



Council

Mon 27 Jul
2015
7.00 pm

Council Chamber
Town Hall
Redditch

REDDITCH BOROUGH COUNCIL

*making
difference*

www.redditchbc.gov.uk

**If you have any queries on this Agenda please contact
Democratic Services**

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Council

Monday, 27th July, 2015

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:	Pattie Hill (Mayor)	Gay Hopkins
	Joe Baker (Deputy Mayor)	Wanda King
	Tom Baker-Price	Jane Potter
	Roger Bennett	Gareth Prosser
	Natalie Brookes	Antonia Pulsford
	Juliet Brunner	Mark Shurmer
	David Bush	Rachael Smith
	Michael Chalk	Yvonne Smith
	Greg Chance	Paul Swansborough
	Anita Clayton	Debbie Taylor
	Brandon Clayton	David Thain
	Matthew Dormer	Jennifer Wheeler
	John Fisher	Pat Witherspoon
	Andrew Fry	Nina Wood-Ford
	Bill Hartnett	

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 Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
4. Minutes (Pages 1 - 4) Kevin Dicks, Chief Executive	To confirm as a correct record the minutes of the meeting of the Council held on 25 th June 2015.. (Minutes circulated in Minute Book 2 - 2015/16)

Council

Monday, 27th July, 2015

5. Announcements	To consider Announcements under Procedure Rule 10: a) Mayor's Announcements b) Leader's Announcements c) Chief Executive's Announcements. (Oral report)
6. Questions from Members of the Public (To Follow)	To consider questions from members of the public received in accordance with Procedure rule 9.
7. Questions on Notice (Pages 5 - 6) Kevin Dicks, Chief Executive	To consider questions from Councillors received in accordance with procedure rule 9.
8. Motions on Notice Kevin Dicks, Chief Executive	No Motions have been submitted under Procedure Rule 11.
9. Executive Committee (Pages 7 - 114) Kevin Dicks, Chief Executive	To receive the minutes and consider the recommendations and/or referrals from the meeting of the Executive Committee held on 14 th July: There are recommendations from this meeting about the following items: Risk based verification; Future Arrangements for Worcestershire Shared Services Joint Committee and Regulatory Services; Review of Operation of Leisure Services Minutes of the meeting are enclosed in Minute Book 2. Recommendations and reports are included with this agenda.
10. Regulatory Committees	To formally receive the minutes of the following meetings of

Council

Monday, 27th July, 2015

Kevin Dicks, Chief Executive

the Council's Regulatory Committees:

Planning Committee – 10th June and 8th July

Minutes are enclosed in Minute book 2

Audit, Governance and Standards Committee – 2nd July
(copy to follow)

11. Review of the Constitution

(Pages 115 - 146)

The Council reviews its constitution on an annual basis. To consider the enclosed report which highlights updates over the last year.

The current constitution is published on the Council's website under "Council" and also on the website with the agenda for this meeting.

Paper copies of the constitution are available in the Group rooms and from Democratic Services.

(No Direct Ward Relevance)

12. Membership of Licensing Sub-Committees

Council is asked to agree the following change in membership from the Conservative Group on the Licensing Sub-Committees:

Premises (Sub-Committee A) – Councillors Tom Baker-Price and Antonia Pulsford, substitute Councillor Gay Hopkins;

Taxis (sub-Committee B) – Councillors Anita Clayton, Roger Bennett with Councillor Gay Hopkins as substitute.

13. Urgent Business - Record of Decisions

Kevin Dicks, Chief Executive

To note any decisions taken in accordance with the Council's Urgency Procedure Rules (Part 6, Paragraph 5 and/or Part 7, Paragraph 15 of the Constitution), as specified.

(None to date).

**14. Urgent Business -
general (if any)**

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.

(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.)

15. 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 rounds 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’.]

Council

Monday, 27th July, 2015

16. -

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



Council

Monday, 15 June 2015

MINUTES

Present:

Councillor Pattie Hill (Mayor), Councillor Joe Baker (Deputy Mayor) and Councillors Tom Baker-Price, Roger Bennett, Natalie Brookes, David Bush, Michael Chalk, Greg Chance, Anita Clayton, Brandon Clayton, Matthew Dormer, John Fisher, Andrew Fry, Bill Hartnett, Wanda King, Jane Potter, Gareth Prosser, Antonia Pulsford, Mark Shurmer, Rachael Smith, Yvonne Smith, Paul Swansborough, Debbie Taylor, David Thain, Jennifer Wheeler, Pat Witherspoon and Nina Wood-Ford

Officers:

Kevin Dicks, Claire Felton and Sheena Jones

Committee Services Officer:

Rosemary Cole

14. APOLOGIES

Apologies for absence were received from Councillors Juliet Brunner, Gay Hopkins and Nina Wood-Ford.

15. DECLARATIONS OF INTEREST

Councillor Bill Hartnett declared an other disclosable interest item No. 9, Planning Committee Minute 96 – land off Dixon Close, Enfield.

16. MINUTES

RESOLVED that

That subject to the inclusion of Councillor Roger Bennett as a representative on the Redditch Highways and Transportation Forum, the minutes of the meeting of the Annual Council held

.....
Chair

Council

Monday, 15 June 2015

on 21st May 2015 be agreed as a correct record and signed by the Chairman.

17. ANNOUNCEMENTS

a) The Mayor

The Mayor gave a summary of some of the events she had attended since the previous meeting including:

- Town Twinning visit to Auxerre;
- YMCA event;
- Bandstand performances which had been re-located to St Stephens due to bad weather with kind permission of Reverend Paul Lawlor;
- Brownies Sports Day;
- 25th Anniversary of the Bel Canto Singers

b) The Leader's Announcements

The Leader referred to recent events he had attended including a meeting of the Redditch Mental Health Action Group, musical performances from 8 Groups in St Stephen's Church and the Arts in Redditch pop up gallery in the Kingfisher Centre.

The Leader then spoke in detail about the situation in respect of the Alexandra Hospital arising from the publication of the long awaited West Midlands Clinical Senate report. The Leader stated that Members would have seen in the news reports that the report contained very little good news for Redditch, particularly in respect of maternity services and Accident and Emergency Services.

The Leader stated that he felt that the report did not address access and capacity issues and that the Authority would need to continue to work with partners to find the best solution for local residents.

The Leader also read out a statement from the Worcestershire Local Medical Committee who represented General Practitioners in the County. The statement had been issued following the publication of the Senate Report and concluded by urging the Senate and the Worcestershire Acute Hospitals Trust to urgently review the call for other options to be urgently developed.

The Leader concurred with these views and referred to the Health Commission which had been set up but which had not

Council

Monday, 15 June 2015

yet met. It may be that this would meet in future to discuss the further consultation.

18. QUESTIONS ON NOTICE

There were no questions on notice on this occasion.

19. MOTIONS ON NOTICE

No motions had been submitted.

20. EXECUTIVE COMMITTEE

Members considered the minutes of the meetings of the Executive Committee held on 14th April 2015 and 9th June 2015.

Equal Opportunity Policy (Minute141)

The Leader reported that at the Executive Committee a number of queries had been raised in respect of the application of the Policy to employees under the age of 18. Officers had since requested that consideration of the recommendation on the Equal Opportunity Policy be deferred to enable additional information to be included within the Policy.

Write Off of Debts 2014-15 (Minute 143)

In response to a query from Members, the Chief Executive undertook to provide additional information on the procedure in respect of debt recovery of Housing Benefits payments in particular and whether any errors had been logged against the Council.

RESOLVED that

- (a) the Minutes of the meeting of the Executive Committee held on 14th April 2015 be received and adopted; and**
- (b) the Minutes of the meeting of the Executive Committee held on 9th June 2015 be received and adopted subject to further consideration of the recommendation within Minute 141 as referred to above.**

21. REGULATORY COMMITTEES

The Council received the minutes of the recent meetings of the Licensing Committee and the Planning Committee.

RESOLVED that

- (a) the minutes of the meeting of the Licensing Committee held on 2nd March 2015 be received and adopted; and**

Council

Monday, 15 June 2015

- (b) the minutes of the meetings of the Planning Committee held on 11th March 2015, 8th April 2015 and 29th April 2015 be received and adopted.

22. CONSTITUTION UPDATE - OFFICER EMPLOYMENT RULES

Members considered a report on revised Officer Employment Rules in relation to a Senior Officer Disciplinary Panel.

RESOLVED that

- (a) the officer Employment Rules and terms of reference for the Senior Officer Disciplinary Panel be approved;
- (b) the Borough Council's membership of the Panel comprises 5 Councillors, politically balanced (currently 3 Labour and 2 Conservatives); and
- (c) it be noted the following members were nominated to the Panel by Group Leaders: Councillors B. Hartnett, Greg Chance, John Fisher, Juliet Brunner and Brandon Clayton

23. APPOINTMENT TO THE JOINT SCRUTINY COMMITTEE FOR THE GBSLEP SUPERVISORY BOARD

RESOLVED that

Councillor Pat Witherspoon be appointed as the Borough's representative on the Joint Scrutiny Committee for the Greater Birmingham and Solihull Local Enterprise Partnership Supervisory Board with Councillor Mark Shurmer as substitute.

24. MEMBERSHIP OF LICENSING COMMITTEE

RESOLVED that

It be noted that Councillor Wanda King had been appointed to the Licensing Committee in place of Councillor Yvonne Smith.

25. URGENT BUSINESS - RECORD OF DECISIONS

There were no urgent decisions to note.

26. URGENT BUSINESS - GENERAL

There were no separate items of urgent business to consider at this meeting.

Redditch Borough Council meeting 27th July 2015**Questions from Councillors**

The following questions have been received from Councillors in accordance with Procedure rule no.9:

1. From Councillor Tom Baker-Price to the Leader of the Council:

Following the recent statistics showing unemployment in the borough is at the lowest level in a decade, can the Leader explain to the council how Redditch's economic policy written in 2007 is able to meet the current economic challenge of improving economic productivity?

2. From Councillor Juliet Brunner to the Leader of the Council:

Does the leader agree with me that a combined authority should provide a better service for its residents than the sum of its parts - and that the services provided to each entity within any new combined local authority should be better than prior to amalgamation, or combining and in answering can the leader confirm that, in accordance with local authority statutes, all meetings concerning external matters - specifically, combined authority discussions - are minuted how many such meetings has the leader had where issues to do with any combined authority, or local authority amalgamation, have been an agenda item ,can he summarise the discussions and will he confirm that he will be attending all future meetings?

COUNCIL

27th July 2015

19. RISK BASED VERIFICATION

RECOMMENDED that

that the Risk Based Verification Policy, attached at Appendix 1 to the report, be approved..

REDDITCH BOROUGH COUNCIL**EXECUTIVE**14th July 2015**RISK BASED VERIFICATION**

Relevant Portfolio Holder	Cllr John Fisher
Portfolio Holder Consulted	√
Relevant Head of Service	Section 151 Officer
Wards Affected	All Wards
Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 To advise Members of the new approach for verifying Housing Benefit and Council Tax Support Claims and approve the Risk Based Verification Policy.

2. RECOMMENDATIONS

- 2.1 **That the Executive Committee RECOMMEND that the Risk Based Verification Policy, attached at Appendix 1, be approved.**

3. KEY ISSUES

- 3.1 In the early 1990's the Department for Work and Pensions introduced a "verification framework policy" for administering Housing and Council Tax Benefit claims. This was a voluntary policy that strongly recommended that local Councils should obtain a substantial amount of documentary evidence, carry out numerous pre-payment checks and visits before making any payment.
- 3.2 The verification framework proved to be costly and caused significant delays in processing. It had to be applied to all claims and there was little scope for local discretion. Although it was abandoned in 2006 by Department for Work and Pensions, most Councils continued to use at least some of the guidelines set out in the framework.
- 3.3 In 2011, the Department for Work adopted a risk-based verification approach which was set out in the Housing Benefit and Council Tax Benefit Circular HB/CTB S11/2011.
- 3.4 Over the last four years this has been taken up by a large proportion of Councils, with great success. Most Councils have used risk-based verification as a means of reducing their costs through a reduction of staff. However, officers see far wider opportunities in adopting this approach, to reduce waste, reduce demand and free up resources to deal with more complex customer needs.

EXECUTIVE14th July 2015**Financial Implications**

- 3.5 There are no financial implications directly related to the proposals, however this new approach will:
- improve the processing times of benefits claims;
 - reduce overpayments of Housing Benefit and Council Tax Support;
 - release resources to spend more time dealing with complex cases; and
 - reduce the work in relation to the Subsidy Audit.
- 3.6 Any costs associated to enabling the necessary computer software to implement the process will be funded through reserves allocated for Council Tax Support and Housing Benefits administration but these are expected to be minimal.

Legal Implications

- 3.7 The Council is legally obligated to verify information for Housing Benefit Claims and Council Tax Support. Housing Benefit Regulation 86 of the Housing Benefit Regulations 2006 states:

“A person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection with the claim or award, or any questions arising out of the claim or the award, as may reasonably be required by the relevant authority in order to determine that person’s entitlement to, or continuing entitlement to, housing benefit.”

The Local Council Tax Support Regulations, agreed by the Council, also adopts the same framework for the validation and verification of claims.

- 3.8 Risk-Based Verification is a voluntary scheme, however there is a mandatory requirement to have the Risk Based Verification Policy, detailing the risk profiles, verification standards and the minimum number of claims to be checked, agreed by Council, as recommended by the Section 151 Officer.

Service/Operational Implications

- 3.9 As at 31st March 2015 there were 6,030 live Housing Benefit claims and 7,043 Council Tax Support claims in Redditch.
- 3.10 Ensuring the right amount is paid out (but no more) is crucial in ensuring fairness to both claimants and taxpayers. Combating fraud and reducing error is a key component in this.

EXECUTIVE14th July 2015

- 3.11 Risk Based Verification is currently practised in Job Centre Plus and the Pension Service therefore the majority of Housing Benefit and Council Tax Support claims received in a Local Authority, may have been subject to some form of Risk Based Verification.
- 3.12 Where local authorities have introduced Risk Based Verification, results have been impressive. The percentage of fraud and error identified has increased, and in addition, there have been efficiencies in areas such as postage and processing times have improved.
- 3.13 Evidence and guidance suggests that in the region of 55% of cases will be low risk, 25% medium risk and 20% high risk. Implementation of this policy will enable resources to focus appropriately on those claims that are in the high risk category whilst reducing the processing time for those in the low risk bracket. It will enable greater flexibility to allow more officers to deal with low risk claims, and to provide improved online facilities. The capacity created within the team through reducing waste and failure-demand relating to the provision of evidence will be used to improve the system to meet our strategic purpose.

Customer / Equalities and Diversity Implications

- 3.14 The risk of each claim is determined by the IT software automatically based on the risk of fraud associated with the claim. It will be applied consistently across all claims.
- 3.15 Processing times for low risk claims will reduce thus improving the service to those customers. Those identified in the high risk category are also likely to have other complex needs and therefore home visits or engagement with other specialists may also be appropriate. Financial advice and support of other income-maximisation options may be explored.

4. RISK MANAGEMENT

- 4.1 Both internal and external auditors have been notified that the Council may be moving to Risk-Based Verification. Discussions will take place with them to ensure that future Housing Benefit audits will be based on this policy.

Department for Work and Pensions advised in January 2012 that "Auditors will carry out their audit against the terms of the risk-based verification policy. They will not audit or in any way assess the veracity of the policy, that is the job of the local authority itself, in particular the Section 151 Officer and Members who sign off the policy. If individual cases have been actioned correctly against the requirements of the policy, auditors will make no comment".

EXECUTIVE14th July 2015

5. APPENDICES

Appendix 1 - Risk Based Verification Policy

6. BACKGROUND PAPERS

Housing Benefit and Council Tax Benefit Circular HB/CTB S11/2011

AUTHOR OF REPORT

Name: Amanda de Warr
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HOUSING BENEFIT RISK BASED VERIFICATION POLICY

INTRODUCTION

- 1.1 Redditch Borough Council is responsible for the calculation and award of Housing benefits and Local Council Tax Support, subject to a valid application and verification of that application.
- 1.2 The Council must adhere to Housing and Council Tax Benefit legislation. The Regulations under the legislation do not specify what information and evidence the Council should obtain from a claimant for Housing Benefit or Council Tax Support.. However, they do require a Council to have information which allows an accurate assessment of a claimant's entitlement, both when a claim is first made and when the claim is reviewed. The legislation is supplemented by detailed statutory guidance, which must be applied. Failure to do so would lead to an adverse inspection report, possible audit sanctions and loss of subsidy.
- 1.3 Given those requirements quality assurance and detection of fraud are key aspects of the assessment process.

RISK BASED VERIFICATION

- 2.1 Risk-Based Verification (RBV) is a method of applying different levels of checks to benefits claims according to the risk associated with those claims. Different circumstances are taken into account and a risk profile applied to each claim. The associated risk matrix is based on many years of experience and statistical information about what type of claim represents what type of risk. The higher the deemed risk, the higher amount of resources will be used to establish that the claim is genuine.
- 2.2 The Department of Work and Pensions (DWP) has a RVB approach for the assessment of some state benefits, and therefore those claims that are 'passported' into the Housing Benefits system may already have had the risk established and appropriate level of checks applied.
- 2.3 RBV allows the Council more flexibility to take into account local issues and build in checks and balances. Improving the time taken to process claims should help those moving from benefits to work whilst reducing the level of overpayments.

2.4 RBV provides the following benefits to customers and the Council:

- Improved claim processing times, especially for those claims assessed as low risk.
- Reduced administration work.
- Improved opportunity to identify fraud and error.

2.5 For the purpose of applying verification on a risk basis, each claim is ranked into one of three categories; Low, Medium and High Risk. The table at Appendix A shows the evidence requirement to be met dependent on the risk grouping. A National Insurance number and identity confirmation must be made in all cases irrespective of the risk grouping, to comply with the legislation. Where photocopies, scanned or photographed documents have been supplied, originals may be requested if there are any concerns about the validity of the document, or if the information conflicts with information already held.

Low Risk

The only checks to be made on cases classed as low risk are proof of identity, production of National Insurance Number and, if the claimant is a student, formal confirmation of status will be required.

Medium Risk

Cases in this category must have the same checks as low risk plus, for every type of income or capital declared, documentary proof is required. Photocopies of documentation can be provided in this instance. Scanned or photographed documents and submitted electronically will be treated as photocopies.

High Risk

All cases classed as high risk must have the same checks as low risk and documentation provided for each declared type of income or capital. However the documents supplied must be originals. Additional evidence, such as proof that rent is being paid, and to whom,, may be required.

Additional checks will be carried out on all cases in the high risk category. These will include a combination of:

- Home visits.
- Following up telephone conversations.
- Review of claim within 26 weeks.
- Credit Reference Checks.

Exempt accommodation, excluded from housing costs for the purposes of Universal Credit, and therefore remaining the responsibility of the Local Authority, will always be classed as high risk.

- 2.6 IT Software will be implemented to determine the risk score for each claim, at the point at which it is received. This uses historical local authority data to identify the likelihood of risk, fraud and potential error.
- 2.7 The evidence required at each risk level has been specified and is attached at Appendix 1.
- 2.8 This policy will apply to all claims currently in pay, as well as all new claims with effect from the implementation date.

RECORDING, MONITORING AND TRAINING

- 3.1 Detailed records of all risk scores will be maintained and reviewed to ensure compliance with the Regulations and that the Council is maintaining proper quality control and fraud awareness.
- 3.2 Cases cannot be downgraded at any time by an assessment officer, although they can be increased to a higher risk category with approval of a Team Leader. All cases which are upgraded are recorded along with the reasons for this re-classification so that this information can be fed through to update the risk parameters if errors are found. Reasons for upgrading a case may include previous fraud, previous late notification of changes in circumstances, or where there is good reason to doubt the veracity of information provided.
- 3.3 Regular quality-assurance monitoring will be undertaken to help ensure that the policy is being applied correctly by all officers.
- 3.4 Officers will review a minimum of 10% of high risk cases via visits to customers' homes.
- 3.5 Officers will monitor the effect of fraud and error detection rates compared to the baseline rate. It is expected that the levels of fraud and error will reduce over time. Fraud and error should be low in Low Risk cases and increased for Medium and High Risk categories. Qualified and experienced Fraud Investigation Officers will be used to carry out a proportion of checks on medium and high risk cases.
- 3.6 The Council will undertake a minimum of 5% checks across all assessments to make sure guidance is adhered to correctly and appropriate decisions made.
- 3.7 Training will be provided for all officers using Risk Based Verification to ensure the agreed processes, procedures and guidelines are adhered to. Discussions will take place with all internal and external stakeholders including Investigation staff, Housing staff, Social landlords and the Voluntary sector so that they are fully aware of the policy.

