed to appear on the Council's behalf in proceedings before a Magistrates Court so to enable such an appointment to be made for RIPA purposes (and other Magistrates' Court Matters) a delegation is sought to the Head of Legal, Equalities and Democratic Services.

Planning Code of Practice

- 3.14 The current Planning Code of Practice does not include provisions regarding the processing of applications for planning consents made to the Council by Members or Officers and Officers currently working for either Bromsgrove District Council or Redditch Borough Council under shared service arrangements to provide that such applications should not be dealt with under delegated powers and should instead be decided by the Planning Committee.
- 3.15 There are also shared-service arrangements in place whereby other local authorities provide services for or on behalf of the Council whose Officers are not currently affected by this provision in the Code of Practice. For example, shared Economic Development and Land Drainage Services are hosted by Wyre Forest District Council, the Audit Service is hosted by Worcester City Council and Property Services are provided by Worcestershire County Council.
- 3.16 To ensure that the same safeguards apply to Members, and Officers who are employed in the shared service with Bromsgrove District Council or by any authority providing services to the Council under a shared service arrangement, the amendment to the Planning Code of Practice, as set out in Appendix 1, is proposed.

Customer / Equalities and Diversity Implications

- 3.17 The recommendation will have minimal impact on internal/external customers. No Equality and Diversity implications have been identified.

4. RISK MANAGEMENT

- 4.1 The main risks associated with the details included in the report are failure to implement good governance arrangements to ensure compliance with legislation and good practice, which may expose the Council to the risk of criticism by the Office of the Surveillance Commissioner (in respect of RIPA) or challenge by way of judicial review or appeal and which may result in awards of damages and costs against the Council and loss of reputation.

5. APPENDICES

Appendix 1 - Planning Code of Practice

6. BACKGROUND PAPERS

The Council's Constitution.

AUTHOR OF REPORT

Name: Claire Felton Tel.: 01527 881249
email: c.felton@bromsgroveandredditch.gov.uk

APPENDIX 1**10. DEALING WITH APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS AND COUNCIL SERVICE AREAS**

10.1 The submission of planning applications and/or development plan proposals by serving Members, Officers, or their close friends and relatives can easily give rise to suspicions of impropriety, including proposals for the Council's own development. The following points should be taken into account:

Members

10.2 Serving Members of the Council who act as agents for people pursuing planning matters shall not be Members of the Planning Committee.

10.3 Members should take no part in the processing of their own applications or those of their immediate family or close friends or anyone with whom the Member has a close personal association.

10.4 As soon as a planning application is received from a Member, the Head of Planning and Regeneration must inform the Council's Monitoring Officer, who will take such steps as are necessary to ensure that applications for dispensations from other Members of the Planning Committee are considered as soon as possible.

10.5 Members who are members of the Planning Committee should declare an interest in respect of applications prepared by them or on their behalf and leave the meeting while such applications are under consideration.

10.6 Applications of currently serving Members should not be dealt with under delegated powers and should be decided by the Planning Committee.

Officers

10.7 Serving Officers should never act as agents for people pursuing a planning matter.

10.8 Officers should take no part in the processing of their own planning applications or those of their immediate family or close friends.

10.9 Applications for Planning Consents made to Bromsgrove District Council by Officers currently working for either Bromsgrove District Council or Redditch Borough Council, or employed by other local authorities who provide services for or on behalf of Bromsgrove District Council under shared service arrangements should not be dealt with under delegated powers and should be decided by the Planning Committee.

Developments by the Council

- 10.10 Planning applications made by Council Service Areas must be processed in accordance with existing policy and treated in the same way as a private application except that all such applications shall be considered by the Planning Committee and not determined under delegated powers.

Applications submitted by former Members and former employees

- 10.11 There has been some considerable concern about former employees setting up their own consultancies and providing planning advice in the Bromsgrove District area and about the consideration of applications by or on behalf of former Members. Both circumstances occur from time to time and the guiding principles should be that:-
- (i) applications by former Members will be treated in the same way as any other application;
 - (ii) applications by former employees whether they are acting for themselves or an agent for others will be treated in exactly the same way as any other application.

Applications by Members of Political Associations

- 10.12 Where a planning application is made by someone who is not a Member, but is known to be a member of the same Political Association as some of the members of the Planning Committee, those Members will need to give consideration as to whether they should declare an interest when the application is considered.
- 10.13 In some cases, no declaration will be necessary, but in other cases the relationship between the parties may be close enough to warrant a declaration of interest. Councillors should have regard to the Council's Code of Conduct and should err on the side of safety.