- 3.8 The DWP has confirmed that RBV, properly applied, will meet audit requirements. We shall maintain dialogue with the external auditors to ensure that we are not placing the Council at risk through the adoption of this policy. Internal Audit processes will have to be amended and the application of RBV will be one of the regular internal audit themes.
- 3.9 Operational measures will be put in place and data collected to understand performance in relation to the policy. These will include:
- Percentage of cases presented in each risk category;
 - Level of fraud detected in each risk category;
 - Level of claimant error found in each risk category;
 - Level of Council error found in each risk category.
 - Percentage of error found through quality assurance checks.

RISK

- 4.1 An evaluation of the risks associated with the implementation of this policy has been carried out and the following risks identified:
- 4.2 Risk 1. Fraud and error will exist in low or medium risk claims and this won't be detected.
This will be mitigated through the overall quality assurance checks that the Council will carry out. In addition medium risk claims with potentially high risk income types would be identified and additional checks carried out. Levels of fraud & error will be closely monitored by the Fraud team. Staff error will be addressed with individuals through our performance framework. The DWP Risk Based Referral file will also be used for intervention selection.
- 4.3 Risk 2. Staff will find the cultural change difficult, and maintain the old way of working.
This will be mitigated through staff engagement in the change process and backed up by post-implementation checks of 5% of claims across all risk categories. Issues identified through these checks will be addressed through our performance framework.
- 4.4 Risk 3. Staff escalate too many cases to a higher risk category.
This will be mitigated by team leaders approving cases for escalation and monitoring the number of cases put forward for escalation. Staff awareness will be increased where any issues are identified.

EQUALITIES IMPACT

- 5.1 Risk-Based Verification will apply to all New Claims for Housing Benefit and Council Tax Support. A mathematical model is used to determine the Risk score for any claim. This model does not take into account any of the protected characteristics dealt with by the Equalities Act.

- 5.2 The course of action to be taken in respect of the risk score is governed by this policy. As such there are no equalities impacts.
- 5.3 It is possible that people with certain protected characteristics, may be over-represented or underrepresented in any of the risk groups. As such monitoring will be carried out to ascertain whether this is the case. As this is a new approach to verifying benefit claims, there is no baseline monitoring we can use as a comparison.
- 5.4 Where it is intended to carry out home visits these will be undertaken by trained visiting officers. These officers are used to carrying out visits to the vulnerable, elderly and disabled, as these groups of claimants are often unable to access Council services in any other way.
- 5.5 Staff have access to translation and interpretation services if required.

LEGAL IMPLICATIONS

- 6.1 The risk based verification policy complies with the recommendations from the Department of Work and Pensions (DWP) outlined in Housing Benefit and Council Tax Benefit Circular HB/CTB S11/2011. This circular can be found at Appendix 2. It should be noted that this policy will be the basis on which we are audited in the future. Providing we comply with this policy, we will be deemed to be verifying claims in the correct way. The policy must be approved by the Council's Section 151 Officer and adopted by the Council.

- 6.2 Housing Benefit Regulation 86 of the Housing Benefit Regulations 2006 states;

“a person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection with the claim or the award, or any question arising out of the claim or the award, as may reasonably be required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to housing benefit and shall do so within one month of being required to do so or such longer period as the relevant authority may consider reasonable.”

Furthermore; Section 1 of the Social Security (Administration) Act 1992 provides that a National Insurance number must either be stated or enough information provided, to trace or allocate one. This legislation applies to both applicants and their partners.

(1A) No person whose entitlement to any benefit depends on his making a claim shall be entitled to the benefit unless subsection (1B) below is satisfied in relation both to the person making the claim and to any other person in respect of whom he is claiming benefit.

(1B) this subsection is satisfied in relation to a person if–

(a) The claim is accompanied by–

- (i) a statement of the person's national insurance number and information or evidence establishing that that number has been allocated to the person; or
- (ii) information or evidence enabling the national insurance number that has been allocated to the person to be ascertained; or
- (b) the person makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated.

POLICY REVIEW

- 7.1 This policy will be kept under review based on the measures but it must comply with the legislative requirements and cannot be changed mid-year due to the complexity of the auditing process.

APPENDIX 1**EVIDENCE REQUIREMENT**

Type of Evidence	Sub-category of evidence	Low Risk	Medium Risk	High Risk
Identify and S19	Identity	Originals, photocopies, scanned or photographed images	Originals, photocopies, scanned or photographed	Originals required
	S19	Originals, photocopies, scanned or photographed images	Originals, photocopies, scanned or photographed images	Originals required
Residency/Rent	Private Tenants	Not required	Tenancy agreement, letter from landlord - Originals, photocopies, scanned or photographed images	Tenancy agreement, letter from landlord Originals required
	Social Landlords	Not required	Tenancy agreement, letter from landlord Originals, photocopies, scanned or photographed images	Tenancy agreement, letter from landlord Originals required
	Local Authority	Not required	Not required	Not required
	Registered	Not required	Not required	Tenancy agreement, letter from landlord Originals required
	Rent paid – actual payment	Not required	Not required	Proof of rent payments made, rent book, receipts, bank statement Originals required Where applicable
Household	Partner ID/S19	Originals,	Originals,	Originals

Composition		photocopies, scanned or photographed images	photocopies, scanned or photographed images	required
	Dependants under 18	Child benefit CIS check	Child benefit CIS check	Child benefit CIS check
	Non-dependants – remunerative work	Not required	Current wage slips Originals, photocopies, scanned or photographed images	Current wage slips Originals required
	Non-dependants – passported benefit	Not required	CIS check	CIS check
	Non-dependant – student	Not required	Student Certificate Originals, photocopies, scanned or photographed images	Student certificate Originals required
	Non-dependant – not in remunerative work/other	Not required	Latest bank statement Originals, photocopies, scanned or photographed images	Latest bank statement Originals required
Income	State Benefits	CIS check	CIS check	CIS check
	Earnings/SMP/SSP	Not required	Current wage slips or estimated earning statement if new job Originals, photocopies, scanned or photographed images	Current wage slips or estimated earning statement if new job Originals required
	Self employed earnings	Self employed statement of earnings	Self employed statement of earnings	Self employed statement of earnings
Child Care Costs		Not required	Statement from claimant Originals photocopies, scanned or photographed images	Statement from claimant Originals required
Student Status	Income also required	Confirmation of status Originals, photocopies,	Confirmation of status Letters about student	Confirmation of status Letters about student

		scanned or photographed images	contributions or maintenance agreements Evidence of term time dates of study, grants/loans and other funding received. Originals, photocopies, scanned or photographed images	contributions or maintenance agreements Evidence of term time dates of study, grants/loans and other funding received. Originals required
Capital	Below lower capital limit	Not required	Bank statement if over £5500 Originals, photocopies, scanned or photographed images accepted	Bank statement if over £5500 Originals required
	Above lower capital limit	Not required	Last 2 months bank statements Originals, photocopies, scanned or photographed images	Last 2 months bank statements Originals required
	Property	Not required	Originals, photocopies, scanned or photographed images of evidence	Originals required of evidence
Other circumstances (money paid out, other income)		Not required	Originals, photocopies, scanned or photographed images of evidence	Originals required of evidence

Housing Benefit and Council Tax Benefit Circular

Department for Work and Pensions

1st Floor, Caxton House, Tothill Street, London SW1H 9NA

HB/CTB S11/2011

SUBSIDY CIRCULAR WHO SHOULD READ	All Housing Benefit (HB) and Council Tax Benefit (CTB) staff
ACTION	For information
SUBJECT	Risk-Based Verification of HB/CTB Claims Guidance

Guidance Manual

The information in this circular does not affect the content of the HB/CTB Guidance Manual.

Queries

If you

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Contents

para

Risk-Based Verification of HB/CTB Claims Guidance

Introduction.....1
Background.....2
What is RBV?.....5
How does RBV work?.....8
The Requirements for LAs that adopt RBV.....14
How RBV claims will be certified.....18
Other considerations.....19
What are the subsidy implications.....20

Risk-Based Verification of HB/CTB Claims Guidance

Introduction

1. This guidance outlines the Department's policy on Risk-Based Verification (RBV) of Housing Benefit and Council Tax Benefit (HB/CTB) claims.

Background

2. RBV allows more intense verification activity to be focussed on claims more prone to fraud and error. It is practiced on aspects of claims in Jobcentre Plus (JCP) and the Pension Disability and Carers Service (PDCS). Local authorities (LAs) have long argued that they should operate a similar system. It is the intention that RBV will be applied to all Universal Credit claims.
3. Given that RBV is practised in JCP and PDCS, the majority (up to 80%) of HB/CTB claims received in an LA may have been subject to some form of RBV. Already 16 LAs operate RBV. Results from these LAs have been impressive. In each case the % of fraud and error identified has increased against local baselines taken from cells 222 and 231 of the Single Housing Benefit Extract (SHBE). In addition, in common with the experience of JCP and PDCS there have been efficiencies in areas such as postage and storage and processing times have improved.
4. We therefore wish to extend RBV on a **voluntary basis** to all LAs from April 2012.

This guidance explains the following;

What is RBV?

How does RBV work?

The requirements for LAs that adopt RBV

How RBV claims will be certified

What are the subsidy implications?

What is RBV?

5. RBV is a method of applying different levels of checks to benefit claims according to the risk associated with those claims. LAs will still be required to comply with relevant legislation (Social Security Administration Act 1992, section 1 relating to production of National Insurance numbers to provide evidence of identity) while making maximum use of intelligence to target more extensive verification activity on those claims shown to be at greater risk of fraud or error.
6. LAs have to take into account HB Regulation 86 and Council Tax Benefit Regulation 72 when verifying claims. The former states:

"a person who makes a claim, or a person to whom housing benefit has been awarded, shall furnish such certificates, documents, information and evidence in connection with the claim or the award, or any question arising out of the claim or the award, as may reasonably be

required by the relevant authority in order to determine that person's entitlement to, or continuing entitlement to housing benefit and shall do so within one month of being required to do so or such longer period as the relevant authority may consider reasonable."

Council Tax Benefit Regulation 72 is similar.

7. These Regulations do not impose a requirement on authorities in relation to what **specific** information and evidence they should obtain from a claimant. However, it does require an authority to have information which allows an **accurate assessment** of a claimant's entitlement, both when a claim is first made and when the claim is reviewed. A test of reasonableness should be applied.

How does RBV work?

8. RBV assigns a risk rating to each HB/CTB claim. This determines the level of verification required. Greater activity is therefore targeted toward checking those cases deemed to be at highest risk of involving fraud and/or error.
9. The classification of risk groups will be a matter for LAs to decide. For example, claims might be divided into 3 categories:

Low Risk Claims: Only essential checks are made, such as proof of identity. Consequently these claims are processed much faster than before and with significantly reduced effort from Benefit Officers without increasing the risk of fraud or error.

Medium Risk Claims: These are verified in the same way as all claims currently, with evidence of original documents required. As now, current arrangements may differ from LA to LA and it is up to LAs to ensure that they are minimising the risk to fraud and error through the approach taken.

High Risk Claims: Enhanced stringency is applied to verification. Individual LAs apply a variety of checking methods depending on local circumstances. This could include Credit Reference Agency checks, visits, increased documentation requirements etc. Resource that has been freed up from the streamlined approach to low risk claims can be focused on these high risk claims.

10. We would expect no more than around 55% of claims to be assessed as low risk, with around 25% medium risk and 20% high risk. These figures could vary from LA to LA according to the LA's risk profiling. An additional expectation is that there should be more fraud and error detected in high risk claims when compared with medium risk claims and a greater % in medium risk than low risk. Where this proves not to be the case the risk profile should be revisited.
11. LAs may adopt different approaches to risk profile their claimants. Typically this will include the use of IT tools in support of their policy, however, the use of clerical systems is acceptable.
12. Some IT tools use a propensity model¹ which assesses against a number of components based on millions of claim assessments to classify the claim into one of the three categories above. Any IT system² must also ensure that the risk profiles include 'blind cases' where a sample of low or medium risk cases are allocated to a higher risk group, thus requiring heightened verification. This is done in order to test and refine the software assumptions.

13. Once the category is identified, individual claims cannot be downgraded by the benefit processor to a lower risk group. They can however, exceptionally, be upgraded if the processor has reasons to think this is appropriate.

The requirements for LAs that adopt RBV

14. RBV will be voluntary. However, all LAs opting to apply RBV will be required to have in place a **RBV Policy** detailing the risk profiles, verification standards which will apply and the minimum number of claims to be checked. We consider it to be good practice for the Policy to be examined by the authority's Audit and Risk Committee or similar appropriate body if they exist. The Policy must be submitted for Members' approval and sign-off along with a covering report confirming the Section 151 Officer's (section 85 for Scotland) agreement/recommendation. The information held in the Policy, which would include the risk categories, should not be made public due to the sensitivity of its contents.
15. The Policy must allow Members, officers and external auditors to be clear about the levels of verification necessary. It must be reviewed annually but not changed in-year as this would complicate the audit process.
16. Every participating LA will need a robust baseline against which to record the impact of RBV. The source of this baseline is for the LA to determine. Some LAs carry out intensive activity (along the lines of the HB Review) to measure the stock of fraud and error in their locality. We suggest that the figures derived from cells 222 and 231 of SHBE would constitute a baseline of fraud and error currently identified by LAs.
17. Performance using RBV would need to be monitored monthly to ensure its effectiveness. Reporting, which must be part of the overall Policy, must, as a minimum, include the % of cases in each risk category and the levels of fraud and error detected in each.

How RBV claims will be certified?

18. External Auditors will check during the annual certification that the subsidy claim adheres to the LA's RBV Policy which will state the necessary level of verification needed to support the correct processing of each type of HB/CTB claim. The risk category will need to be recorded against each claim. Normally the LA's benefit IT/clerical system will allow this annotation.

¹ Whilst DWP is of the opinion that the use of IT will support the success of RBV, it does not in anyway endorse any product or company

² The same safeguard must be applied to clerical systems

Other considerations

19. The sample selection for HB/CTB cases will not change i.e. 20 cases will be selected for each headline cell on the claim form. The HB COUNT guidance used by the external auditors for certification will include instructions for how to deal with both non-RBV and RBV cases if selected in the sample. For non-RBV cases, the verification requirements will remain the same i.e. LAs will be expected to provide all the documentary evidence to support the claim.

What are the subsidy implications?

20. Failure by a LA to apply verification standards to HB/CTB claims as stipulated in its RBV Policy will cause the expenditure to be treated as LA error. The auditor will identify this error and if deemed necessary extrapolate the extent and, where appropriate, issue a qualifying letter. In determining the subsidy implications, the extrapolation of this error will be based on the RBV cases where the error occurred. For this reason, it is important that RBV case information is routinely collected by ensuring that LA HB systems incorporate a flag to identify these RBV cases. If sub-populations on RBV cases can not be identified, extrapolations will have to be performed across the whole population in the particular cell in question.
21. We will now work with the respective audit bodies to incorporate this into the COUNT guidance. If you have any queries please contact Manny Ibiayo by e-mail HBCTB.SUBSIDYQUERIES@DWP.GSI.GOV.UK

COUNCIL27th July 2015

20. FUTURE ARRANGEMENTS FOR WORCESTERSHIRE SHARED SERVICES JOINT COMMITTEE AND WORCESTERSHIRE REGULATORY SERVICES**RECOMMENDED that**

- 1) the current Worcestershire Shared Services Partnership be dissolved by mutual agreement on 31st March 2016;**
- 2) a new Worcestershire Shared Services Partnership comprising of the six district councils be created on 1st April 2016 in accordance with the terms set out in Appendix 2 to the report (as amended); and that the composition of partner authority member representatives on the Joint Committee be reviewed after a period of one year;**
- 3) the new Worcestershire Shared Services Partnership enter into a service level agreement with Worcestershire County Council for the provision of Trading Standards services in accordance with terms to be agreed by the Acting Head of Worcestershire Regulatory Services; and**
- 4) the Council's functions in relation to Environmental Health and Licensing (other than those functions which cannot be delegated) be delegated to the new joint committee in place from 1st April 2016 in accordance with Section 101 of the Local Government Act 1972 and Section 20 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (as amended);**

Executive Committee

14th July 2015

Future Arrangements for Worcestershire Shared Services Joint Committee and Worcestershire Regulatory Services

Relevant Portfolio Holder	Cllr J. Fisher
Portfolio Holder Consulted	Yes
Relevant Head of Service	Jayne Pickering Director of Finance and Resources
Wards Affected	All
Ward Councillor Consulted	N/A

1. SUMMARY OF PROPOSALS

- 1.1 Worcestershire Regulatory Services (WRS) is the shared service for Environmental Health, Licensing and Trading Standards that was set up in 2010. The participating authorities are Worcestershire County Council and the six Worcestershire District Councils. Bromsgrove District Council is the host authority with responsibility for employing the staff, and providing financial and legal support to the service.
- 1.2 This report sets out proposals for changes to the partnership to come into effect in April 2016 and changes to the management structure which will be implemented straight away.
- 1.3 The recommendations within this report are amended from those contained in the WRS Report attached at Appendix 1 to reflect the decision of the Joint Committee following consideration of that report on 25 June 2015 and to add a recommendation for the delegation of council and executive functions to the new Joint Committee when established.

2. RECOMMENDATIONS

- 2.1 That the Executive Committee note the contents of this report and
- 2.2 That the Executive Committee **RECOMMEND** to Full Council that:-
- 2.2.1 The current Worcestershire Shared Services Partnership is dissolved by mutual agreement on 31 March 2016;
- 2.2.2 A new Worcestershire Shared Services Partnership comprising of the six district councils is created on 01 April 2016 in accordance with the terms set out in Appendix 2 (as amended); and that the composition of partner authority member representatives on the Joint Committee be reviewed after a period of one year;

Executive Committee

14th July 2015

2.2.3 The new Worcestershire Shared Services Partnership enter into a service level agreement with Worcestershire County Council for the provision of trading standards services in accordance with terms to be agreed by the Acting Head of Worcestershire Regulatory Services;

2.2.4 The Council's functions in relation to Environmental Health and Licensing (other than those functions which cannot be delegated) be delegated to the new joint committee in place from 1 April 2016 in accordance with Section 101 of the Local Government Act 1972 and Section 20 of the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (as amended);

and **RESOLVE**

2.2.5 to delegate those Executive functions in relation to the administration and operational activities of WRS to the new joint committee in place from 1 April 2016 in accordance with section 101 of the Local government Act 1972 and Section 20 of the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 (as amended).

3. KEY ISSUES

Financial Implications

3.1 As Members are aware significant efficiency savings have been realised over the period that the shared service has been in operation. The initial budget allocation for Redditch in 2009/10 was £802k which has been reduced through efficiencies and alternative ways of working to £579k for 2014/15. In addition any annual savings from the service have been returned to the partner Councils.

3.2 With the increasing challenge on local Government finances the County Council has identified significant reductions in their trading standards budget allocation to just under £450k in 2016/17. To enable the individual partner Councils to be protected from the pressure and risks of such significant reductions it was agreed by the Joint Committee that a new model of partnership would be created with the County entering into a service level agreement with WRS for the provision on trading standards services.

Executive Committee

14th July 2015

- 3.3 The 3 year financial envelope for Regulatory Services has been agreed and is in line with the levels included in the Redditch Council Medium Term Financial Plan. The proposals recommended within this report will not result in additional costs to this Council.

Legal Implications

- 3.4 As set out in the legal implications section of the report at Appendix 1, the recommendations in this report have significant legal implications. The existing shared services partnership will be dissolved and a new one created. However, the current proven model of operating through a joint committee will continue, and the existing Shared Services Partnership Agreement can be updated and adopted to reflect the requirements of the new shared service.
- 3.5 Bromsgrove District Council will continue to act as the host authority for WRS. Although the number of partners is reducing by one, there will not be any changes to the legal principles upon which Bromsgrove DC has been acting as host since 2010.

Service / Operational Implications

Background

- 3.6 The shared service for WRS in its current format has been in place since June 2010. The governance arrangements are based on a Joint Committee on which two representatives of each of the participating Councils sit. Alongside this there is a management board made up of the Head of Service, senior managers from WRS and officer representatives of the partner authorities. The partner authorities entered into an agreement in 2010 to govern the running of the service and this is referred to as the Worcestershire Shared Services Partnership Agreement. Bromsgrove DC is the host authority for the service, employs the WRS staff and provides certain support services.
- 3.7 The shared service has been successful in bringing together the three disciplines of environmental health, licensing and trading standards and delivering these through shared teams across the County. Through transformation and economies from shared working, the partner authorities have been able to make significant savings and reduce the overall costs of providing these services to each individual council. Although previously based at Wyatt House in Worcester, WRS re-located in March 2015 to new offices at Wyre Forest House in Kidderminster.

Executive Committee

14th July 2015

- 3.8 In light of reductions to the budgets for local authorities the partners have looked to explore the options for further reducing the costs of the service. In late 2013 the joint committee agreed to pursue the option of seeking a strategic partner to work with from either the public or private sector. A procurement exercise was undertaken but ultimately this was not successful. At the same time further work had been undertaken by WRS to look at how the service can be re-aligned to better meet the requirements of the partner authorities going forward. The proposals for the future arrangements were considered at the meeting of the Joint Committee on 25 June 2015, and a copy of the report written by the Acting Head of Service is attached at Appendix 1. The report outlines the proposed changes to the shared service and at that meeting.
- 3.9 The Joint Committee endorsed the recommendations except for the proposal that the number of member representatives on the Joint Committee from each of the partner councils should be reduced from two to one. The Joint Committee decided that the number of representatives should remain at two and that this would be reviewed after one year of the new joint committee being in operation.
- 3.10 The recommendations of the Joint Committee on the dissolution of the existing joint committee and proposal to re-establish a new partnership and for future services to Worcestershire County Council to be provided by WRS under a service level agreement are being referred to each of the individual member authorities for approval.
- 3.11 Additional recommendations are included in this report for members to resolve to delegate the executive functions currently discharged by WRS on behalf of the Council, to be delegated to the new joint committee from 1 April 2016 and to recommend to Council to do likewise so that a smooth transition from the existing to the new partnership will be seamless.

Key proposals

- 3.12 Members are referred to the detail set out in the report at Appendix 1 but to summarise the key points are as follows:-
- That the partners agree to dissolve the current partnership by mutual agreement from 31 March 2016.
 - That a new partnership be created with effect from 1 April 2016 to include the six district councils with the County Council no longer being a partner.
 - That the County Council will continue to receive services related to its Trading Standards functions from 1 April 2016 but that this will be

Executive Committee

14th July 2015

under a contractual arrangement secured by a service level agreement.

- That the new partnership agreement will include a requirement that any partner unable or unwilling to maintain its service levels and financial contributions at or near to other partners exit the partnership with the option to continue to receive services under a service level agreement on “ at-cost” terms.
- That the WRS Management Board be deleted.
- That from April 2016 membership on the Joint Committee be reduced to one member per authority (with arrangements for named substitutes).
- That Bromsgrove will remain as the host authority and the partnership agreement will be updated in relation to BDCs role in entering into contracts and service level agreements with public bodies on behalf of the partner authorities.

WRS Senior Management Structure

- 3.13 Following reductions of the number of staff working within WRS it is felt that it is no longer appropriate to operate a three-tiered management structure. As outlined in Appendix 1 given the changes to the delivery of services to the County Council it is also felt that an individual team manager for Trading Standards will no longer be required, and this role can be amalgamated with the workload of the Environmental Health Manager. The existing structure and proposed new structure are set out in Appendix 3 to this report.
- 3.14 This restructure will commence immediately by WRS/Bromsgrove DC (as host and employing authority) as these changes were incorporated into the Budget for 2015/2016 as approved by the Joint Committee in February 2015, independent of the proposed reorganisation of the Joint Committee. It is also hoped that implementing the changes now will allow the senior management structure to be in place in advance of the changes to the partnership in March/ April 2016.

Customer / Equalities and Diversity Implications

- 3.15 Although changes are being made to the management structure and governance arrangements it is not anticipated that there will be a noticeable impact on delivery of services to the customer in relation to those District Council functions which WRS delivers on behalf of Redditch. The reduction of the number of partners to six and the changes to the governance arrangements should allow for the partnership to be more flexible and responsive going forward.

4. RISK MANAGEMENT

Executive Committee

14th July 2015

- 4.1 Members are referred to the risk section of the Joint Committee report at Appendix 1.

5. APPENDICES

Appendix 1 – Worcestershire Regulatory Services Joint Committee Report 25 June 2015: Future arrangements for Worcestershire Shared Services Joint Committee

Appendix 2 – Proposed amendments, additions and deletions to the Worcestershire Shared Services Partnership Agreement 2010

Appendix 3 – Current and Proposed management Structure

6. BACKGROUND PAPERS

‘Creating and delivering a sustainable regulatory partnership for Worcestershire’ – report of Chair of WRS Management Board – Worcestershire Shared Services Joint Committee – 19 February 2015
‘Business Plan for Worcestershire Regulatory Services 2015-2018’

Worcestershire Shared Services Partnership Agreement 1 June 2010

Worcestershire LEP letter of response to consultation on proposed changes to WRS Partnership - 17 April 2015

Better Regulation Delivery Office email response to consultation on proposed changes to WRS Partnership - 8 April 2015

7. KEY

N/A

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Joint Committee: 25 June 2015

Title: Future arrangements for Worcestershire Shared Services Joint Committee and Worcestershire Regulatory Services

Recommendations

The Joint Committee is recommended to:

1. Note the outcome of consultation with partner Councils, WRS staff and stakeholders and;
2. Recommend to partner councils that:
 - a. The current Worcestershire Shared Services Partnership is dissolved by mutual agreement on 31 March 2016;
 - b. A new Worcestershire Shared Services Partnership comprising the six district councils is created on 1 April 2016 in accordance with the terms set out in appendix 2;
 - c. The new Worcestershire Shared Services Partnership enters into a service level agreement with Worcestershire County Council for the provision of trading standards services in accordance with terms to be agreed by the Acting Head of Worcestershire Regulatory Services; and
 - d. All existing contracts and service level agreements between the existing Worcestershire Shared Services Partnership and other local authorities are novated to the new Worcestershire Shared Services Partnership.
3. Approve the new management structure for Worcestershire Regulatory Services set out in appendix 4 for consultation with staff and recognised trades unions.
4. Following consultation, authorise the Acting Head of Worcestershire Regulatory Services, in consultation with the Chair of the Joint Committee to finalise the future management structure and undertake

recruitment in accordance with the terms set out in the Worcestershire Shared Services Partnership Agreement.

5. *To establish an appointment sub-committee comprising 3 Members of the Joint Committee; the Executive Member from the Host Authority and the Chairman and Vice Chairman supported by officers as detailed in the legal implications contained within this report.*

Contribution to Priorities

The proposals for reconstitution of the Worcestershire Shared Services Partnership will contribute directly to delivery of partner authorities' priorities for economic, social and environmental well-being, including the agreed priorities for WRS set out in the WRS Service Plan 2015/16 and WRS Business Plan 2015/18.

Introduction / Summary

At its meeting on 19 February 2015, this committee approved for consultation proposals for creating and delivering a sustainable regulatory partnership for Worcestershire.

Consultation has been undertaken with partner councils, WRS staff and a range of stakeholders. The outcome of consultation is detailed in this report and is broadly supportive of the original proposals. Significant concerns were however raised in relation to the future level of trading standards service provision by the County Council.

It is proposed that the Joint Committee recommends that partner councils dissolve the current shared services partnership and reconstitute a new one comprising the six district councils, on terms detailed in this report. These reflect the proposals previously presented to this committee. The Joint Committee is also recommended to approve a new senior management structure for Worcestershire Regulatory Services for consultation with staff and recognised trades unions.

Background

The Worcestershire Shared Services Joint Committee (hereafter *the Joint Committee*) was established on 1 June 2010 by the county and six district councils in Worcestershire as the vehicle for their two tier regulatory shared service – Worcestershire Regulatory Services (WRS). This governance model was based upon established arrangements for shared service delivery operating within the County and was structured to allow for

the addition of other shared services.

The Joint Committee and WRS were established in response to central government's challenge that service delivery in two tier local government areas should be no less efficient than in unitary ones. The original business case for WRS was founded on all partner councils having closely aligned policy positions and service levels enabling efficiency gains of 17% to be made, compared with the cost of predecessor arrangements.

WRS has been extremely successful, delivering savings to its partners well in excess of 20% of predecessor arrangements, gaining plaudits from national regulators including the Better Regulation Delivery Office (BRDO). However, in recent years there has been increasing challenge within the partnership arising from differences in partner service requirements, driven by the individual financial pressures on partners. Most notably the County Council has had to make difficult choices regarding the future level of trading standards service provision, with current financial plans identifying net expenditure reducing to £450k in 2016/17.

In February, the Joint Committee endorsed proposals to restructure the current partnership into a smaller partnership of the district councils, with them continuing to have closely aligned policies and service levels, and the County Council entering into a service level agreement with WRS for the provision of trading standards services. The Committee considered that this model would best maintain the strengths and benefits of the original business case whilst protecting individual partner councils from the pressures and risks of diverging financial positions.

The Joint Committee initiated a process of consultation on these proposals, details of which are set out below and have informed the further detailed recommendations for the future partnership contained within this report.

Consultation

Three consultation events were held for elected members of partner councils during mid-March 2015. Each comprised a presentation on the proposals followed by an open question and answer session.

These events did not reveal any objections to the proposals and were broadly supportive of them. It is noteworthy that almost half of the questions related not to the proposals themselves but to the future level of trading standards

services likely to be provided on behalf of the County Council. A copy of the summary of questions and answers is provided at appendix 1.

A consultation event for WRS staff was held on 4 March at the Guildhall. This followed a similar format to the sessions for elected members and was timed to enable key messages to be reported at the elected member events. As with elected members, WRS staff recognised the need for change and were broadly supportive of the proposals, once again expressing concern about the future level of trading standards service provision.

The following stakeholders were consulted in writing:

- Hereford and Worcester Chamber of Commerce
- Health and Safety Executive
- Worcestershire LEP
- Better Regulation Delivery Office
- Worcestershire Federation of Small Business
- Hereford and Worcester Chamber of Commerce
- Food Standards Agency

Written replies were received from Worcestershire LEP and Better Regulation Delivery Office. Both praised the work of WRS with Worcestershire LEP emphasising the importance of its contribution to the Better Business for All initiative. The Better Regulation Delivery Office declined to comment on the Joint Committee's proposals, whilst Worcestershire LEP welcomed them *"to secure WRS as a robust proposition."* The LEP did express concerns about adverse impact upon Better Business for All arising from the proposed County Council reduction in business advice regarding Trading Standards and is pursuing this directly with the County Council.

A meeting was held at the request of the Food Standards Agency Regional Coordinator to discuss the proposals in more detail. The meeting echoed concerns of the LEP and did not subsequently lead to a formal written response.

Reconstitution of the Worcestershire Shared Services Partnership

The extant partnership agreement signed on 1 June 2010 contains provisions enabling partners to leave the partnership. However, these are cumbersome and complex to invoke. Notice periods must be given and the terms of exit determined by agreement of all partners. This includes arrangements for departing partners to bear the financial consequences of their exit. These provisions have never been utilised in relation to this or other similar shared services using this basic agreement.

Legal advice is that it is more appropriate in these circumstances not to rely upon these provisions but for the partners to dissolve the current partnership by mutual agreement and immediately constitute a successor partnership of the six Worcestershire districts. A service level agreement between the new partnership and the County Council for provision of trading standards services would be entered into as the basis for continuing provision of these services recognising the significant investment made by the County Council in the original partnership and WRS.

Dissolution and reconstitution is not a matter within the competence of this Joint Committee and requires a decision of each partner council. Given the time period necessary for each partner to consider this matter and decide upon it, these decisions will likely conclude in September and October this year. Accordingly it is proposed that these changes take place at the turn of the municipal year, 31 March/ 1 April 2016. This timescale also permits WRS management and officers of the partner councils to make the necessary detailed administrative arrangements.

The majority of the terms of the 2010 partnership agreement remain relevant to the proposed new six district partnership as this will continue to operate as a Joint Committee in accordance with Section 101 of the Local Government Act 1972 and Section 20 of the Local Government Act 2000. It is therefore proposed to use the extant agreement as the basis for the new partnership agreement with modifications, additions and deletions reflecting the future requirements.

The key changes to the partnership and agreement are:

- Agreement is between the six Worcestershire districts
- The provision for expansion of the partnership will be deleted
- A requirement will be introduced obliging any partner unable or unwilling to maintain its service levels and financial contributions at or near to other partners to exit the partnership with the option to continue to receive services under a service level agreement on 'at-cost' terms.
- There will be one member from each partner authority on the Joint Committee (instead of the current two members) with robust deputising arrangements and the inclusion of partner officers to form a WRS Board. This will normally be the member with portfolio responsibility for regulatory matters.
- Deletion of the WRS Management Board.

- Delegated authority from partners to the Joint Committee and Head of Service to enter into agreements for the provision of services to other public bodies (delegation dependent upon annual value of agreement and nature of relationship).
- Further provisions relating to the role of the Host Authority in relation to entering into contracts and service level agreements with public bodies on behalf of the Joint Committee.
- New financial provisions relating to adoption of a fee-earner model for new public authority customers and at-cost service provision for former partner councils of the original 2010 partnership.
- New provisions regarding the use of the WRS brand.

Appendix 2 sets out the principal terms of the proposed new partnership agreement identifying proposed amendments, additions and deletions to the extant agreement.

WRS Senior Management Structure

The current WRS senior management structure of Head of Service, Business Managers and Team Managers was that put in place at inception when the shared service had both a larger complement of staff (circa 120 full time equivalents) and budget, albeit that the number of Business Managers and Team Managers was initially greater.

Slimming of senior management numbers has been progressive as the WRS budget and workforce has reduced year on year. Departure of the Head of Service in January 2015 provided an opportunity to re-examine the structure in light of the proposed new partnership, further reducing income and greater focus on undertaking income-generating work for other public bodies.

Based on the projected WRS financial envelope of £3.475 million from 2016/17 onwards and an expected overall workforce of 78 full time equivalents, it is difficult to justify continuing with three levels of senior management given that spans of control are now 1:2 between the top three tiers. Reducing the number of tiers of management will not only free up resources to maintain service delivery but shorten the management chain making it more flexible and responsive. It is intended to retain the post of head of service given the importance of this role in leading the organisation through a further period of change. It is also proposed to delete the existing tier of Business Managers and redefine the roles of Team Managers to create a single tier of senior management reporting to the head of service.

With the planned further downsizing of trading standards

operations, there will cease to be a justification for a dedicated Team Manager. It is proposed to integrate the professional and technical elements of trading standards within the remit of the proposed Environmental Health and Trading Standards Manager, with other intelligence functions reporting elsewhere.

Importantly, some of the capacity released by de-layering senior management will be beneficially reinvested in providing necessary capability for securing new business, external income and managing relationships with partners and customers. A new role of Business and Relationship Manager is proposed to meet this requirement.

It is proposed that one of the Team Managers will act as the designated deputy in the absence of the Head of Service. This may be on a personal to holder basis to give some future structural flexibility.

The proposed future senior management structure for WRS is shown in appendix 4. Based on an evaluation of the revised Team Manager roles it is anticipated that this will contribute in excess of £100k/ annum of savings making a significant contribution to meeting the future WRS financial envelope whilst providing the necessary capacity and focus for future business development. This is considered by Management Board to be the minimum level of managerial resource necessary to ensure effective direction and control of WRS.

Whilst it may appear premature to seek approval to changes in management structure ahead of decision on the future of the partnership, as the financial envelope was defined in the Business Plan approved in February, action is needed to address this now. There will be greater benefits in managing the transition to a reconstituted partnership if the senior management structure has been refreshed and has had time to bed down.

Joint Committee is asked to approve the proposed future structure for consultation with WRS staff and recognised trades unions. Subject to the outcome of this consultation, Joint Committee is also requested to authorise the Acting Head of WRS, in consultation with the Chair of the Joint Committee to finalise the future management structure and undertake recruitment in accordance with the terms set out in the Worcestershire Shared Services Partnership Agreement.

Financial Implications

The future financial envelope for WRS for the period to 2017/18 is already determined within the WRS Business Plan 2015-18, which was agreed by this Committee in February 2015. The proposals set out within this report are designed to ensure that WRS can continue to operate effectively within this envelope and that its resources continue to be focused upon front line service delivery.

The business plan also identifies an income to WRS rising to £300,000 in 2016/17 and it is important that the service has both the necessary stability and management capacity to achieve this.

Dissolution and reconstitution of the partnership in the manner proposed will not impose a significant financial burden on any party and will provide the necessary framework for future financial stability and risk management. By utilising the existing agreement as the basis for a successor drafting will be minimised and it is expected that this can be concluded within existing legal resources.

Implementing the proposed restructuring of senior management will incur some transitional costs as there will be an overall reduction in numbers, managed in accordance with the host authority's HR policies and procedures. This may involve redundancy, early retirement and redeployment costs which will fall upon the partners to meet in the established manner. These will of course be reduced by the current vacancy for Head of Service which is presently filled on an acting basis.

Legal Implications

The proposals and recommendations in this report have significant legal implications as they involve dissolving and reconstituting a shared service partnership. By utilising the proven Joint Committee model and building upon the extant legal agreement these implications will be managed to best effect and the recommended approach is supported by specialist external legal advice.

Future work undertaken for other public bodies will be governed by agreements or contracts that provide appropriate checks and balances to protect the interests of all parties, in particular the new shared service partners. Existing proven models will be adopted for such arrangements wherever practicable and all agreements will be subject to Host Authority legal approval on behalf of the partnership before signature.

It is not proposed to undertake work for non-public bodies as this would require a local authority trading company to be

established by the partners to comply with local authority trading law. This position could be revisited if sufficient private sector work becomes available to more than cover the costs of operating a trading company.

This approach depends for its success on the unanimous agreement of all current and future partners to the recommendations of this committee.

The Worcestershire Regulatory Services Partnership Agreement provides that the appointment of a Head of Regulatory Services be delegated to the Joint Committee by the Participating Authorities. In addition it provides that such appointment be made in accordance with the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 (Statutory and Non Statutory Chief officers and Deputy Chief Officers) within the meaning of s.2 of the Local Government and Housing Act 1989.

In agreeing to recommendation 4, it will be necessary for the Acting Head of WRS to establish a sub-committee comprising 3 Members of the Joint Committee (one being the Executive Member from the Host Authority), supported by the Acting Head of WRS and an officer from HR (from the Host Authority).

It is proposed for the purposes of this report that the Chairman and Vice Chairman of the Joint Committee make up the remainder of the 2 member places on the sub-committee.

The sub-committee will notify all members of the Joint Committee and the Cabinet of the Host Authority in accordance with the officer employment rules before a formal offer of appointment is made.

Risk

The proposed dissolution and reconstitution of the partnership has been subject to extensive consultation as detailed in this report. There were no objections to the proposals and general support from many respondents. However this consultation was undertaken before the district elections so there is a risk if newly elected councils take a different view, as this proposal remains dependent upon unanimous agreement of all current and future partners.

The approach of implementing this proposal utilising the extant partnership agreement as the basis for a successor agreement minimises the risk of approval by all partners not being achieved.

Sustainability

There may be some risks to operational service delivery during implementation of the new management structure. These will be mitigated by adopting an incremental approach in accordance with Host Authority HR policies and procedures and interim capacity will be utilised if necessary in a similar manner to current arrangements for the Acting Head of Service.

The proposals and recommendations in this report are considered to be those most appropriate to ensuring the future financial and operational sustainability of WRS and the reconstituted Worcestershire Shared Services Partnership.