Governance Arrangements for the Greater Birmingham and Solihull Business Rates Retention Scheme Pooling Arrangement

Definition of Terms

“Executive Body” – the decision making body made up of elected Leaders of the Pool Authorities also referred as the “GBS Pool Leaders”.

“GBSLEP” - Greater Birmingham and Solihull Local Enterprise Partnership – a jointly owned company encompassing a partnership between local authorities and businesses. It plays a central role in determining local economic priorities and undertaking activities to drive economic growth and the creation of jobs.

“GBS Finance Limited” – a company that will manage, invest, recycle and dramatically leverage a number of public and private funds to invest in key projects, infrastructure and GBSLEP’s priorities.

“GBS Pool Leaders” – the decision making Executive Body of the GBS Pool made up of the elected Leaders of the Pool authorities.

“Accountable Body” – the authority that is responsible for managing the day-to-day financial management of the pool and the financial interactions with the Government in relation to the Business Rates Retention Scheme.

“Retained Levy Payments” – Levy payments that would have been paid to the Government had the pool not existed.

“Safety Net Payments” – Payments received from the Government when retained business rates income falls below a threshold defined by the Government

1. Pool Title or Description

Greater Birmingham and Solihull Pool (“the Pool”)

2. Local Authorities Included in the Pool

Birmingham City Council
Bromsgrove District Council
Cannock Chase District Council
East Staffordshire Borough Council
Lichfield District Council
Redditch Borough Council
Solihull Metropolitan Borough Council
Tamworth Borough Council

3. Aim/Rationale of the Pool

The Pool will aim to:

- Build on and strengthen the working relationships of the GBS LEP;
- Adopt a strategic approach to promoting growth and job creation, that supports the delivery of the GBS LEP’s Strategy for Growth;
- Support a holistic approach to investment/inward investment;
- Align with GBS Finance Limited as it develops to create additional resource for projects;
- Reduce the impact of the volatility of business rates income over the pool by spreading the risk;
- Recognise the interdependence of the local authority members; and
- Enable joint decision-making on how the Pool will operate and investment priorities.
- In doing so whilst the primary motivator of the Pool is to drive economic development it is recognised that the pooled resources might be directed towards economic development, core funding or a combination of both and that this will be determined by the GBS Pool Leaders.

4. Growth Strategies

The Pool will support the delivery of the GBS LEP's Strategy for Growth, seeking to maximise economic growth across those local authority areas within the Pool.

5. Decision Making Structures

5.1 Executive Body

- (a) The GBS Pool Leaders , will be the body that takes the formal decisions for the Pool, specifically including the amount of funding that will be pooled, subject to being mandated by each individual authority, and how the pooled resources will be distributed.
- (b) The GBS Pool Leaders will ensure that each has full authority to execute all necessary legal agreements to give effect to the proposals contained in these governance arrangements.

5.2 Membership

Members of the Executive Body will be the Elected Leaders of each of the Pool Authorities.

5.3 Voting Arrangements

Each Member of the Executive Body will have equal voting rights on both the resources to be pooled and the application of resources included within the pool and decisions will be agreed where there is not more than one dissenting vote.

Where there is more than one dissenting vote the proposition will not be passed.

Quorum for meetings will be 50% of the membership of the Executive Body.

Whilst the Executive Body needs to establish the future years methodology to pooling, this would need to be formally mandated by each individual authority participating in the Pool as required under their individual governance practices.

5.4 Investment Decision Making

The first call on pooled resources will be to cover the administrative costs of the Accountable Body detailed in section 6.

Pool Leaders will determine how all funding decisions are taken across the remainder of pooled resources, whether they relate to core funding or economic investment, following consultation with the GBS LEP board and the Pool.

6. Accountable Body

Birmingham City Council will act as the Accountable Body on behalf of the Pool. The cost associated with this will be £65,000 per annum for 2013/14 and thereafter reviewed annually.