Contact Points

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Background Papers

'Creating and delivering a sustainable regulatory partnership for Worcestershire' – report of Chair of WRS Management Board – Worcestershire Shared Services Joint Committee – 19 February 2015

'Business Plan for Worcestershire Regulatory Services 2015-2018'

Worcestershire Shared Services Partnership Agreement 1 June 2010

Worcestershire LEP letter of response to consultation on proposed changes to WRS Partnership - 17 April 2015

Better Regulation Delivery Office email response to consultation on proposed changes to WRS Partnership - 8 April 2015

Appendix 1

**SUMMARY OF QUESTIONS, RESPONSES AND COMMENTS AT WRS ELECTED
MEMBER ENGAGEMENT SESSIONS
17 MARCH 2015, COUNTY HALL, WORCESTER
18 MARCH 2015, COUNCIL HOUSE, BROMSGROVE
19 MARCH 2015, CIVIC CENTRE, PERSHORE**

	COUNCILLORS QUESTIONS AND COMMENTS	PANEL RESPONSES
1	Will the proposals lead to more delegation to WRS officers?	No – policy will continue to remain with partners and the current arrangements for delegation to the Joint Committee and Officers will remain.
2	How will new WRS Board operate in relation to Trading Standards?	The WRS Board will have strategic responsibility for ensuring the delivery of Trading Standards services to the County Council in accordance with the terms set down in the proposed Service Level Agreement. The Board will not determine service levels for Trading Standards services which will continue to be a matter for the county council.
3	Have all the Joint Scrutiny Task Group recommendations been taken on board?	The vast majority have and these are referenced in the Joint Committee report. The main recommendation which has not been accepted is appointments of Board members for a two year term. This is not possible because of the constitutional arrangements of several partner councils which take precedence over the partnership agreement.
4	We note there will be only 1 Member and 1 officer on the WRS Board. Will officers be able to vote?	No. The WRS Board will continue to be a Joint Committee under the terms of the Local Government Act 1972 which only permits voting by elected members.
5	Frequency of Joint Committee and WRS Board meetings. Will more frequent meetings be needed to enable the Board to develop its identity?	The initial proposal is for quarterly meetings which are envisaged to be adequate for the WRS Board to provide the necessary strategic direction and decision making. This will of course be reviewed in the light of experience and any changing circumstances. It should be noted that this model has worked well for other shared services in Worcestershire.
6	Are exit arrangements being changed to benefit the County Council?	No. The proposed changes to the partnership exit arrangements are designed to protect the interests of all partner councils and to ensure the future

		sustainability of the partnership.
7	How does repositioning WRS relationship with the County Council help to protect the interests of the Districts?	The basis of the WRS partnership is that partners continue to have a close alignment in terms of priorities, policies and financial capacity. This continues to be the case for the Worcestershire Districts but not so the County Council. This divergence since the formation of WRS has introduced a range of risks which the original partnership agreement is not suitable to manage. The proposed Service Level Agreement with the County Council will clearly define the work that WRS will undertake for it, the resources that will be deployed to do this and the charges that will be made. It is also expected that Trading Standards work will also be re-branded as WCC to provide clarity to customers. These arrangements will ensure that any excess or unmet demand for Trading Standards services will not adversely impact on district Environmental Health and Licensing work and that there will be no unintended cross subsidy.
8	Is this a solution with mutual benefits?	Yes very much so. Partners will continue to benefit from economies of scale and access to professional expertise that they could not achieve alone or in a smaller grouping. All councils, including the County Council will continue to benefit from the unique capabilities of WRS and of investment made to date.
9	Will District partners pay more because the County Council are withdrawing from the partnership?	No. The total financial envelope for WRS will not change as a result of these proposals. The County Councils expected contributions under the proposed Service Level Agreement will mirror those currently forecast. We also expect increased income from work undertaken for other public bodies to help meet future district partner financial expectations.
10	What will happen to the pre-existing financial envelope for WRS?	The total financial envelope for WRS will not change as a result of these proposals.
11	In Trading Standards will WRS need to match the demand coming in with shrinking resources?	Yes the proposed Service Level Agreement will align the Trading Standards work undertaken to the resources deployed by WRS. This reduces risk of work spilling over onto District activities.
12	Does County Council define work for Trading Standards?	Yes the County Council will continue to define the Trading Standards work

	How can Councillors ensure Trading Standards delivers a full proper service?	undertaken for it by WRS. Councillors will be able to hold the County Council's administration to account through the County Council's established governance arrangements.
13	Does the anticipated reduction in expenditure and resources deployed represent a lowering of service for Trading Standards?	The likely reduction in funding for Trading Standards will inevitably mean a smaller number of WRS staff engaged in this work though we will continue to ensure the County Council shares in efficiencies WRS achieves in future that may offset this.
14	Could extra work in Trading Standards could be funded by other organisations, for example Public Health?	Yes it could.
15	Will we consider letting other councils join the new partnership?	No. The aim is to keep the new partnership focused on the closely aligned priorities of the Worcestershire Districts. New partners who may have differing priorities and pressures would create potential governance difficulties. We will of course be looking to selling our services to other councils as described in the Joint Committee report.
16	Majority voting would appear better	Noted
17	What sort of % reductions can be expected for Trading Standards?	This will be a matter for the County Council to determine as part of negotiation of the Service Level Agreement
18	Where is mention of public protection in these proposals?	Public protection remains at the core of the purpose of WRS and is fully address in the WRS Service Plan and Business Plan which was agreed by the Joint Committee at its meeting last February.
19	Is it the case that Capita identified reputational risk with Trading Standards during the recent procurement for a Strategic Partnership?	Capita perceived a number of risks which contributed to their decision to withdraw from the procurement process.
20	Will Trading Standards budget in 2016/17 result in 6 people?	The number of WRS personnel deployed to Trading Standards work in 2016/17 will be agreed with the County Council under the proposed Service Level Agreement.
21	Will Trading Standards have resources to cope if there was an outbreak of say foot and mouth disease?	This is always dependent upon the scale of any outbreak. In the event of a national epidemic as seen a decade ago it would be necessary to bring additional resources and to work closely with other partners such as the police. Existing Mutual Aid agreements would be invoked if this were to happen.

22	Risks for Trading Standards are significantly different for County compared to districts.	Noted
23	What if a district cannot afford current or future levels of funding? What are processes for exit?	An agreed threshold figure for exit will be included in the new partnership agreement which will oblige a Council which is unable to maintain a similar level of policy and financial commitment to other partners to leave the partnership. This is to protect the interests of the other partners. If this occurs any departing partner will be entitled to receive services under a Service Level Agreement in a similar manner to that proposed for the County Council.
24	What if everyone needs to cut?	If all partners are in a similar position this is relatively straightforward as the solution can fit everyone. It must be recognised that future cost reductions cannot be delivered only through efficiencies and service reductions would be necessary.
25	What about the Joint Scrutiny Task Group recommendation to address the lack of training of Members on regulatory matters?	The merit of this recommendation is acknowledged but because it was linked to proposed 2 years term of the Joint Committee is cannot be achieved due to primacy of partner constitutions. WRS will continue to work with partner councils to raise member awareness and understanding of regulatory matters.
26	Reserve substitute Members should be provided for in the new WRS Board arrangements.	Noted and we will see how this can be done similar to the Joint Customer Service Board that oversee the Worcestershire Hub Shared Service
27	Will the implementation period of 3 months allow for involvement of Scrutiny?	This depends on individual partner council constitutional arrangements.
28	What will be the partner payment mechanism?	This is expected to remain "as is"
	How small can the WRS be reduced to?	The aim is to avoid further substantial reductions in the size of WRS by increasing the services sold to other public bodies.

Appendix 2

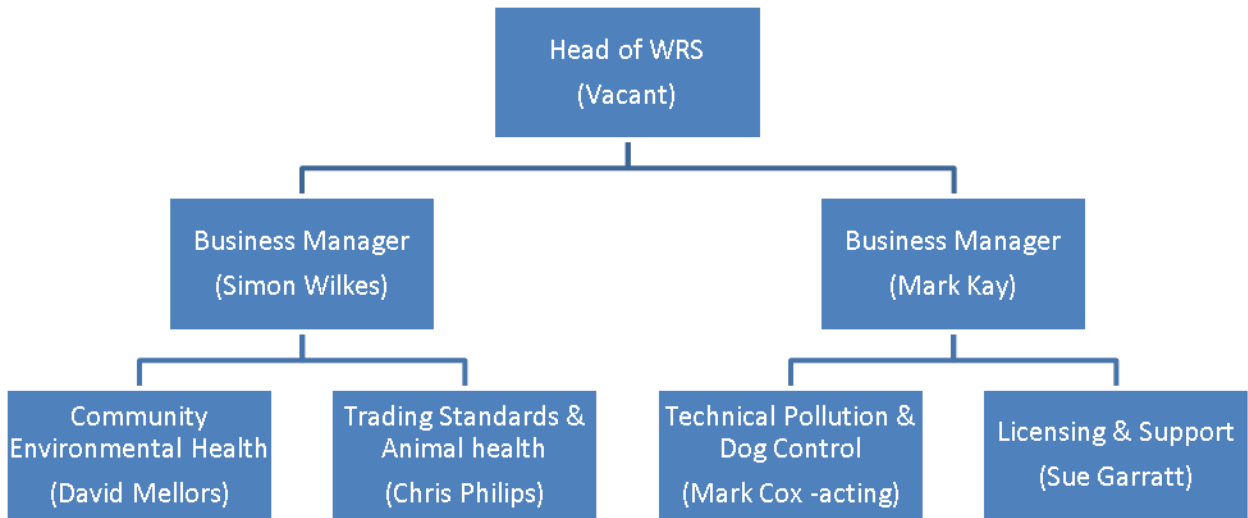
Proposed amendments, additions and deletions to Worcestershire Shared Services Partnership Agreement 2010 to create new Worcestershire Shared Services Partnership Agreement 2016

Item	Reference	Proposed amendments, additions and deletions
	Part I - Between:	Delete (1) Worcestershire County Council and re-number
	Part I recitation (vi)	Amend to include 'sustaining regulatory capacity and expertise by providing services to other public bodies'
	Part I - 1.1	Delete definition of Management Board, update definition of TUPE. Insert definition of 'Service Level Agreement'
	Part I - 2	Insert that the Joint Committee will be known as the Worcestershire Regulatory Services Board
	Part I - 3.4	Previously deleted
	Part I – 4.1	Amend to 'one member' from 'two members' in line 1 and delete 'at least one of those members from' 'authority' from line 3. Insert 'The member shall be the portfolio holder responsible for regulatory matters'.
	Part I – 4.8	Amend to 'will' from 'shall be entitled to' in line 1 and delete 'at least one of the members attending on behalf of that Member Authority'
	Part I – 4.11	Insert 'Each Member Authority shall designate a senior officer to represent it at meetings of the Worcestershire Regulatory Services Board. For the avoidance of doubt such senior will not be members of the Joint Committee and shall have no voting rights.'
	Part I – 6.1.3	Previously deleted
	Part I - 8.1	Previously amended
	Part I – 9.1	Insert 'income targets' on line 3 after 'financial objectives'
	Part I – 9.2	Previously amended
	Part I - 10	Amend to 'Contracts and Service Level Agreements'
	Part I – 10.1	Insert 'and Service Level Agreements' after both references to 'contracts' on line 1 and on line 4; Insert ' and the supply of services to other public bodies' after 'services' on line 2; Delete ' or Shared Services Management Board'
	Part I - 10	Insert new sub-clause specifying that Service Level Agreements entered into with other public bodies must be in accordance with the Shared Service Business Plan and be on such terms as may from time to time be specified by the participating Authorities. Insert new sub-clause limiting use of the Worcestershire Regulatory Services name and brand to Participating Authorities and services delivered on their behalf or with their authority only.

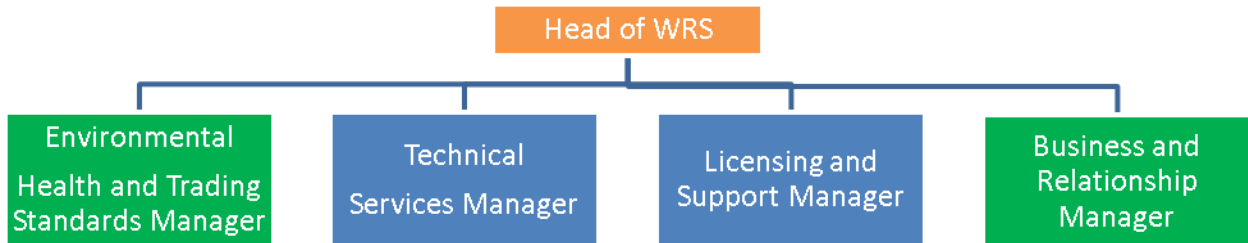
Part I – 15.2.2	Insert 'or Service Level Agreement' after 'contract' in line 1.
Part I – 11	Insert clause clarifying that where employees are employed on work undertaken for non-participating authorities under Service Level Agreements that TUPE will apply in circumstances where such work is transferred upon expiry or termination of such Service Level Agreements. Insert clause clarifying that where employees are employed on work undertaken for non-participating authorities under Service Level Agreements that all redundancy and termination costs arising from the cessation of such work other than by TUPE transfer must be borne by the non-participating authorities concerned.
Part I - 15	Modify clauses to clarify that where work is undertaken for non-participating authorities and other public bodies under Service Level Agreements, that the Participating Authorities shall be required to indemnify the Host Authority against all actions claims demands expenses and costs arising out of or in connection of the provision of the relevant services under the said Service Level Agreement
Part I - 18	Amend to 'Duration and Termination' Insert new sub clause requiring a Participating Authority to withdraw its participation from one or more shared services in circumstances where it is no longer able to maintain a similar policy service and financial position to other Participating Authorities Insert new sub clause permitting a withdrawing Participating Authority to enter into a Service Level Agreement for continued delivery of services on terms to be agreed by all the Participating Authorities without invoking the provisions of Schedule 2. Amend 18.2 accordingly. Amend 18.1.2.1 to '31 st March 2018' corresponding to earliest termination date in original agreement
Part I – Schedule 1 (iv)	Insert additional bullet point 'Gaining external business and income generation'
Part I – Schedule 1 - 2.4	Amend 'seven' to 'six'
Part I – Schedule 1 - 6	Insert 'the senior officer nominated in accordance with 4.11 will attend every meeting of the WRS Board.'
Part I – Schedule 1 – 9.5.2	Delete and replace with 'Decisions on all matters relating to the functions delegated under any subsequent Part of this agreement shall be by a simple majority of those present and entitled to vote thereon'.
Part II – 1.1	Delete 'Worcestershire County Council' and renumber
Part II – 4, Schedule 1, Schedule 3 and Appendix 1 (Statement of partner requirements)	Delete references to Worcestershire County Council and Trading Standards Services. Delegations to be contained within future Service Level Agreement

	Part II - 5	Delete entire clause
	Part II - 8	Previously amended
	Part II – 10	Insert clause clarifying that where employees are employed on work undertaken for non-participating authorities under Service Level Agreements that all pensions costs in respect of such work shall be borne by the non-participating authority concerned.
	Part II – Schedule 4	<p>Amend to incorporate 'fee earner' calculation model and that this is the basis of charging for work undertaken for non-participating authorities and public bodies.</p> <p>Insert clause that Worcestershire County and any future withdrawing Participating Authorities will receive services 'at cost' based on 'fee earner' rates without plusage</p> <p>Insert clause delegating determination of plusage applied to 'fee earner' rates in respect of work undertaken for external organisations to Head of Shared Service</p> <p>Insert clause clarifying intention to move to future cost sharing between Participating Authorities based on application of 'fee earner' rates to rolling three year average recorded activity levels and that current cost sharing arrangements will remain in place until three full years activity data becomes available.</p> <p>Insert clause providing for WRS and Host Authority to collect fee income on behalf of partners and external customers and for this to be off-set against contributions to the costs of the Joint Committee and WRS</p>
	Various	Other consequential additions, deletions or amendments as may be found necessary whilst drafting

Appendix 3 – Current WRS Senior Management Structure



Appendix 4 – Proposed WRS Senior Management Structure



Appendix 2

Proposed amendments, additions and deletions to Worcestershire Shared Services Partnership Agreement 2010 to create new Worcestershire Shared Services Partnership Agreement 2016

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	Part I - 1.1	Delete definition of Management Board, update definition of TUPE. Insert definition of 'Service Level Agreement'
	Part I - 2	Insert that the Joint Committee will be known as the Worcestershire Regulatory Services Board
	Part I - 3.4	Previously deleted
	Part I – 4.8	Amend to 'will' from 'shall be entitled to' in line 1 and delete 'at least one of the members attending on behalf of that Member Authority'
	Part I – 4.11	Insert 'Each Member Authority shall designate a senior officer to represent it at meetings of the Worcestershire Regulatory Services Board. For the avoidance of doubt such senior will not be members of the Joint Committee and shall have no voting rights.'
	Part I – 6.1.3	Previously deleted
	Part I - 8.1	Previously amended
	Part I – 9.1	Insert 'income targets' on line 3 after 'financial objectives'
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	Part I - 10	Amend to 'Contracts and Service Level Agreements'
	Part I – 10.1	Insert 'and Service Level Agreements' after both references to 'contracts' on line 1 and on line 4; Insert ' and the supply of services to other public bodies' after 'services' on line 2; Delete ' or Shared Services Management Board'
	Part I - 10	Insert new sub-clause specifying that Service Level Agreements entered into with other public bodies must be in accordance with the Shared Service Business Plan and be on such terms as may from time to time be specified by the participating Authorities. Insert new sub-clause limiting use of the Worcestershire Regulatory Services name and brand to Participating Authorities and services delivered on their behalf or with their authority only.
	Part I – 15.2.2	Insert 'or Service Level Agreement' after 'contract' in line 1.
	Part I – 11	Insert clause clarifying that where employees are employed on work undertaken for non-participating authorities under Service Level Agreements that TUPE will apply in circumstances where such work is

		transferred upon expiry or termination of such Service Level Agreements. Insert clause clarifying that where employees are employed on work undertaken for non-participating authorities under Service Level Agreements that all redundancy and termination costs arising from the cessation of such work other than by TUPE transfer must be borne by the non-participating authorities concerned.
	Part I - 15	Modify clauses to clarify that where work is undertaken for non-participating authorities and other public bodies under Service Level Agreements, that the Participating Authorities shall be required to indemnify the Host Authority against all actions claims demands expenses and costs arising out of or in connection of the provision of the relevant services under the said Service Level Agreement
	Part I - 18	Amend to 'Duration and Termination' Insert new sub clause requiring a Participating Authority to withdraw its participation from one or more shared services in circumstances where it is no longer able to maintain a similar policy service and financial position to other Participating Authorities Insert new sub clause permitting a withdrawing Participating Authority to enter into a Service Level Agreement for continued delivery of services on terms to be agreed by all the Participating Authorities without invoking the provisions of Schedule 2. Amend 18.2 accordingly. Amend 18.1.2.1 to '31 st March 2018' corresponding to earliest termination date in original agreement
	Part I – Schedule 1 (iv)	Insert additional bullet point 'Gaining external business and income generation'
	Part I – Schedule 1 - 2.4	Amend 'seven' to 'six'
	Part I – Schedule 1 - 6	Insert 'the senior officer nominated in accordance with 4.11 will attend every meeting of the WRS Board.'
	Part I – Schedule 1 – 9.5.2	Delete and replace with 'Decisions on all matters relating to the functions delegated under any subsequent Part of this agreement shall be by a simple majority of those present and entitled to vote thereon'.
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		by the non-participating authority concerned.
	Part II – Schedule 4	<p>Amend to incorporate 'fee earner' calculation model and that this is the basis of charging for work undertaken for non-participating authorities and public bodies.</p> <p>Insert clause that Worcestershire County and any future withdrawing Participating Authorities will receive services 'at cost' based on 'fee earner' rates without plusage</p> <p>Insert clause delegating determination of plusage applied to 'fee earner' rates in respect of work undertaken for external organisations to Head of Shared Service</p> <p>Insert clause clarifying intention to move to future cost sharing between Participating Authorities based on application of 'fee earner' rates to rolling three year average recorded activity levels and that current cost sharing arrangements will remain in place until three full years activity data becomes available.</p> <p>Insert clause providing for WRS and Host Authority to collect fee income on behalf of partners and external customers and for this to be off-set against contributions to the costs of the Joint Committee and WRS</p>
	Various	Other consequential additions, deletions or amendments as may be found necessary whilst drafting

COUNCIL27th July 2015

22. REVIEW OF OPERATION OF LEISURE SERVICES**RECOMMENDED that**

there be a release of balances in 2015/16 of £150,000 to offset the income budget that has been allocated in the Medium Term Financial Plan. This will therefore remove the £150,000 projected savings in 2015/16 (reference paragraph 3.9 of the report).

EXECUTIVE**14th July 2015****REVIEW OF OPERATION OF LEISURE SERVICES**

Relevant Portfolio Holder	Cllr. Pat Witherspoon, Portfolio Holder for Leisure & Tourism
Portfolio Holder Consulted	Yes
Relevant Director	Sue Hanley
Wards Affected	ALL
Key Decision	YES

1. SUMMARY OF PROPOSALS

- 1.1 This report provides Members with the findings of an externally commissioned options appraisal of potential management options for the delivery of leisure and cultural facilities and services.
- 1.2 The report provides the Executive Committee with an overview/assessment of the options appraisal and identifies additional work which may be required.
- 1.3 Executive Committee will have the opportunity to consider the recommendations of Overview & Scrutiny Committee who have fully considered the options appraisal.

2. RECOMMENDATIONS

The Executive Committee is asked to RECOMMEND to Council:-

- 1. Consider the report and the options appraisal and decide if any of the identified alternative models for the delivery of leisure and cultural services be pursued;**
- 2. If an alternative delivery model is decided, for Officers to commission external support and advice to undertake a further comprehensive business case at an estimated cost of £25,000 to £30,000 and for Officers to identify the funding source for this work.**

OR

EXECUTIVE**14th July 2015**

3. **Should Members consider that further work is required prior to a decision on the future delivery of leisure and cultural services, RECOMMEND to Council:-**
- (a) **Release of balances in 2015/16 of £100,000 to offset the income budget that has been allocated in the Medium Term Financial Plan and transfer of £50,000 from the Business Rates levy reserve that is no longer required for 2014/15. These transfers will therefore remove the £150,000 projected savings in 2015/16 (reference 3.9);**
- and **RESOLVE to:**
- (b) **Complete the transformation work which has commenced to gain a greater user/ customer perspective to influence preferred delivery model(s) (reference 3.26);**
- (c) **Report back to Executive at the earliest opportunity with a timetable for delivery of any additional work with any associated costs.**

3. KEY ISSUES**Background**

- 3.1 The Overview & Scrutiny Committee launched a Task Group review of the Abbey Stadium in 2013. Findings of the review were considered by Executive Committee in June 2014 that:-
- a) The Council should explore the options for a leisure trust to manage some or all of its facilities, including the Abbey Stadium; and
- b) The Overview and Scrutiny Committee should be given the opportunity to pre-scrutinise any final business case relating to the future operation of some or all of the Council's leisure facilities, including the Abbey Stadium prior to its submission to the Executive Committee.
- Outcomes and recommendations from Overview and Scrutiny will be advised to Executive Committee for their consideration.
- 3.2 In acknowledgement of the work of the Task Group and exploration of opportunities to make efficiencies / savings, the Strategic Management Team directed the Head of Leisure & Cultural Services to commission an Options Appraisal. This externally commissioned appraisal required

EXECUTIVE**14th July 2015**

an outline of the potential options for the future delivery of leisure and cultural services and this was specified in the brief.

“Consideration of all future management options, against the need to make budgetary savings and the aspiration to achieve service improvements.”

- 3.3 The Sports Consultancy were commissioned to undertake the Options Appraisal in April 2014. Whilst it was initially advised in the proposal letter that this appraisal would be undertaken/completed within four weeks, there were significant delays in the production of a final report, predominantly due to collation and production of the financial and service information required to support the appraisal.
- 3.4 Initial reports were received in (July 2014 and October 2014) with a final draft options appraisal received in January 2015. This report is enclosed for Members consideration at Appendix 1.

The exempt information extracted from the options appraisal is contained with Appendix 2.

- 3.5 Members of the Overview and Scrutiny Committee have undertaken pre-scrutiny work in the following stages:-
- (i) Scrutiny of terms of reference and specification to external consultant’s supplementary report and information (09/06/15);
 - (ii) Discussion of report findings (options appraisal) from consultants with supplementary information and detail (24/06/15);
 - (iii) Review of Executive report, (pre-scrutiny of this report) (07/07/15).

As Overview and Scrutiny will not have their final scrutiny/meeting until after this report is published, any recommendations will be provided to Executive as an addendum report for consideration at the meeting.

Financial Implications

- 3.6 The original cost of the options appraisal was £4,950 and was found from within existing budgets with the costs met equally between Redditch Borough Council and Bromsgrove District Council.
- 3.7 The financial implications outlined within the options appraisal (Appendix 1) can be summarised as follows:-
- (i) Current costs of service (RBC) Page 7
 - (ii) Set up costs and timetable Page 25-26
 - (iii) VAT and NNDR position Page 29-30

EXECUTIVE**14th July 2015**

- | | | |
|------|--|---------------------------------|
| (iv) | Financial modelling and assumptions for each delivery option | Page 31
(Pages 32-34 exempt) |
|------|--|---------------------------------|

- 3.8 Savings of £150,000 for this financial year 2015/16 were built into the Medium Term Financial Plan which was endorsed by Executive and Full Council on the 23rd February 2015.

The Plan stated “potential savings that could be delivered from a review of how Leisure Services are delivered”.

If Members decide not to proceed at this time with an alternative delivery model for the provision of leisure and cultural services, additional savings commensurate with this sum will need to be identified to deliver a balanced budget.

- 3.9 Should Members not proceed then it is proposed that the sum of £150,000 be met from balances which have been increased following the additional savings made in 2014/15 of £100,000 and £50,000 transferred from reserves for Business Rates that have not been required in 2014/15.
- 3.10 An additional £150,000 savings were built into the MTFP for 2016/17 and each year thereafter making an annual saving of £300,000. This budgetary gap will need to be addressed in future years’ budgets and will form part of the discussions later this year.
- 3.11 In pursuance of any further/additional detailed evaluation and external support it is anticipated that there would be a further cost to the Council during 2015/16 which will need to be budgeted for. This cost is anticipated to be in the region of £25-30,000.

Procurement

- 3.12 Procurement requirements were met in relation to the commissioning of the options appraisal (Appendix 1).
- 3.13 Should Executive agree to additional external advice being commissioned, this will be undertaken in full accordance with the Council’s procurement processes.
- 3.14 Any future commissioning or pursuance of an alternative delivery model will be predicated upon expert legal advice and guidance.

Legal Implications

- 3.15 There will be a range of legal issues if any alternative delivery model is pursued by the Council. This will require specialist legal support in respect of the following areas:-

EXECUTIVE**14th July 2015**

- Pension advise
- Employment/TUPE
- Property/Leases
- Management
- Contracts
- Detailed VAT advice

Service/Operational Implications

- 3.16 The Leisure & Culture Management Options Appraisal delivered by The Sports Consultancy was commissioned to provide Redditch Borough Council with an independent overview of the available options/opportunities for the potential future management of leisure and cultural services.

This was never envisaged to be a comprehensive business case however the basis on which Executive could consider the available options and “best fit model” on which to make a decision as to how Officers should proceed on behalf of the Council.

- 3.17 The options appraisal enclosed for Members consideration provides:-

- Possible models and governance arrangements.
- Proposals for the mix of services to be included.
- Options and issues.
- Financial benefits.
- Scoring Matrix to summarise the differences between the models considered.

- 3.18 The appraisal considers three potential management options available to the Council:-

- (i) Continued in-house management;
- (ii) External delivery via an external Leisure Operator or existing Trust;
- (iii) Creation of a new Leisure Trust.

Thereafter it outlines in detail the advantages and disadvantages of each option for the Council to consider.

- 3.19 Other than retaining the status quo (delivering the services in-house), there will be a lead-in time and set up costs involved in moving to an alternative delivery model. The Sports Consultancy set out the following:-

EXECUTIVE**14th July 2015**

Option 2 – Outsourcing/delivery via an external leisure operator – Potential 12 months to deliver via a competitive tendering process and between £25,000 to £75,000 in legal and advisory fees.

Option 3 – Creation of a new leisure trust – Potential 18 months to deliver and between £150,000 to £200,000 in legal, procurement and advisory fees.

Costs of any future work have not been built into the Medium Term Financial Plan and this will need to be addressed immediately if your Officers are to proceed with further work.

3.20 Whilst the options appraisal is provided for Members consideration in full, the outcomes of the options of the evaluation scores for the three models are as follows:-

- | | |
|--|-------|
| • In-house arrangement | 35% |
| • Outsourcing/delivery via an existing trust | 80% |
| • Setting up a new trust | 68.3% |

with an overall recommendation that the “Council pursue the option of outsourcing the management of the portfolio to an existing trust rather than set up a new trust”.

The appraisal outlines that annual average savings of over £780,000 could be secured if the package of leisure services were outsourced to an existing established trust in comparison with an anticipated saving of £430,000 per annum (after set up costs) if the Council were to proceed to create a new Trust. This assumes that all current service delivery is in line with the Medium Term Financial Plan and approved budgets.

3.21 Officers consider that Members could make a decision to pursue an alternative delivery model based on the options appraisal, however there a number of limitations which need to be fully considered by Executive:-

- Whilst three different options/models are stated, there are potentially different outcomes for the service and the process to be followed. These need to be considered in conjunction with the projected financial savings, i.e. opportunity, cost and cost in delivering these.
- Whilst the financial aspects are outlined for each model, the background and supporting information is significantly weighted on the finance. The detail is more limited as to the potential service improvements and inherent benefits to residents and users.

EXECUTIVE**14th July 2015**

- The focus for Redditch Borough Council needs to be that of meeting Strategic Purpose(s) and delivering for the community rather than what is advantageous and of interest to “the market”. Clearly this is a factor however not the primary focus in considering future options.
 - In respect of the scope of the service(s) proposed (or not) for inclusion there is a degree of simplicity in the assumptions which could be detrimental to the Council in delivering integrated services in the future (Parks and Open Spaces). The report is limited on dealing with related services and support services.
 - It is considered that there is not sufficient detail provided in respect of the costs and capacity required to deliver on the options, with specifically an understanding and breakdown of the costs involved. This is of a fairly major concern. There is clearly the potential for a loss of all strategic capacity and resource to the Authority in Leisure and Cultural areas. Whilst this is understood, there does need to be consideration of a retained resource to provide an Authority lead in future arrangements and provision and no costs have been built into the model(s).
 - Whilst the Sports Consultancy have considered the position for both Redditch and Bromsgrove there has been limited dialogue across both Authorities in respect of the options appraisal. Bromsgrove Council have not formally considered the appraisal to the degree that Redditch have and anything that Bromsgrove has to consider is predicated on any decision (or other) that Redditch makes.
 - Senior Managers have, because of the nature of the appraisal, had very limited dialogue with staff affected and no discussion with the Trade Unions or staff representatives.
- 3.22 The options appraisal outlines a range of traditional options in the leisure field however it is considered that these are not the only options available to the Council and Officers consider this will require further exploration and work.
- 3.23 Whilst it is regrettable that the time lapse from that originally anticipated has prevented consideration of the various models and opportunities by members, this has also afforded the Senior Management Team with the opportunity to understand new developments in the market and the potential for a wider range of delivery models, including the following not covered by the options appraisal:-
- Commissioned/outsourced parts or elements of the Leisure and Cultural services.
 - Local Authority trading company (Teckal)
 - Joint venture/Public.

EXECUTIVE**14th July 2015**

- Joint vehicle/Private.
- Mutual.

3.24 Whilst the Council have clearly established Strategic Purposes and a clear vision for the delivery of these purposes, there are a range of challenges which need to be considered before embarking on a leisure delivery model.

- To ensure the services continue to contribute and deliver on:-
 - Provide me with good things to see, do and visit;
 - Help me live my life independently;
 - Help me find somewhere to live in my locality;
 - Keep my place safe and looking good;
 - Help me to be financially independent.
 - Help me run a successful business.

The other key drivers for the Council include:-

- Maintenance of high quality services (with rationalisation of facilities provision if required).
- Deliver significant operational cost savings.
- Deliver a financially stable future for leisure, cultural and associated services.
- Increase user and community involvement in the services.
- Find the most appropriate delivery model(s) to ensure the future sustainability and stability of the required services.

3.25 Officers consider it would be in the best interest of the Council and to the communities and users of the services to gain a much greater and detailed understanding of what it is that we should be prioritising and focusing delivery upon.

Scoping work has already commissioned at the Sports Centres with the team using systems thinking methodology spending time in the business understanding:-

- Incoming demand (What is being asked for; what matters to our customers with the type and frequency of demands).
- Unmet demands (if we are turning customers away, how often and why).
- Usage figures and trends.
- What (if any) barriers exist and what works well and is valued.
- Greater understanding of workflows.

This transformational work cannot be limited to the sports centre and whilst our teams going forward have a key role it is considered that additional support and advice from external experts within the leisure

EXECUTIVE**14th July 2015**

field to provide independent clear and accurate advice would be required by Council if an alternative delivery model is to be pursued.

Should there be the opportunity to realise efficiency savings and or realign services during any intervention, these will be pursued.

- 3.26 Should Members agree that further work is required, the following steps are suggested:-

Will require indicative stages, costs and timescales including the following

- Completion of transformation work;
- Full set of measures/data;
- Review of performance and operating arrangements;
- Commission a further detailed options appraisal (objective assessment of each option against Council purposes);
- Customer and stakeholder engagement; and a
- Costed delivery plan.

- 3.27 Executive Committee will need to be appraised of indicative stages, costs and timescales at the earliest opportunity.

Customer / Equalities and Diversity Implications

- 3.28 At present as there is no formal recommendation to Executive in respect of a proposed operating model, detailed equality impact assessments in respect of staff and customers have not been undertaken. At the point at which a formal recommendation is made on a proposed model then such assessments will be a prerequisite element of a report for consideration.

4. RISK MANAGEMENT

Whilst the advantages and disadvantages of each of the three models are detailed within the options appraisal, the greater risks to the Authority in any outsourced model are set out below.

Outsourcing or Establishment of a New Trust

- Reduced control and day to day influence (more influence and control with a new trust).
- Requirement for funding and resources for the initial procurement and thereafter any re-tendering (set up costs/establishment costs).
- Staff transfer/TUPE/Terms & Conditions.
- Reduced strategic capacity (Council).
- Reduced ability to direct and deliver against strategic purposes including health and well-being.

EXECUTIVE**14th July 2015**Additional Risks (New Trust)

- Reliance (short term) on Council's enabling and support services.
- Depending on size, inability to raise capital and no proven track record.

Clearly these risks have to be balanced against the significant financial savings, of which typically the greatest savings are achieved through an alternative model ie a Trust with the potential for even more savings to the Authority by competitive outsourcing.

5. APPENDICES

Appendix 1 Sports Consultancy Initial Options Appraisal
Appendix 2 Exempt information from Options Appraisal

6. BACKGROUND PAPERS

Overview and Scrutiny papers.

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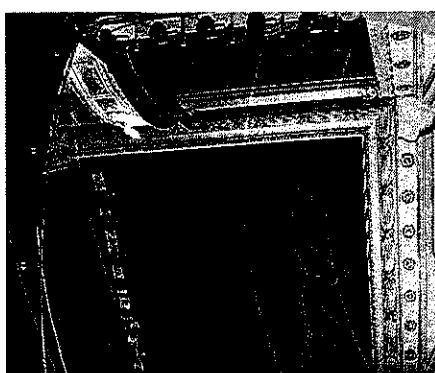
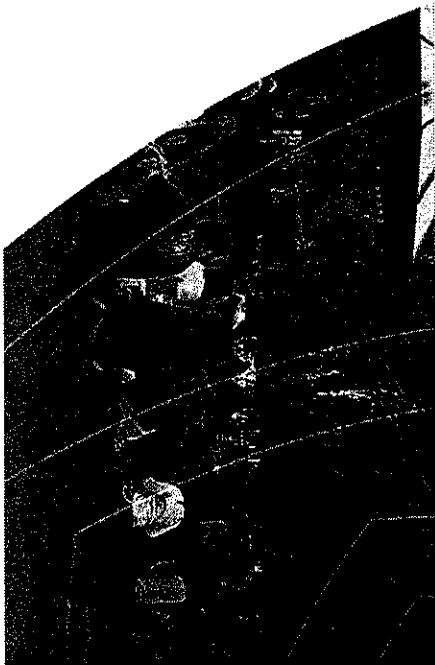
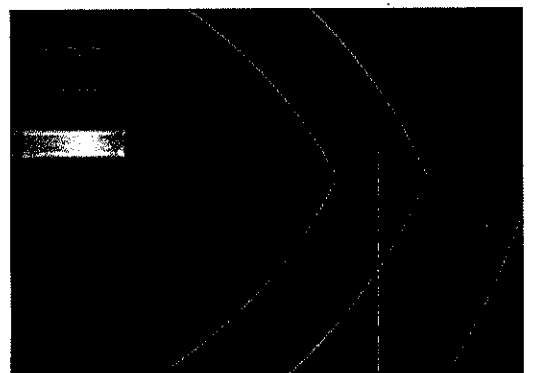
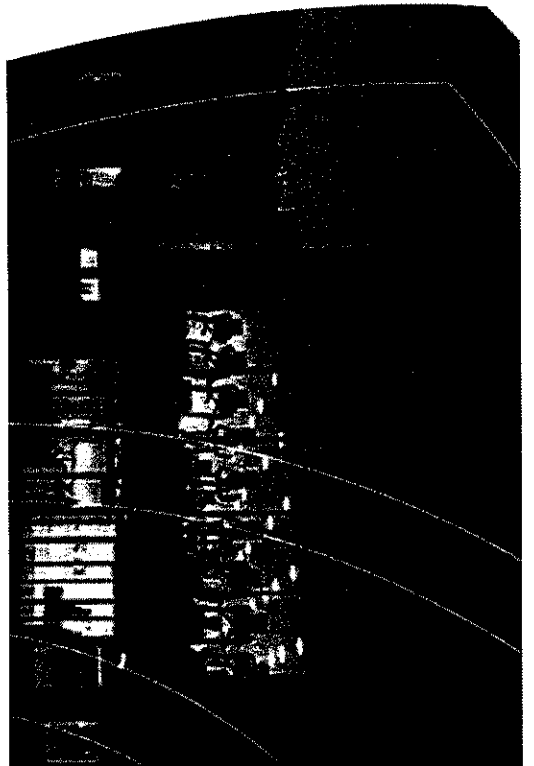
Appendix 1 – Financial Modelling



**Leisure and Culture
Management Options Appraisal
Draft Report**

Commercially Sensitive and Confidential

15 January 2015



The Sports Consultancy

Contents

Report Section	Page Number
1. Introduction	3
2. Overview of service	5
3. Potential management options	14
4. Financial implications	27
5. Evaluation criteria	35
6. Recommendations and Next Steps	37
Appendices	

Appendix 1: Financial Modelling



1. Introduction

Background and Context

The Sports Consultancy ('TSC') was jointly appointed by Redditch Borough Council ('RBC') and Bromsgrove District Council ('BDC') to undertake an appraisal of the available management options for their leisure and culture facilities and services.

Together with a range of other Council services, RBC's and BDC's leisure and cultural portfolios are now part of a shared service, in a drive to achieve efficiencies and cost savings across the Councils.

The leisure and cultural facilities are all managed in-house, with the exception of (1) BDC's Dolphin leisure centre, which is outsourced under contract to Wychavon Leisure, a specialist leisure trust that also operates facilities on behalf of the councils of Wychavon and Malvern Hills, and (2) BDC's Artrix Theatre which is managed under contract on behalf of the Council by a charitable trust.

Against the background of the imperative make financial savings and to ensure a sustainable future for leisure and cultural provision, RBC and BDC are now exploring the feasibility of alternative management options.

Whilst ensuring a financially sustainable future is a priority, the Councils would like to ensure that the management option can also deliver service improvement and benefits to local residents.

This report summarises the available options to help direct the Councils in terms of:

- the most appropriate scope of facilities and services to include
- likely financial savings available to the Councils over a 10-year period, taking into account operational improvements and any support service rationalisation, as well as VAT and NNDR savings
- potential for service improvement
- management and staffing
- legal framework and governance
- track record of the contractor market and strength of covenants
- council control and influence
- contractual documentation governing the agreement between the Council and contractor (e.g. legal agreement, service specification, asset management responsibilities matrix, performance management system)
- an implementation and cost plan
- likely appetite from potential service providers.



2. Overview of service

Scope of facilities – current portfolio

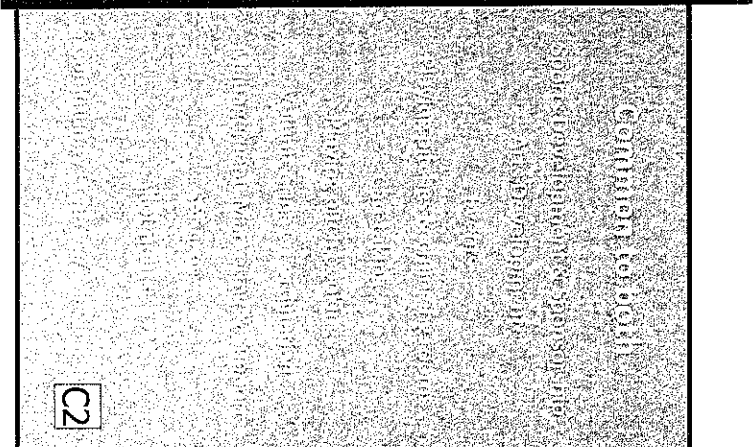
The Councils' respective portfolios encompass a mix of facilities and services across, indoor and outdoor, leisure and cultural, which are listed below. The combined cost of operating the facilities (including the management fee paid to Wychavon Leisure for the Dolphin Centre) is budgeted to be £5.3m in 2014/15, including support services.



Redditch specific

- Abbey Stadium Leisure Centre
- Arrow Vale Sports Centre (dual use)
- Kingsley Sports Centre (dual use)
- Palace Theatre
- Forge Mill Needle Museum & Abbey Ruins
- Pitchebrook Golf Course
- 5 Community Centres / Meeting Rooms
- 3 Parks (Arrow Valley, Overdale, Morton Stanley) & Open Spaces
- 3 Business Centres
- Learning on-line

In July 2014 BDC approved plans for a new leisure centre to be built to replace the Dolphin. The existing contract with Wychavon Leisure will effectively terminate when the current centre closes. Ideally, the contract for the new centre should be tendered as part a wider BDC/RBC portfolio. The management contract for the Artrix Theatre, however, does not expire until 2026 and is likely, therefore, to continue to be managed under a separate arrangement.



Bromsgrove specific

- Dolphin Leisure Centre (outsourced)
- Artrix Theatre (outsourced)
- Sanders Park and Open Spaces
- Council House HQ (and cleaning)
- Public toilets



Slide 6

C2 I have moved this to common to both. Redditch has 5 community centres and Bromsgrove has 2 (Spadesbourne and Amplett Hall)?
Chris, 14/01/2015

Cost of service

The budgeted net cost for 2014/15 of the service components for each portfolio is set out in the table below, listed in order of the net cost of the service (highest first):

2014/15 Budgets

Redditch	Net Cost	% total
Parks, Open Spaces & Allotments	£1,042,696	37%
Management, marketing & support services	£626,439	23%
Palace Theatre	£211,280	8%
Forge Mill Needle Museum & Abbey Ruins	£172,664	6%
Community Centres	£155,025	6%
Sports Development & Sponsorship	£123,315	4%
Kingsley Sports Centre	£97,141	3%
Abbey Stadium	£87,607	3%
Playing pitches & changing rooms	£85,577	3%
Events	£57,410	2%
Arts Development	£47,270	2%
Learning on line	£34,426	1%
Arrow Vale Sports Centre	£29,720	1%
Pitcheroak Golf Course	£15,863	1%
Allotments	(£3,966)	
Total	£2,782,467	



Slide 7

C6 Excludes the 8 community centres not part of John's portfolio
Chris, 18/12/2014

Scope of service – looking to the future

When assessing the most appropriate scope of a portfolio to outsource to a third party, we would recommend the facility and service portfolio represents a **coherent package** in order to confer opportunities for operational efficiencies and strategic benefits. A coherent package will be more attractive to the market, generate more interest, and ultimately put the Councils in a **better position to achieve best value from the contract**.