In its role as Accountable Body, Birmingham City Council will undertake the following:

- Administer the transfer of resources between the Pool and the Government.
- Coordinate the transfer of funds between Pool Authorities in accordance with Pool priorities.
- Where the transfer of funds is not carried out in line with the timetable required by Pool Authorities, interest will be charged at a rate of Bank of England Base Rate + 2% on a daily basis. The Pool Authorities that have not transferred funds in line with the specified timetable agree to pay this additional charge.
- Coordinate the submission of information requirements to the Government on behalf of the Pool.
- Coordinate the calculation of the budgeted level of Pool retained levy payments/reduced safety net payments in any year and the actual Pool retained levy payments/missed safety net payments after the year end.
- Coordinate monitoring of business rates income across the Pool and report quarterly to the Executive Body.
- Individual Pool Authorities will carry out borrowing required for schemes approved by the Executive Body that will take place in their individual areas. The accountable body will reimburse those borrowing repayments incurred by these authorities out of pooled resources.
- Legal agreements for the Pool.

Each individual member of the Pool will, however, continue to operate its own collection fund for business rates.

7. Management of the Pool

As Accountable Body, Birmingham City Council will manage the day-to-day running of the Pool. This will require members of the Pool to freely share information regarding forecasts and collection levels of business rates income.

8. Distribution of Risk and Reward

The wider potential economic and distributional flexibilities and advantages have been detailed in section 3 above. Whether or not the total quantum of business rates income is greater or less for authorities participating in the Pool is dependent upon:

- The range of additional financial benefits generated across the Pool as a result of generating additional economic growth that otherwise would not have occurred without collaboration
- The amount of Pool levy payments retained
- The amount of safety net grant that would have been received

Simplistically, if the Pool includes both top up and tariff authorities, and grows its business rates then the tariff authorities would pay a lower levy and hence there will be additional resources within the Pool. Similarly, if any of the Pool Authorities falls below their individual safety net, but collectively the Pool does not fall as far, then less safety net grant would be paid to the Pool.

8.1 Pool Retained Levy Payments

Whilst the primary motivator of the Pool is to drive economic development it is recognised that the pooled resources might be directed towards economic development, core funding or a combination of both and that this will be determined by the GBS Pool Leaders.

Where the net position of the Pool is that levy payments have been retained, the Executive Body will determine, as set out in 5.4, the most appropriate allocation strategy, subject to the approach taken to fund reduced safety net payments:

1. On formation of the Pool it is agreed that all members will pay/receive their annual tariff/top up payment (inflated annually by RPI), that would have been paid/received by individual authorities had no pool existed, to/from the accountable body.
2. Additionally, all members of the Pool will retain the business rates income that they would have received had no pool existed.

3. All members of the pool will however pay any Pool retained levy payments to the accountable body to be used by the Executive Body as they feel is appropriate to assist with core funding and/or economic investment.
4. Retained levy payments will be transferred into the pool no later than the point at which they would otherwise have been paid to the Government had no pool existed. Where specific schemes have been approved by the Executive Body, retained levy payments may be transferred in advance of this, in line with the repayment profiles.

8.2 Reduced Safety Net Payments

The greatest financial risk that can result from the Business Rates Retention Scheme is the Pool not receiving safety net payments that would have been received by one or more Pool members had the Pool not existed.

In recognition of this, initially 25%, or other such percentage as agreed by the Executive Body, of the Pool retained levy payments will be set aside as a contingency fund. The first call on this contingency fund will be to fund any safety net payments not received. The allocation of this funding is to be determined by the Executive Body. The remaining 75%, or other such percentage as agreed, of funding will be allocated by the Executive Body.

As the Pool becomes more established and discovers whether a contingency is required and at what level, this ratio can be reviewed as the level of funding to be pooled is reviewed.

8.3 Net Lower Level of Resources for the Pool

Where any retained levy payments of the Pool are less than any missed safety net payments and the combined resources of the Pooled Authorities are less than they would have been had the Pool not existed then a decision of the Executive Body will be taken on the distribution of funding based on the specific circumstances prevailing at the time.

8.4 Changes to Funding to be Pooled

The Executive Body will review the methodology of the amount of funding that will be pooled and the methodology for distributing funding annually. Each review will take place by the end of the June preceding the financial year for which the change will take place. As the Pool will begin on 1 April 2013 the first review of funding distributions is expected to take place by June 2014. If no review takes place then the previous year's methodology will continue to be adopted.

As discussed in section 5.3, any change to the methodology will be agreed where there is not more than one dissenting vote. If one authority does not

agree with the change it may be that, subsequently, that authority then chooses to serve notice to the Pool as per section 8.6.