1. The **Leisure Centres** will form the core part of a portfolio of facilities outsourced to the market. Not only will these will generate the most interest from the market, they will provide the greatest opportunity for the Councils to achieve savings through operational efficiencies and driving additional income through higher usage numbers. BDC's Dolphin Centre is currently outsourced to Wychavon Leisure Trust but this will terminate upon the delivery of the planned replacement facility in [2017]. The prospect of a brand new leisure centre within the portfolio will maximise market interest in the operator market.
2. Bromsgrove's **Artrix Centre** is operated under contract by a specialist trust which is not due to expire until 2026. Whilst it would be reasonable to assume that the Artrix Theatre Trust could operate Redditch's **Palace Theatre** (currently operated in house) – and would recommend discussions are pursued to assess the feasibility of such – in the meantime, we would suggest that it forms part of the package to outsource as part of the wider portfolio. We should point out that whilst leisure operators do operate theatres on behalf of Councils, their experience here is still rather limited and they are likely to be keen to operate the theatre only if it is included with the other facilities, i.e. we cannot foresee it attracting much interest if let as a standalone contract, other than from specialist theatre operators.
3. **RBC's Pitcheroak Golf Course** generates income of less than £100,000 per annum. Whilst neither a review of the facility nor of competing golf courses has been undertaken, in the absence of any evidence to the contrary, we would expect this relatively low level of income to be enhanced by a specialist operator. Leisure operators such as SIV and MyTime are active in the public golf course operator market, and generally there is appetite to manage similar facilities. Further soft market test may well indicate that the Council is likely to achieve best value through separating the golf course operation from the rest of outsourced portfolio, but for the time being, we would recommend it forms part of the wider package.
4. RBC has a number of **Community Centres** across the borough, five of which are operated by the leisure service. BDC's community centre portfolio comprises Spadesbourne and Amphlett Hall. Together, these seven facilities generate around £120,000 of annual revenue in bookings. These potentially could fit well with the leisure and culture portfolio, providing venues for delivering activity and community programmes.



Scope of service – looking to the future

5. **RBC's Forge Mill Museum** is a venue of regional significance, showcasing the area's heritage of needle and fishing tackle industries. On the same site are the ruins of Bordesley Abbey and the visitor centre. Whilst the current level of income generated by the facility is modest, at less than £50,000 per annum, the physical infrastructure seems to be sound and it is reasonable to assume that additional income could be generated if it was operated on a more commercial basis outside of the Council, perhaps driving additional revenue through venue hire.
6. **RBC operates a number of Business Centres** in the borough which provide rentable space for local business and organisations to use for meetings, events, and office space. Again, if it could be demonstrated that these facilities allow a third party operator (which is likely to be a trust) to demonstrate a commitment to some kind of charitable objective along the lines of supporting local business and promoting employment, there could well be some tax advantages of including these in the wider portfolio for outsourcing. The centres currently generate almost £400,000 income per year.
7. **RBC's and BDC's Sports Development and Sponsorship** services together cost £560,000 per year to operate. Whilst as part of this study we have not explored precisely what the service delivers and cannot comment on whether this represents value for money, this is nevertheless a significant cost and outsourcing it together with the wider leisure portfolio may bring some efficiencies and cost savings. Also, keeping the sports development service as part of the same package as the physical leisure infrastructure is likely to make good strategic sense.
8. Likewise, the Councils' respective **Arts Development** services require significant resources to operate, costing a combined £400,000 per year. Again, we have not undertaken a review of the activities of the arts development service and are therefore not in a position to opine on whether the outcomes it delivers represent good value for money for the Council. It does seem sensible to keep the theatre operations and the arts development services together as a coherent package and so we would recommend that these form part of the wider portfolio for outsourcing.



Scope of service – looking to the future

9. RBC's net cost of operation is £2.8m. At £1.0m, **Parks and Open Spaces** represent the highest cost within the portfolio, accounting for 37% of the total budget. This service includes all grass cutting, hedge trimming, verge maintenance, allotments, and planting, all of which is undertaken by RBC's In-house Landscape and Grounds Maintenance team. As there is no material income generated by parks and open spaces it is likely that moving these to a trust will prove to be more expensive to operate than currently due to the treatment of VAT. This issue is covered in more detail later in this report, but broadly speaking, a Trust will be able to benefit from VAT savings on income, whereas a Council-operated facility's prices will be subject to VAT. Conversely, a Trust needs to pay VAT on its input costs, whereas a Council will be able to recover the VAT paid. So, as a rule of thumb, where income is low in proportion to costs, it will be more expensive for a Trust to operate than a Council. Similarly, where income is high as a proportion of costs, a Trust will be able to operate that service at a lower cost than a Council. There are likely to be few savings achievable through the trust benefiting from National Non Domestic Rate (NNDR) relief as there is little or no NNDR payable on these facilities currently. Moreover, there are very few leisure operators who have a demonstrable track record in delivering grounds maintenance services. We have been asked whether a trust would be in a better position to driver better commercial terms through contract negotiation a grounds maintenance contractor; this may well be the case, but if the trust is the principal client, the VAT it will pay for the service is likely to negate any gains made in a lower management fee. For these reasons, we would recommend exploring the option of the parks and open spaces service being separately outsourced to a specialist private operator, with the client relationship retained by the Councils.
10. The Councils have a number of **playing pitches and changing rooms** within their boundaries which generate modest levels of annual income. The grounds maintenance contractor is likely to be best placed to undertake the maintenance of the playing pitches as a combined package with the open space portfolio. We would question what a leisure/culture contractor could bring in terms of additional benefits to the Councils and would therefore suggest that they can achieve better value if these are packaged together with the open space and parks contract.
11. Similarly with **allotments**, it is difficult to see what additional benefits could be gained by transferring their management from the Council to a trust. Any gardening programmes a trust could run for particular target groups could still be delivered without the need to manage the allotments directly.



Scope of service – looking to the future

12. Within the parks there are several **cafés** which are managed under contract by private operators. Knowing the leisure operators as we do, and given the typically seasonal nature of the café operations, we would suggest that these would not form a key part of their operation and are likely to follow a similar strategy to the Council in seeking a specialist catering company to manage them on their behalf, rather than deliver the service directly. For this reason, the Councils are likely to achieve better value for money if they retain their current arrangement and manage the relationship with the café operators directly.
13. The **catering service** within the leisure centres, however, will be considered by leisure centre operators as a core part of the portfolio and they would therefore typically prefer to manage it directly themselves.
14. We note that the scope of the Leisure and Culture department encompasses responsibility for management of the **Council House** for Bromsgrove (the local authority's head office) as well as the district's **public toilets**. There appears to be no obvious fit between these facilities and the leisure and cultural portfolio and we would question whether there is any operational or strategic rationale for these to remain within the package in the future.



Scope of service – recommendations for the future

With the benefit of the feedback from the leisure operators, and our experience in procuring similar facilities, we would recommend that the package of facilities and services to be considered for outsourcing – whether to a new trust or an existing operator – contains the following to ensure the Councils are in the best position to secure best value and service improvements:

Redditch specific

- Abbey Stadium Leisure Centre
- Arrow Vale Sports Centre (dual use)
- Kingsley Sports Centre (dual use)
- Palace Theatre
- Forge Mill Needle Museum & Abbey Ruins
- Pitcheroak Golf Course
- 3 Business Centres

Common facilities

- Sports Development
- Sports Club
- Arts Pavilion
- Events
- Leisure Centre, Museum & Shop
- Community centre

Bromsgrove specific

- Dolphin Leisure Centre (new)
- Museum & TIC

Those facilities that currently form part of the leisure and culture portfolio but should be considered for exclusion for an outsourced package are the parks and open spaces, playing pitches (which we would recommend be managed by the grounds maintenance specialist and packages with the bookings system and maintenance of the pavilions), allotments, public toilets, BDC's Council House, learning on line, and volunteering coordination.

3. Potential management options

Potential management options

The potential management options available to the Council are listed below:

1. Continued in-house management
2. External Delivery via outsourcing
 - a) Leisure Operator / Existing Trust (10 to 15 year contract)
 - b) Creation of New Leisure Trust (typically 15+ year contract)

This section provides a general overview of each option, highlighting their advantages and disadvantages.



In house management

- Under the option of continued in-house management, the Councils continue to be responsible for the operation of the facilities and services. We recognise that BDC already outsourced two facilities under contract – the Dolphin Leisure Centre and the Artrix Theatre- but the majority of the combined portfolio under review has remained in-house.
- Under this scenario, the Councils employ all staff and retain all income, expenditure, and buildings maintenance risks.
- There will be continued reliance on the central support functions within the Council, such as legal, accounting, and human resources.
- The Councils **benefit** through retention of total strategic and operational control of the services, and retain relationships with other local authority services. Whilst continuing on this basis will save on avoided set-up and procurement costs, there are some **key disadvantages** that are relevant in assessing the viability of this option, as set out in the following table.



In house management

Advantages and disadvantages of in-house management versus outsourcing to a specialist operator.

Advantages

Councils retain total strategic and operational control of the services

Councils retain relationships with other local authority services.

Avoids set-up and procurement costs

Disadvantages

No revenue savings from NNDR relief or VAT (achievable under the option of outsourcing to a Trust)

No risk transfer relating to management or maintenance

No contracted long term operating savings achievable

Limited opportunity to achieve wider council savings

No additional specialist management expertise and ideas brought in

Limited career opportunities within leisure and limited development of leisure staff

Retention of slower local-authority decision making processes , impeding development opportunities and reaction to market forces

No entrepreneurial incentives to improve the service

Councils have other strategic priorities competing for funding

The future of the service is not enshrined in a legally binding contract which could threaten its longer term sustainability.



Outsourcing to existing trust

- If the Councils were to outsource the management of the portfolio to the market, there are likely to be two different types of organisations bidding, both of which will benefit from the tax advantages of a trust set-up:
 1. Existing charitable trusts,
 2. Private sector organisations with their own trust structures (hybrid trusts)
- The distinction between these two types of trusts has become rather blurred and therefore their differences are not immediately obvious. Moreover, the benefits each can bring to the Councils, as the client, are indistinguishable. Under both options a trust would contract with the Councils under the following indicative terms:
 1. over a fixed term, typically between 7-15 years
 2. taking on the risks and responsibilities of income and costs
 3. offering an annual contracted management fee (which will either be a payment from the trust to the Councils, or from the Councils to the trust, depending on the net cost of operating the portfolio)
 4. delivering the services under an output specification and performance management system, ensuring the Councils retain some level of control over the scope and quality of service delivery. The Councils will need certainty over the future scope of their service and this is only possible with a robust contract document.
 5. the Council would lease the facilities to the operator
 6. sharing the risks and responsibilities of facility maintenance, with the Councils typically retaining the responsibility for the structure of the buildings
 7. employment of the staff and their terms and conditions would be transferred from the Councils to the operator under TUPE.
- Crucially, an external operator will not be reliant on the Councils' support services as it will have its own IT, marketing, HR, accounting and legal functions to support the outsourced service. This will allow the Councils the opportunity to assess the viability of any additional head office savings, which could be substantial (around £800,000 in this case).



Outsourcing to existing trust

- Where the private sector hybrid and charitable trust models differ is around the ability of the former to achieve the same degree of NNDR and VAT benefits.
 1. A charitable trust will be able to access **greater** NNDR relief (this is covered in more detail in the financial modelling section later in this report
 2. A charitable trust will be able to achieve savings through VAT relief which are not available to hybrid trusts at all.
- The split between in-house and external leisure facility management is broadly 50:50 in the UK. The proportion of facilities externalised is expected to continue to grow for the foreseeable future due to:
 - Competing budgetary pressures of local authorities
 - Growing realisation that **it secures the long term future** of its leisure service (under contract) and is more financially sustainable than in-house management
 - Allows Council to make savings in support services as operators provide their own established and specialist back office function.

Outsourcing to existing trust

Whilst there are some – primarily strategic and control-related - advantages of in-house operation, there is good reason for the growing numbers of Councils turning to outsourcing of their services. The advantages and disadvantages of outsourcing are set out in the table below:

Advantages	Disadvantages
<p>Contracted cost savings are available to the Council through a lower management fee, achievable by operators through VAT and NNDR savings, as well as increased income and cost efficiencies.</p> <p>Council transfers income and cost risks over to the operator. If the operator fails to achieve these, the Council's savings are not in jeopardy.</p> <p>Brings significant specialist management expertise to the service</p> <p>Council is more likely to invest in new facilities if there is the guarantee of annual operational cost savings. Also, the operator can bring additional capital finance to fund revenue generating schemes.</p> <p>The quality and performance of the service is benchmarked against similar facilities across an operator's portfolio. Poor performance is identified more readily and addressed swiftly and appropriately.</p> <p>The operator has a single focus – operation of leisure and culture facilities and services – and is not distracted by</p> <p>Enshrines the service in a contract and protects the portfolio ultimately for the benefit of the community. All the Council's service requirements are stipulated in the contract, allowing protection of certain prices and user groups.</p> <p>Faster decision making – avoids the typically time-consuming processes of the public sector.</p> <p>Allows further savings to be generated by reducing the Council support services function (marketing, HR, finance, legal etc) – as these will no longer be supporting the outsourced service</p>	<p>Reduced control and day to day influence from the Council</p> <p>Support service costs are spread over fewer services</p> <p>Requires funding and resources for the initial procurement process (and for any retendering)</p> <p>Weakens link with other local authority providers (although as increasing numbers of local authorities are outsourcing, this is becoming less relevant).</p>



Setting up a new trust

- The Councils could instead choose to set up their own trust to operate the portfolio. There are a number of different social enterprise models available that the Councils could elect to set up, all of which have very subtle differences. These models all fall under the banner of **Non Profit Distributing Organisations**:
 1. Industrial & Provident Society
 2. Company Limited by Guarantee
 3. Unincorporated Charitable NPDO
 4. Limited Liability Partnership
 5. Charitable Incorporated Organisation
 6. Community Interest Company
- The **Industrial & Provident Society**, and the **Company Limited by Guarantee** models are the most appropriate for the Councils to consider. Both offer the advantage of achieving the VAT and NNDR benefits.
- For a range of reasons (the key ones listed below), the other four models are unlikely to be appropriate for the Councils to consider:
 - ⊗ **Unincorporated NPDO** - *Trustees will be personally liable for the performance of the trust*
 - ⊗ **Limited Liability Partnership** - *Does not benefit from VAT or NNDR savings*
 - ⊗ **Charitable Incorporated Organisation** - *No public record of liabilities and so CIO's will struggle to borrow money. Also, the model is new and untested for leisure and culture services.*
 - ⊗ **Community Interest Company** - *No VAT benefits and NNDR relief is discretionary only. Also, the assets cannot be transferred back to the Council in the event a CIC fails.*



Setting up a new trust

- So, whether the Councils decide to set up an IPS or a CLG, the charitable trust model it uses is likely to have the following advantages and disadvantages compared to an existing established trust:

Advantages

More opportunity for community and staff involvement in the management of the business

Management team are more likely to understand the existing business from the outset, the market and demographics of the user catchment

Typically closer working relationship with the Council

Focus on a single contract by the management team will avoid distractions from other clients

Closer relationship with local groups, organisations and stakeholders

Offers a political "compromise" or half-way house between in-house and outsourcing

More responsive to local needs and closer to local strategic partners

Disadvantages

Greater reliance (at least in the short to medium term) on Council's support services

Reliance on a single contract, which is likely to persist in the longer term as it struggles to offer competitive commercial proposals for other contracts compared to the established operators.

If the Trust fails it is likely that the Councils will have to step in to support it financially (in the absence of contracts with other local authorities to support the business). The Councils can therefore effectively be held to ransom by the Trust

Weak financial covenant compared to the larger established trusts and it may struggle to raise capital for investment

Effective transfer of risk from the Councils will be limited due to the weakness of a new trust's financial and operating covenant

No track record of operating the service without the support of the Council

A top heavy head office in relation to the bigger, more established trusts. Purchasing power will be weaker and they struggle to offer competitive management fees. They tend to be significantly more expensive than larger trusts.

No new management expertise or new ideas as management team typically comes from the Council officers

Fewer opportunities for staff promotion and career development

Process to set up a new NPDO can be lengthy, complex and expensive, and is more likely to be in this instance due to the involvement of two Councils rather than just one



Setting up a new trust

- In common with any NPDO, the new trust will not be able to distribute any profits or surpluses to shareholders or a third party; instead all surpluses must be reinvested in the direct delivery of the trust's charitable objectives.
- As set out above, the Council's options are realistically limited to a choice of two NPDOs: Industrial and Provident Society (IPS) and a Company Limited by Guarantee (CLG), the characteristics of which are set out below:

Industrial and Provident Societies (IPS)

1. Limited liability, registered under the IPS Act 1965
2. Needs to be a bona-fide cooperative society or for the benefit of the community
3. Regulated by the Financial Conduct Authority
4. If formed for charitable purposes, it will be exempt and enjoy the benefits of other charities despite not needing to register with the Charity Commission (including VAT and NINDR benefits)
5. Each member of the IPS has one vote. This dilutes the control of a local authority

Company Limited by Guarantee (CLG)

1. Legal entity incorporated under the Companies Act 1985
2. It does not issue shares, instead requiring members of the company to contribute a (typically nominal) sum
3. Enjoys VAT and NINDR benefits
4. Regulated by the Charity Commission and subject to the requirements set out in the Companies Act (which allows it to changes its own rules to meet the needs of the business)
5. Directors are the Trustees and are responsible for compliance with Charity Commission and Companies Act

A new trust will typically have 10-12 board members and the influence of the Council is limited to 2 members. In this case, therefore, BDC and RBC would be limited to one board member each. The rest of the board is typically made up from local representatives with their role being to ensure the trust is operating in line with its charitable objectives.



Council control and contract documentation

- Fundamentally, the Council will be able to retain as much control as it needs whether its service is operated by an existing trust or a new one, whilst ensuring that the contract attracts sufficient interest from the market and delivers the Council's target savings. The typical controls retained include:
 - Availability of facilities
 - Scope of services
 - Core prices (for certain activities such as swimming)
 - Protected users / target users
 - Contracted asset management obligations

Key contract documentation

- **Legal Agreement** between the Council and the operator sets out the terms and conditions of the contract, including default and termination provisions
- The **Service Specification** sets out the nature and scope of service to be delivered.
- The responsibilities for asset management (maintain, repair and replace) are agreed at the outset through an **Asset Management Responsibilities Matrix**. The Council typically takes responsibility for the structure of the facilities, latent defects, and any significant items of plant and machinery.
- The standard of service is governed by a **Performance Management System** which sets monthly and annual performance standards that the operator should achieve. If these are not achieved, penalty points are incurred. If penalty points breach an agreed threshold for set periods, the operator will be in default of the agreement and Council can terminate the agreement.



Procurement

- Whether the Councils ultimately choose to pursue the option of setting up their own trust or contracting with an existing operator, it will be important to demonstrate that the recommended option provides best value, and this is only achievable through selecting your operator through a competitive procurement process.
- However, most Councils who have set up their own trusts seem to have chosen to ignore the fairness, openness and transparency that a well-managed competitive procurement process provides. The difficulty here is the obvious conflict of interest a council has in evaluating the responses of third parties when it has already chosen to pursue the option of setting up its own trust (and have committed to the considerable associated set-up costs).
- As part of the detailed management options appraisal, we would suggest that procurement options be considered in consultation with your legal advisors.

Set up costs and timetable

- The lead-in time and set up for each option will depend on the necessary requirements the Councils will need to put in place.
- Procuring a management contract via a competitive tendering process to an existing operator typically takes 12 months and will cost the Councils around £75,000 in advisory fees. This will require the drafting and agreement of a contract, property leases and a specification, and will require the Councils to follow a competitive tendering process to ensure it achieves best value.
- Setting a new trust could take around 18 months and could cost up to £200,000 in legal, procurement and accounting advisory fees. This could be significantly reduced depending on the complexity of negotiations; however, given that there will be two Councils involved in the set up, it is likely that this will bring with it complexities that may introduce additional costs and require more time to deal with. The longer lead-in time is typically necessary for the creation of a new legal entity with the Charity Commission as well as the recruitment of senior management staff and trustees, drafting of company documents, logos, procuring of business support systems, and setting up a head office.
- The fees set out here really are just guidelines and whether the Councils decide to use their own legal services to procure the contract or whether it uses external advisors at all. Where the Councils use their own legal resource, the costs could reduce by around £50,000 in setting up their own trust.



Legal implications

TUPE and Pensions

- Under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (referred to as TUPE), the rights of existing employees transferred from one employer to another are protected, allowing them to retain the same terms and conditions with continuity of employment.
- New employers are therefore obliged to provide a broadly comparable pension scheme for existing employees. This is either through their own pension scheme, or via the existing Local Government Pension Scheme, which the new employer can join as an admitted body.
- The Council can specify whether the pension scheme is to be open or closed to future new employees.

Property leases

- Typically, the Council's assets will be transferred from the Council to the new operator under a lease agreement, granting them exclusive use of the facility to carry out their contracted services. The lease will co-terminate with the management contract.



4. Financial implications

Current cost of the service

- For the purposes of showing the potential financial implications of outsourcing the portfolio, we have used 2013/14 budget data as a base. This is due to the relative completeness of this data set, compared to 2013/14 actual performance and the 2014/15 budget.
- The 2014/15 budgeted cost of the package of facilities and services we recommend be outsourced together is set out below. The detail behind this is attached as Appendix 1.

Redditch		Bromsgrove		Total	
2013/14 Budget total	£1,805,589	2013/14 Budget total	£1,210,644	2013/14 Budget total	£3,016,233
VATable income (Council operation)	(£2,015,911)	VATable income (Council operation)	(£72,079)	VATable income (Council operation)	(£2,087,990)
VAT exempt income	(£564,265)	VAT exempt income	(£89,288)	VAT exempt income	(£653,553)
Income	(£2,580,176)	Income	(£161,367)	Income	(£2,741,543)
Expenditure					
Service recharges	£47,558	Service recharges	£0	Service recharges	£47,558
Staffing Costs	£2,176,613	Staffing Costs	£193,345	Staffing Costs	£2,369,958
Utilities	£239,045	Utilities	£0	Utilities	£239,045
Water	£91,349	Water	£0	Water	£91,349
NNDR	£235,422	NNDR	£29,193	NNDR	£264,615
Premises	£405,217	Premises	£20,000	Premises	£425,217
Transport	£7,263	Transport	£0	Transport	£7,263
Supplies & services	£746,698	Supplies & services	£328,181	Supplies & services	£1,074,879
Dolphin Management Fee	£0	Dolphin Management Fee	£370,650	Dolphin Management Fee	£370,650
Insurances & Licences	£42,165	Insurances & Licences	£4,405	Insurances & Licences	£46,570
Cost of sales	£10,751	Cost of sales	£0	Cost of sales	£10,751
Support services	£383,684	Support services	£426,238	Support services	£809,922
	£1,805,589		£1,210,644		£3,016,233

Trust option – VAT and NNDR

VAT benefits

- A Trust will be able to benefit from VAT savings on income, whereas a Council-operated facility's prices will be subject to VAT. So, for example, if the current price of a health and fitness membership at the Council-operated Abbey Stadium is £26 including VAT, the cost is made up of £21.66 + £4.33 (20% VAT). If the delivery of the service is transferred to a trust, it allows the total price of £26 to remain the same but all of it can be taken as income as it becomes VAT exempt. This additional income benefit converts to a better bottom line which the Council benefits from through a better management fee.
- Conversely, as a general rule a Council can claim back VAT on the costs of providing its services relative to the VAT it charges for its services. Our calculations indicate that the Councils currently charge VAT on 76% on its income. It can therefore claim back 24% (100% minus 76%) of the VAT paid in delivering those services. We have calculated that a Trust will charge VAT on 88% of its operational income and will therefore only be able to claim back 12% (100%-88%) of the VAT it pays in delivering its services. However, this proportion increases if the Trust charges a VAT-able management fee to the Council. Assuming this is around £2m, the exempt income percentage reducing to 46%, allowing the trust to claim back 54% (100%-46%) of the VAT on its input costs.
- Overlaying these assumptions to the financial modelling indicates a VAT benefit of £103,889 under a trust scenario, as set out in the table below.
- As this is such a complex and specialist area, we would recommend as part of the next stage that a VAT specialist undertakes a full review on the basis of the latest actual trading figures.
- Clearly, if a trust cannot claim back VAT on its capital expenditure to the same degree as a Council, it can have significant implications for the affordability of capital schemes. For this reason, it is usually sensible for Councils to fund any significant capital expenditure and benefit through the resulting improved management fee

VAT Calculations – Trust Scenario

Taxable income	(£366,442)
Exempt income	(£2,730,060)
Total income	(£3,096,502)
Exempt percentage	88%

Irrecoverable VAT	£413,233
VAT benefit on Income	(£354,958)
Net VAT (benefit) / cost	£58,275

Assuming VAT-able management fee charged to Council

VATable Management Fee	(£2,000,000)
Taxable income	(£366,442)
Exempt income	(£2,730,060)
Total income	(£5,096,502)
Exempt percentage	46.4%

Irrecoverable VAT	£251,070
VAT benefit on income	(£354,958)
Net VAT (benefit) / cost	(£103,889)



Trust option – VAT and NNDR

VAT and management fee

- It is important to point out that only a contracted management fee attracts VAT. A grant payment is not subject to VAT and therefore will not confer the major advantage of enabling the grant recipient to increase the amount of VATable outputs and thereby increase its VAT recovery on inputs. In this case, the advantage of a contracted VAT-able management fee is around £200,000.
- Combined with the clear disadvantage to a trust of the lack of visibility of a grant – it is by definition not a clear contracted payment – we see no rationale for structuring the payment to the trust as such.

National Non Domestic Rates (NNDR)

- NNDR (or business rates) is a tax on non-domestic properties such as leisure centres, community centres, theatres, cafes and shops.
- Under the Local Government Act (1988) certain organisations are entitled to mandatory or discretionary relief from NNDR payment. Setting the level of discretionary relief – and the rules under which it can be claimed - is at the discretion of local authorities considered on a case by case basis.
- If a building is used wholly for charitable purposes, the building will receive 80% mandatory relief and up to 20% of discretionary relief. In 2013, new NNDR legislation was introduced which effectively meant that any relief is funded 50%/50% between local and central government.
- In our modelling we have assumed that a trust will be able to secure 80% rate relief on the current NNDR costs, half of which will be funded by the Council. The current NNDR liability under Council operation is £264,615 per annum. This will reduce to £52,923 (80% relief, or a £211,692 saving) under a trust operation. However, as the Council will be funding half of the value of this relief, the ultimate net benefit to the Council will be £105,846 (50% of £211,692).



Financial modelling

- In creating a financial model to show the likely impact of outsourcing the portfolio to a trust (which looks at the option of creating a New Trust as well as contracting with an Established Trust) we have used the 2013/14 in-house budget cost as a basis for both.
- We have applied to both scenarios the "Year 0" benefits of the VAT and NNDR savings. Going forward, we have looked over a 10-year contract horizon and applied the likely reasonable assumptions that each is likely to commit to in pricing its contractual management fee.
- In order to show a management fee that is directly comparable to the current cost on a like for like basis we have made the following assumptions:
 1. Support services are shown "above the line" in the trust business plan. In reality, of course, these will not be incurred by the trust but will remain with the Council. However, generally speaking, as a new trust would typically be more reliant on the Council's support services going forward, there will probably be less scope to reduce the scale of these in-house costs when compared to an established trust (which will be typically entirely reliant on its own head office for HR, finance, legal and IT resources).
 2. We have used the 2013/14 budgeted management fee for the Dolphin Leisure centre. Although this is planned to be demolished and replaced, potentially at a nil ongoing operating cost, to model this could confuse the analysis and overstate the savings achievable by outsourcing compared to remaining in-house.
 3. 10 year contract term (although these have been historically longer for new trusts created out of Councils, we have used 10 years to allow for a like for like comparison to be made between the options).
 4. 5% profit. An operator will seek to make a profit out of each contract it secures. 5% seems to be the current market rate. This allows some headroom for any adverse performance or any unexpected changes in income or costs. Over and above this, operators will factor in a charge to cover central overheads (typically this is between 5% - 7.5% currently).



5. Options evaluation

Proposed evaluation criteria

PROPOSED EVALUATION MATRIX

RAW SCORES

	Weighting	In-house	Existing Trust	New Trust
1 Level of Council influence	10.0%	3	1	2
2 Ability to transfer/manage risk	15.0%	0	3	2
3 Strength of financial covenant	15.0%	1	3	2
4 Potential for initial savings (NNDR and VAT)	12.5%	0	3	3
5 Potential for sustainable operational savings	15.0%	1	3	2
6 Flexibility for future asset strategy and adding add'l services	10.0%	3	1	2
7 Improvement in service delivery	12.5%	0	3	1
8 Scope for community partner involvement	5.0%	3	1	2
9 Scope for reinvesting surplus in service	5.0%	0	1	3

WEIGHTED SCORES

	Weighting	In-house	Existing Trust	New Trust
1 Level of Council influence	10.0%	10.0%	3.3%	6.7%
2 Ability to transfer/manage risk	15.0%	0.0%	15.0%	10.0%
3 Strength of financial covenant	15.0%	5.0%	15.0%	10.0%
4 Potential for initial savings (NNDR and VAT)	12.5%	0.0%	12.5%	12.5%
5 Potential for sustainable operational savings	15.0%	5.0%	15.0%	10.0%
6 Flexibility for future asset strategy and adding add'l services	10.0%	10.0%	3.3%	6.7%
7 Improvement in service delivery	12.5%	0.0%	12.5%	4.2%
8 Scope for community partner involvement	5.0%	5.0%	1.7%	3.3%
9 Scope for reinvesting surplus in service	5.0%	0.0%	1.7%	5.0%
Total score	100.0%	35.0%	80.0%	68.3%



9. Recommendations & Next Steps

Recommendations and Next Steps

- This report recommends that the scope of the facilities and services to be outsourced forms a coherent strategic package and one which an operator is most likely to be in a position to deliver best value to the Councils through a combination of service improvements and contracted savings.
- With best value as the primary objective, we would recommend *excluding* the management of the Council House, parks and open spaces (including cafes), public conveniences and the allotments. Including them in the package is likely to reduce the attraction of overall contract, thereby limiting competition. Whilst a single entity such as a newly established trust could operate these facilities, there seems to be no operational or strategic rationale for doing so.
- The financial modelling undertaken as part of this review indicates that average annual savings of over £780,000 could be secured if the package was competitively tendered to an existing established trust. This compares to just over £430,000 for a newly created trust.
- In reality, these savings could be greater once the replacement for the Dolphin Centre is factored in, and a more detailed understanding is achieved of what is included in some of the – significant – cost categories such as staffing, supplies and services, and property.
- On the basis of the technical and commercial evaluation criteria used within this appraisal, The Sports Consultancy would recommend the Councils pursuing the option of outsourcing the management of the portfolio to an existing trust rather than set up a new trust.
- Further scrutiny of the options should be undertaken, particularly to validate the VAT assumptions and analysis which we would recommend be overlaid on the 2013/14 actual performance, rather than the budget.
- Furthermore, regardless of which option the Councils ultimately choose to pursue, the scope for making future savings in support services should be explored further.



Document is Restricted

Council27th July 2015**Constitution Review**

Relevant Portfolio Holder	Cllr Bill Hartnett
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 The Council reviews its constitution annually. This report outlines updates to the Council's constitution for the Council's consideration.

2. RECOMMENDATIONS

The Council is requested to RESOLVE

- 1. That the Council's constitution as presented be approved with the following changes;**
- 2. that the Petitions scheme be removed from the constitution, the ability to present petitions at Council and Executive Committee meetings being retained and a petitions protocol be agreed as attached at appendix 1 to the report;**
- 3. that the Council procedure rules be amended as highlighted in appendix 2 to remove references to two-thirds majority votes.**

3. KEY ISSUES**Financial Implications**

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

Legal Implications

- 3.2 The content of parts of the Council's constitution are set out in law. Whilst it is a "living" document and may be updated by the Council at any time during the year, the opportunity is taken each year to review its contents.
- 3.3 The Monitoring Officer has delegated authority to make minor changes to the form – not substance – of the constitution so that it reflects current arrangements. An example is in the Articles where reference to Audit and

Council27th July 2015

Governance Committee has been replaced by Audit, Governance and Standards Committee.

Service / Operational Implications

3.4 There are no direct service or operational implications arising from this report.

3.5 The Constitution Working Group has held one meeting since the last review and agreed the following changes for recommendation to the Council:

(a) within the Council Procedure Rules, to remove reference to requiring a two-thirds majority vote for certain decisions. The law requires a simple majority.

(b) The Council's Petition Scheme was introduced as a result of requirements in the Local Democracy, Economic Development and Construction Act 2009. This introduced a rather clunky system for dealing with petitions and the requirement to operate the scheme has subsequently been repealed. It is proposed that the Council's petitions scheme is removed from the constitution. The ability for members of the public to present petitions either direct to Council or Executive Committee at a meeting or via officers – will remain. It is suggested that a simpler protocol for dealing with petitions is adopted in its place and this is enclosed at appendix 1 to this report.

Customer / Equalities and Diversity Implications

3.6 There are no specific implications arising from this report.

4. RISK MANAGEMENT

There are no specific high level risks arising from this report.

5. APPENDICES

The constitution is available on the Council's website with the agenda for this meeting of the Council. Paper copies have also been placed in Group rooms and are available for inspection from Democratic Services.

6. BACKGROUND PAPERS

None.

AUTHOR OF REPORT

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Petitions protocol

Redditch Borough Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

How are petitions submitted?

Petitions should be clearly identified as a petition and may be submitted electronically (an 'e-petition') or on paper. The Council welcomes e-petitions which are created and submitted by electronic means. E-petitions must follow the same guidelines as paper petitions and will be considered and dealt with in the same way.

Petition organisers, or 'Lead Petitioners', are also requested to send, with the petition, a written statement saying what the petition is about.

If you wish to send a petition to any area of the Council, it must be sent in writing to:

The Head of Legal, Equalities and Democratic Services (Monitoring Officer),
Redditch Borough Council
Town Hall,
Walter Stranz Square,
Redditch
B98 8AH

What information we require

Petitions must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners are requesting;
- the printed name and address and signature of any person supporting the petition.

Petitions should be accompanied by contact details, including an address, for the petition organiser (Lead Petitioner). This is the person we will contact to explain how we will respond to the petition.

The petition should relate to matters the Borough Council is responsible for or which affect the Borough.

Planning or other 'regulatory' topics

Petitions which relate to a regulatory matter, such as a planning application or licensing issue, will be forwarded by the Monitoring Officer to the relevant Council department or committee and be considered as part of the regulatory application to which they relate.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What the Council Will Do

All petitions will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition request.

If the petition calls for the Council to take action and this cannot be resolved by reference to the department concerned, the lead petitioner will be invited to meet with the appropriate officer/s and councillor/s to discuss the topic. The meeting may result in action being taken or further research. If it is not possible to resolve the issue in the way which the petition asks for then this will be explained.

If your petition is about something over which the Full Council has control and you would like to present your petition to the Full Council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 01527 881443 or 01527 64252 extn. 3268 as soon as possible and at least 10 working days before the meeting. They will talk you through the process.

Responding to Petitions

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners, which may or may not involve local ward councillors
- referring the matter for consideration by the Executive Committee

- referring the matter for consideration by the Council's Overview and Scrutiny Committee¹
- writing to the petition organiser setting out our views about the request in the petition.

If your petition is about something over which the Council has no direct control (for example the local railway services or hospital/health care issues) it may consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible on our website www.Redditch.gov.uk.

If your petition is about something that a different Council is responsible for we will give consideration to the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

¹ *The Overview and Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.*

Petition to Redditch Borough Council

Statement to be completed by the petition organisers (Lead Petitioners) when the petition is submitted to the Monitoring Officer.

Name and address of the petition organiser(s):

Name: _____ Address _____ _____ _____ Postal Code: _____ Telephone: _____ E Mail: _____	Name: _____ Address _____ _____ _____ Postal Code: _____ Telephone: _____ E Mail: _____
--	--

Please describe, briefly, what the petition is about.

Date petition started: _____

Date petition submitted: _____

Please return to:

Head of Legal, Equalities and Democratic Services (Monitoring Officer)
 Redditch Borough Council
 Town Hall,
 Walter Stranz Square,
 Redditch
 B98 8AH

For further information about petitioning Redditch Borough Council please contact 01527 881443 or 01527 64252 extn. 3268

COUNCIL PROCEDURE RULES

CONTENTS

Rule		Page
1.	Annual Meeting of the Council	3
2.	Ordinary meetings	4
3.	Extraordinary Meetings	5
4.	Time and place of meetings	6
5.	Notice of and summons to meetings	6
6.	Chairing meetings	6
7.	Quorum	7
8.	Advice from Officers	7
9.	Questions by Members	7
10.	Announcements	10
11.	Motions on Notice	10
12.	Motions without Notice (Procedural Motions)	12
13.	Rules of Debate	13
14.	Reports and Recommendations from Executive Committee	16
15.	Previous decisions and motions	17
16.	Urgent Items	17
17.	Voting	17
18.	Minutes	19
19.	Exclusion of public	19
20.	Members' conduct	19

21.	Disturbance by public	20
22.	Presentation of Petitions at Council Meetings	21
23.	Suspension and amendment of Council Procedure Rules	22
24.	Application to committees and sub-committees	22
25.	Election of chairs and vice-chairs of committees	22
26.	Extraordinary meetings of committees	23
27.	Appointment of substitute members of committees and sub-committees	23
28.	Calculation of time	23

1. ANNUAL MEETING OF THE COUNCIL**1.1 Timing and business**

The Annual Meeting will normally take place in May, following May annual elections.

The Annual Meeting will:

- (a) elect a person to preside if the Mayor is not present;
- (b) elect the Mayor;
- (c) elect the Deputy Mayor;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Mayor, Leader and/or Chief Executive;
- (f) elect the Council Leader;

(Any political party represented on the Council may appoint a Leader and a Deputy Leader of that party from time to time and, on notification of the name of such persons in writing to the Chief Executive, such persons shall be so recognised by the Council.)
- (h) appoint such committees, sub-committees etc. as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Committee functions (as set out in the tables in Part 3 of this Constitution);
- (i) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will:

- (a) decide which committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide, where appropriate, the allocation of seats to political groups in accordance with the political balance rules;
- (d) receive nominations of councillors to serve on each outside body and appoint to those outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive Committee; details of 'ex officio' appointments will be set out on the agenda.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting.

Ordinary meetings will:

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from members;
- (d) receive any announcements from the Mayor and/or the Head of Paid Service;
- (e) receive any announcements from the Leader;
- (f) deal with any business from the last Council meeting;
- (g) deal with questions on notice from members of the Council, in the order in which they have been received;
- (h) receive minutes and/or reports from the Audit & Governance Committee;
- (i) consider reports and/or recommendations from the Executive Committee including any proposals in relation to the Council's Budget and Policy Framework;
- (j) receive minutes from the Executive Committee for information only and receive and answer questions on matters of clarification;
- (k) consider and (where appropriate) respond to recommendations from the Standards Committee;
- (l) consider recommendations from and (where appropriate) respond to any other Committees of the Council;
- (m) receive and consider reports from officers of the Council;
- (k) receive reports about the business of joint arrangements and external organisations and answer questions on matters of clarification;
- (n) consider motions (in the order in which they have been received);
- (o) consider any other business specified in the summons to the meeting;
- (p) to carry out all other matters, by law, which must be reserved to the Council;
- (q) to consider urgent items of business not specified on the summons to the meeting pursuant to paragraph 14 below;
- (r) other than items under sub-paragraphs (a) – (c), the order of business may be varied by the Mayor or by Council resolution.

3. EXTRAORDINARY MEETINGS

Calling extraordinary meetings

- 3.1 Any five members of the Council may sign a requisition and present it to the Mayor requesting him/her to convene an extraordinary meeting of the Council subject to paragraph 3.3 below.
- 3.2 A requisition presented under paragraph 3.1 must include details of the business it is proposed should be considered at the extraordinary meeting. In any event that business should:
- (i) be about a matter for which the local authority has a responsibility or which affects the Borough of Redditch;
 - (ii) not be defamatory; frivolous or offensive;
 - (iii) not be substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - (iv) relate to functions which are the responsibility of the full Council or the committee or sub-committee to which the question is directed;
 - (v) be of a strategic nature; or
 - (vi) relate to the Budget and Policy Framework; or
 - (vii) relate to functions undertaken by the Council; or
 - (viii) not be business which could more appropriately be dealt with by an officer.
- 3.3 On receiving a requisition under paragraph 3.1 the Mayor may:
- (a) convene an extraordinary meeting of the Council to take place on a date not later than 14 days after the date of requisition, or on such other date as agreed between the Mayor and the signatories to the requisition; or
 - (b) in consultation with the Chief Executive and Monitoring Officer, refer the matter to the next available meeting of the Council if the Mayor is of the opinion that the business specified in the requisition is not so urgent as to require the calling of an extraordinary meeting; or
 - (c) in consultation with the Chief Executive and Monitoring Officer refer the matter to the next available meeting of the Executive or other committee if the Mayor is of the opinion that the business specified in the requisition could be more appropriately be dealt with in that manner; or
 - (d) decline to convene an extraordinary meeting if the Mayor, in consultation with the Chief Executive and Monitoring Officer, considers that the business specified in the requisition does not meet the requirements of paragraph 3.2.