8.5 Admittance of New Members

The Greater Birmingham and Solihull Pool is open to the possibility of accepting additional members to its pooling arrangement. New members, as existing members, will be accepted subject to:

- there being a unanimous decision of the Pool Leaders/LEP Board to accept the new member(s)
- new membership will begin from 1 April of the following financial year
- consultation and designation requirements of CLG.
- their full acceptance of the CLG's Business rates retention scheme – pooling prospectus and any subsequent amendments to or iterations thereof.

8.6 Notice Period

Membership of the Pool is on a voluntary basis. Therefore all members will be able to leave if they choose to.

Any authority that wishes to leave the Pool must provide a minimum 12 months notice in writing with membership ending on the 31 March in the financial year following notice being given.

However, if a local authority wishes to leave the Pool following a decision taken by the Executive Body (see section 8.4) to change the resources that are to be pooled, then a minimum of 6 months notice, in writing, would be required with membership ending on 31 March following.

8.7 Scrutiny

Scrutiny of the work of the Executive Body and the Accountable Body may be carried out by the Scrutiny and Audit Committees of the constituent Authorities. The Authorities will be expected to co-ordinate work programmes for their Committees to prevent duplication.

8.8 Over/Under Forecasts of Business Rates

All Pool Authorities will pay into the pool the levy payments that they would have been paid to the Government had no pool existed.

Where there is an over/under forecast of business rates when budgets are set, this will lead to a deficit/surplus respectively for each Pool Authority's business rates collection fund. Where this leads to less income from Pool retained levy payments than expected, this should be manageable due to the Pool's policy on contingencies and limiting the extent of capital commitments. However, in the event of an in year deficit occurring due to under/over

forecasts, the deficit/surplus will be carried forward to be taken into account as part of the following year's budget process.

In order to reduce the risk associated with the forecasting of retained levy levels, not more than 50% of Pool retained levy payments will be used to fund capital repayments.

8.9 Financial Obligations

Pool Leaders will agree a profile of capital repayment costs and growth premium costs that will be repayable by the authority in which investment is made in the event they leave the pool. This will be agreed at the time the investment decision is made. When an authority serves notice to leave the pool it will make payments to the Pool in line with the outstanding balance of payments agreed in the investment decision.

8.10 Dissolution

The Executive Body can take a decision on whether or not the Pool should dissolve at the end of a financial year.

On the Pool dissolving, Birmingham City Council will, as Accountable Body, distribute any resources held on behalf of the Pool. Where there are capital repayments that require ongoing funding, Birmingham City Council will continue to charge the Pool authorities for these payments until the borrowing is repaid in full. This will be based on paragraph 8.9 for investment decisions, with the Executive Body agreeing how any further outstanding assets and liabilities are distributed across Pool members.

9. Review of Governance Arrangements

The Pool will formally review and approve its governance arrangements on an annual basis by no later than the end of June in each financial year.

10. Impact of the Pool on Other Authorities.

Consideration has been given to the impact of the formation of the Pool on other authorities, and this analysis can be found in Appendix A.

Impacts of Pooling and Mitigations

Ref	Impact	Mitigation
1.	Impact on potential for Business rates growth in neighbouring county areas.	<p>The Pool will look to maximise business growth so that growth levels are higher in all participating authority areas than if they operated individually. This can only have a positive effect on their neighbouring authorities. Of course, all participating districts will continue to have interaction on economic development matters with their county authorities, neighbouring districts and the other LEP bodies associated with their district. In any event, the county councils will continue to benefit by receiving 20% of the retained business rates from each of the districts within their boundaries, irrespective of whether or not they elect to join a LEP pool.</p>
2.	Impact on the effectiveness of other neighbouring LEPs	<p>The decision of the Pool districts to not join the other LEPs covering their areas might be argued to have an adverse impact on those LEPs. However, they will still be of sufficient scale to be effective organisations. As stated above, these districts will continue to be actively engaged with those other LEPs and the synergies should increase the overall level of strategic investment.</p> <p>It should also be noted that the governance arrangements being developed for the Pool allow for the admittance of new members and the departure of existing members if they wish. This provides future flexibilities to respond to changing geo-political scenarios.</p>

3.	Impact of Wyre Forest District Council being in the GBSLEP, but not in the Greater Birmingham and Solihull Pool	Wyre Forest District Council took part in all discussions around the possibility of pooling with the Greater Birmingham and Solihull Pool, but advised that it did not want to be involved in the Pool Expression of Interest. The scale of the residual Pool is such that it still maintains its critical mass.
----	---	--