- 3.4 The Chief Executive may call Council meetings in addition to ordinary meetings.
- 3.5 Those listed below may also request the Chief Executive to call Council meetings in addition to ordinary meetings:
- (a) the Council by resolution;
 - (b) the Mayor of the Council;
 - (c) the Monitoring Officer.

3.6 **Business**

Extraordinary meetings of the Council will consider only such business as is specifically stated on the agenda for the meeting. Extraordinary meetings will not consider motions (whether on Notice or without) or Questions from Members (whether on Notice or without) but may consider minutes of the previous Council meeting, Executive Committee or other Committee meetings or such other items of business as may be appropriate in the interests of efficient administration of Council business.

4. **TIME AND PLACE OF MEETINGS**

Council and Committee meetings will normally commence at 7.00 pm and be held at the Town Hall.

Any variations to the above will be determined by the Chief Executive, in consultation with the Mayor / Chair and notified in the summons for the meeting.

5. **NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. Except in cases of exceptional urgency, at least five clear days before a meeting the Chief Executive will send a summons to every member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. **CHAIRING THE MEETING**

- 6.1 The person presiding at the meeting will exercise any power or duty of the Mayor. Where these rules apply to committee and sub-committee meetings, references to the Mayor also include the Chair of committees and sub-committees.

- 6.2 Where these rules provide for a maximum time to be devoted to an item or speech or other process, the Mayor may, if the Mayor and the majority of the members present agree, extend that time if it is felt appropriate in the interests of effective conduct of Council business.
- 6.3 Any ruling of the Mayor shall not be challenged.

7. QUORUM

- 7.1 Except as stated below, the quorum of a meeting will be at least one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 7.2 A motion to suspend any of those Rules set out in Article 16.2 in Part 2 of this Constitution will not be moved with or without notice unless ~~at least two thirds~~ **a majority** of the number of Councillors present agree.
- 7.3 Rule 7.1 above shall not apply to committees or sub-committees whose terms of reference or Procedure Rules specify the quorum applicable to a meeting of that committee or sub-committee.

8. ADVICE FROM OFFICERS

Whenever the Chief Executive, the Section 151 Officer or the Monitoring Officer considers it appropriate to give advice to the Council, they shall be at liberty to do so and the Council shall hear such advice.

9. QUESTIONS BY MEMBERS / MEMBERS OF THE PUBLIC

On reports of the Executive Committee or committees

- 9.1 A member of the Council may ask the Leader or the Chair of a committee any question without notice upon an item of the minutes and/or any report of the Executive Committee or a committee when that item is being received or under consideration by the Council.

Questions on notice

- 9.2 Subject to Rule 9.3, a member of the Council or member of the Public may ask:
- the Mayor;
 - a member of the Executive Committee; or
 - the Chair of any committee or sub-committee

a question on any matter in relation to which the Council, Executive Committee, Committee or sub-committee has powers or duties or which affects the Borough of Redditch.

The member who has been asked the question may, if appropriate, refer it to another member for answer.

A question shall not be regarded as affecting the Borough of Redditch

- (a) if it is one which relates to a national issue and would have no more effect on the Borough of Redditch than it would on any other area; or
- (b) if it relates to actions taken by or statements made by a body or individual connected with the Borough of Redditch, but those actions or statements are not specifically related to the Borough.

For the purpose of avoiding potential conflict of interest, other than in exceptional circumstances, which shall be determined by the Chief Executive Officer, in consultation with the Mayor, no Questions on Notice are permitted for any of the 'exceptional' meetings of the Council, to include: the Annual Meeting, the Budget-setting meeting in February each year, other one-off extraordinary meetings of the Council (unless called specifically for the purpose of considering such Petition or Deputation), or meetings which fall within a formal Election period.

Notice of questions

- 9.3 A person may only ask a question under Rule 9.2 if either:
- (a) he/she has given at least **5** clear working days' notice of the question to the Monitoring Officer; or
 - (b) if the question relates to urgent matters, he/she has the consent of the Mayor and the member to whom the question is to be put, and the content of the question is given to the Chief Executive not less than 2 hours before the start of the meeting.

Questions which may not be asked

- 9.5 The Chief Executive may reject a question
- (a) if it is not about a matter for which the local authority has a responsibility or which affects the Borough of Redditch;
 - (a) is defamatory; frivolous or offensive;
 - (b) is substantially the same as a question which has been put at a meeting of the Council in the past six months;

- (d) does not relate to functions which are the responsibility of the full Council or the committee or sub-committee to which the question is directed;
- (e) it is not of a strategic nature;
- (f) it does not relation to functions undertaken by the Council; or
- (g) the question could more appropriately be dealt with by an officer.

Reading the question at the meeting

- 9.6 The question will be read out at the meeting by the person who has asked the question or by another person on his/her behalf.

Alternatively, they may refer to the question as printed in the agenda papers.

Response

- 9.7 An answer may take the form of:
- (a) a direct oral answer;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

Supplementary question

- 9.8 A person asking a question under rule 9.2 may, without notice, ask one supplementary question of the member to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply.

Time limit for questions

- 9.9 At any meeting not more than 5 minutes per question, and 15 minutes in total, shall be devoted by the Council to the asking and answering of questions under this rule, provided that the Mayor may at his or her discretion extend the time if the Mayor and the majority of those present agree. Any questions remaining unanswered shall (unless the person who gave notice of the question has indicated that it may be answered in writing) be dealt with at the next ordinary meeting of the Council, in the order in which they would have been dealt with at the original meeting.

10. ANNOUNCEMENTS

- 10.1 Subject to the Mayor's discretion, each person entitled to make an announcement may speak for a total of five minutes.
- 10.2 Announcements must not relate to items on the agenda or exempt or confidential items.
- 10.3 In respect of the Leader's announcements only, members may ask questions by way of clarification. Up to five minutes in total may be devoted to members' questions to the Leader on his/her announcements.

11. MOTIONS ON NOTICE**Notice**

- 11.1 Except for procedural motions which can be moved without notice under Rule 12, written notice of every motion shall be delivered to the Monitoring Officer by post or by electronic means not later than close of business 9 clear working days before the date of the meeting.
- 11.2 No member shall be a signatory to more than one Notice of Motion on each agenda. Each Notice of Motion must clearly state the name of the Member submitting it.
- 11.3 The Monitoring Officer will maintain a record of all Notices received.

Motion set out in agenda

- 11.4 Motions will be placed on the agenda and dealt with in the order in which they were received, provided that where several Notices of Motion are considered by the Monitoring Officer to address a similar subject, they shall be grouped together.

Scope

- 11.5 Motions must be about matters for which the Council has a responsibility or which affect the Borough of Redditch.

A motion shall not be regarded as affecting the Borough of Redditch if

- (a) it is one which relates to a national issue and would have no more effect on the Borough of Redditch than it would on any other area; or

- (b) it relates to actions taken by or statements made by a body or individual connected with the Borough of Redditch, but those actions or statements are not specifically related to the Borough.

Rejection of Notices of Motion

- 11.6 The Monitoring Officer may reject a Notice of Motion if:
- (a) the scope of the motion exceeds that set out in Rule 11.5 above
 - (b) it is defamatory, frivolous or offensive,
 - (c) it is substantially the same as one submitted within the previous six months;
 - (d) it requests the Council to make a decision which is outside the powers or responsibility of the full Council;
 - (e) it is not of a strategic nature;
 - (f) it does not relate to functions undertaken by the Council.

(For the purpose of avoiding potential conflict of interest, other than in exceptional circumstances, which shall be determined by the Chief Executive Officer, in consultation with the Mayor, no Motions on Notice are permitted for any of the 'exceptional' meetings of the Council, to include: the Annual Meeting, the Budget-setting meeting in February each year, other one-off extraordinary meetings of the Council (unless called specifically for the purpose of considering such Petition or Deputation), or meetings which fall within a formal Election period.)

Deferment of Motions

- 11.7 If the motion is about a matter which, in the opinion of the Mayor on taking the advice of the Chief Executive and/or the Monitoring Officer, should be dealt with in conjunction with a report by an officer, it shall automatically stand deferred until such time as that report can be presented to the Council, provided that no motion shall stand deferred for more than one ordinary meeting of the Council. The Council will be informed on the agenda of the contents of any motions standing deferred under this paragraph.

Referral of Motions

- 11.8 The Monitoring Officer will, in consultation with the member submitting the Notice of Motion, the Leader, the Chief Executive and the Mayor, determine whether the motion will be placed on the agenda for Council or whether it might more appropriately be referred to the Executive Committee or another Committee for determination, or to an officer for further action.
- 11.9 If a Notice of Motion is so referred to Executive Committee or to a committee, it shall be placed on the agenda for the next available meeting of that Executive Committee or that committee

- 11.10 If a Notice of Motion is referred to an officer, the Monitoring Officer will inform the Council on the agenda of the contents of any Notice of Motion referred to the Executive Committee or a committee or an officer and, where appropriate, of the timescales within which the officer will respond to the author of the Notice of Motion.
- 11.11 The Monitoring Officer will inform the member who submitted the Notice of Motion what action has been taken pursuant to Rules 11.6 to 11.10 above.

12. PROCEDURAL MOTIONS WITHOUT NOTICE

The following procedural motions may be moved without notice:

- (a) to appoint a Chair for the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put to the vote;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

13. MOTIONS - RULES OF DEBATE

No speeches until motion seconded

- 13.1 Until the mover has moved a proposal and explained the purpose of it and the proposal has been seconded no other member may speak on the motion.

Right to require motion or amendment in writing

- 13.2 Unless Notice of the Motion has already been given, the Mayor may require any procedural motion or any amendment to be written down and handed to him/her before it is discussed.

13.3 **Secunder's speech**

When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

13.4 **Content and length of speeches**

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.

Length of speeches shall be in accordance with the following guidelines:

4 minutes – standard duration

5 minutes – mover of Motion / summing up.

Significant variation of these timings shall not be permitted without the consent of the Mayor and a majority of those present.

13.5 **When a member may speak again**

A member who has spoken on a motion (including the mover and seconder) may not speak again whilst it is the subject of debate, except:

- (a) to move an amendment
- (b) to speak once on an amendment moved by another member;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation, or
- (g) to give notice of a further amendment.

13.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and add others; or
 - (iv) to add words;so long as the effect of (ii) to (iv) is not to negate the motion (in other words the same outcome could be achieved by voting against the Motion).
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the amended motion takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

13.7 Alteration of motion

- (a) An alteration to a motion must be either:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and add others;
 - (iv) to add words;so long as the effect of (ii) to (iv) is not to negate the motion (in other words the same outcome could be achieved by voting against the motion).
- (b) A motion may be altered before it has been moved by the Member who submitted the motion (or another Member on his/her behalf) if the majority of those present agree.

- (c) Any motion may be altered after it has been moved and seconded by the mover of the motion if both the seconder and the majority of those present agree.

13.8 **Withdrawal of motion**

A member may withdraw a motion which he/she has moved. No member may speak on the motion after it has been withdrawn.

13.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment.

13.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put to the vote;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

13.11 **Closure Motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put to the vote;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- (c) If a motion that the question now be put to the vote is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 Point of order

A member may raise a point of order at any time. The Mayor will hear him/her immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final and will not be open to discussion.

13.13 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member at the same meeting which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final and will not be open to discussion.

13.14 'Point of information'

A 'Point of information' is effectively a request by a Member to speak again and will therefore be entertained only at the Mayor's discretion at an appropriate point during a debate. The ruling of the Mayor on this matter will be final and will not be open to discussion.

14. **CONSIDERATION OF RECOMMENDATIONS FROM EXECUTIVE COMMITTEE AND REPORTS**

- 14.1 Each report or recommendation from Executive Committee will be presented by the Leader, or other member of the Executive Committee.
- 14.2 The member of the Executive Committee presenting the report or recommendation may, with the consent of the Mayor, respond to all questions raised or points made during the debate.
- 14.3 The member of the Executive Committee presenting the report or recommendation has a right to reply at the end of the debate on the recommendation immediately before it is put to the vote.

- 14.4 The member of the Executive Committee presenting the report or recommendation may alter or amend the recommendation if the majority of members present agree, provided such alteration or amendment is one which could be made as an amendment to a motion under Rule 13.6.
- 14.5 An amendment to a report or recommendation from Executive Committee may be made provided such amendment is one which could be made as an amendment to a motion under Rule 13.6 and the procedure set out in Rule 13 insofar as it applies to amendments to motions shall apply to amendments to recommendations from Executive Committee.

Speeches shall be subject to the standard timings indicated at Rule 13.4 above.

Resolved Items

- 8) Matters already resolved by the Executive or other Committee(s) are received by the Council for information only and the only aspect of the minutes that can be discussed is their accuracy or questions of clarification.

15. **PREVIOUS DECISIONS AND MOTIONS**

Motion to rescind a previous decision

A motion, the effect of which is to rescind a decision made at a meeting of Council within the past six months, cannot be moved unless the Notice of Motion is signed by **at least 7** members of the Council.

16. **URGENT ITEMS**

Where there is a need to consider items of urgent business which are not specified in the summons to meeting, the Member wishing to raise the same shall before the commencement of the meeting discuss the matter with the Mayor, the Leader, the Chief Executive and the Monitoring Officer and their collective decision as to whether to consider the item shall be conclusive.

17. **VOTING**

Majority

- 17.1 Except as provided in Rule 17.2 or where the Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the matter was put.
- 17.2 Changes to the Constitution shall be decided by a majority of ~~at least two-thirds~~ of the whole number of members present.

Mayor's casting vote

- 17.3 If there are equal numbers of votes for and against, the Mayor will have a second or a casting vote. There is no restriction on how the Mayor chooses to exercise a casting vote.

Show of hands

- 17.4 Unless a recorded vote is demanded under Rule 17.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

Named vote

- 17.5 If any member present at the meeting demands it, the names for and against the matter to be decided or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a Named Vote must be made before the Mayor calls for a show of hands.
- 17.6 In the interests of the efficient conduct of the meeting the Mayor shall decide how such a demand shall be administered. The ruling of the Mayor shall be final and not subject to debate or discussion.
- 17.7 Immediately after any vote is taken on a budget or Council Tax decision at a budget decision meeting of the Council, the names of those who voted for or against the motion or abstained shall be recorded.

17.8 Right to require individual votes to be recorded

Where any individual member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the matter or abstained from voting.

17.9 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18. MINUTES**Signing the minutes**

- 18.1 The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that can be discussed is their accuracy.

No requirement to sign minutes of previous meeting at extraordinary meeting

- 18.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

Form of minutes

- 18.3 Minutes will contain all motions and amendments in the form and order the Mayor put them to the vote.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 5 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT**Respect for Chair**

- 20.1 When a member speaks at full Council he/she must address the meeting through the Mayor unless the Mayor agrees or directs otherwise.
- 20.2 Whenever the Mayor speaks during a debate, a member then speaking, and the other members of the Council, shall be silent.

Member not to be heard further

- 20.3 If a member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor or another member may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

Member to leave the meeting

- 20.4 If the member continues to behave improperly after such a motion is carried, the Mayor or another member may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

General disturbance

- 20.5 If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

21. DISTURBANCE BY PUBLIC**Removal of member of the public**

- 21.1 If a member of the public interrupts proceedings, the Mayor may warn the person concerned. If they continue to interrupt, the Mayor may order their removal from the meeting room.

Clearance of part of meeting room

- 21.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

22. PUBLIC INVOLVEMENT IN COUNCIL MEETINGS**Public Speaking**

- 22.1 Public speaking shall be permitted at meetings of the Council, Executive Committee and O&S Committees, Planning Committee on applications and in quasi judicial meetings, such as those of the Licensing Sub-Committee or Appeals Panels, in accordance with the various separate procedures currently approved by the Council, as appropriate to each meeting.

(For the purpose of avoiding potential conflict of interest, other than in exceptional circumstances, which shall be determined by the Chief Executive Officer, in consultation with the Mayor, no Public Involvement shall be permitted for any of the 'exceptional' meetings of the Council, to include: the Annual Meeting, the Budget-setting meeting in February each year, other one-off extraordinary meetings of the Council (unless called specifically for the

purpose of considering such Petition or Deputation), or meetings which fall within a formal Election period.)

- 22.2 Petitions shall be presented, and deputations shall be received, in the order in which notice of them is received by the Proper Officer.

Presentation of Petitions at Council Meetings

- 22.3 Petitions may be presented at a meeting of the Council in accordance with the Council's approved Petitions protocol. ~~Scheme (attached to this Constitution at Part 26).~~
- 22.4 Petitions may be considered in conjunction with the Council's arrangements for Deputations, detailed separately below.

Unless the Mayor decides otherwise, not more than 15 minutes will be allowed to deal with all Petitions presented at a given Council meeting.

Hearing of Deputations

- 22.5 Any person may ask that a deputation be received by a meeting of the Council. Such a request shall be made to the Chief Executive at least 9 clear working days before the meeting. The person making the request shall indicate the matter to which the request relates, the number (which shall not be more than five), of names and addresses of the persons who will form the deputation, and the member or members of the deputation who will speak for them.
- 22.6 On being called by the Mayor, the person or persons speaking for the deputation may make such remarks as he/she or they think fit, (provided that the remarks shall relate to the matter indicated when the request was made, and that the remarks do not constitute a personal attack upon any person). The person or persons speaking for the deputation shall be heard in silence.
- 22.7 Members of the Council may ask questions to the members of the deputation. Such questions shall be asked and answered without discussion. Unless the Mayor decides otherwise, not more than 15 minutes will be allowed to deal with all Deputations at a given Council meeting.

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**Suspension**

- 23.1 All of these Council Rules of Procedure except Rule 17.7 and 18.2 may be suspended by motion on notice or without notice if ~~at least two thirds~~ a majority of the number of members of the Council present agree. Suspension shall last until such time as the meeting agrees to reinstate the suspended rule(s), or the end of the meeting, whichever is the earlier. The advice of the Chief Executive Officer and/or Monitoring Officer shall be considered before any such motion is put to the vote.

Amendment

- 23.2 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the preceding Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive Committee. All of the preceding Rules except Rules 1-3, 10, 14, 15, 20.1, 20.2 and 22 apply to meetings of committees and sub-committees. Rules 24 - 26 shall apply only to meetings of committees and sub-committees.

25. ELECTION OF CHAIRS AND VICE-CHAIRS OF COMMITTEES**25.1 Election of Chairs and Vice-Chairs following Annual Meeting of the Council**

Committee Chairs and Vice-Chairs will normally be appointed at the Council's annual meeting.

If for any reason this is not possible, every Committee will, at its first meeting following the Annual Meeting of the Council, before proceeding to any other business, elect a Chair and Vice-Chair for the municipal year, in whose absence from a particular meeting, a Chair for that meeting may be appointed.

25.2 Vacancy in Office of Chair or Vice-Chair of a Committee

In the event of a vacancy arising in the office of Chair or Vice-Chair of a committee, the committee will at its next meeting following the declaration of the vacancy appoint a member to fill the vacancy for the remainder of the municipal year.

26. EXTRAORDINARY MEETINGS OF COMMITTEES

The Chair of a committee may summon an extraordinary meeting of the committee at any time. An extraordinary meeting shall also be summoned on the requisition in writing of a quarter of the members of the committee. The summons shall set out the business to be considered at the extraordinary meeting, and no other business than that set out shall be considered at that meeting.

27. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

27.1 When a member of the Council is unable to attend a particular meeting of a committee or sub-committee, he/she *may* be permitted to appoint another Member to attend the meeting as his/her substitute subject to any specific procedural rules, or required training needs, applying to the various specific meetings (Committee Terms of Reference at Part 3 of the Constitution provide the definitive guidance).

27.2 Substitute members will normally have all the powers and duties of any ordinary member of the committee (subject to the formal Committee Terms of Reference at Part 3).

27.3 Substitute members may attend meetings in that capacity only:

- (a) where the ordinary member will be absent for the whole of the meeting and his/her consent has been expressly given; and
- (b) after notifying the Head of Legal, Equalities & Democratic Services, or his/her representative, before the commencement of the meeting of the intended substitution.

28. CALCULATION OF TIME

“Working day” shall not include a Saturday, Sunday, Bank Holiday, public holiday or other day on which the Town Hall is closed.

“Clear day” shall not include the date on which notice is given, or the date of the meeting itself.

