

Open

Overview & Scrutiny Committee

Agenda

6pm
Thursday, 5th October 2017
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Overview & Scrutiny Committee

Members of Committee:

Chairman: Councillor H E Dyke
Vice-Chairman: Councillor M Rayner

Councillor J R Desmond
Councillor K Henderson
Councillor S J Walker
Councillor S J Williams

Councillor P Dyke
Councillor D Little
Councillor H S Williams
Councillor R Wilson

Would Members please note that, to ensure continuity in scrutiny, substitutes should only be appointed for the Scrutiny Committee in exceptional circumstances.

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of the Council's constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

Co-opted Members

Scrutiny Committees may wish to appoint Co-Opted Members to sit on their committee in order to add value to the scrutiny process. To appoint a Co-Opted Member, a Committee must first agree to appoint either a specific person or to approach a relevant organisation to request that they put forward a suitable representative (e.g. the local Police Authority). Co-Optees are non voting by default but Committees can decide to appoint voting rights to a Co-Optee. The Co-Option of the Member will last no longer than the remainder of the municipal year.

Scrutiny Committees can at any meeting agree to terminate the Co-Option of a Co-Opted Member with immediate effect. Where an organisation is appointed to put forward a Co-Opted Member, they are able to send a substitute in exceptional circumstances, provided that they notify Democratic Services in advance. Co-Opted Members must sign up to the Members Code of Conduct before attending their first meeting, failure to sign will mean that they are unable to participate. This also applies to substitute Co-Opted Members, who will need to allow sufficient time before a meeting in order to sign the Code of Conduct.

The following will apply:

- i) The total number of voting co-opted members on any Scrutiny Committee will not exceed 25% at any one time.
- ii) The total number of voting Co-opted Members on any Review Panel will not be limited.
- iii) Those Co-opted Members with voting rights will exercise their rights in accordance with the principles of decision making set out in the constitution.

For Further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information, you should contact Lynette Cadwallader, Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732729 or email lynette.cadwallader@wyreforestdc.gov.uk

Wyre Forest District Council
Overview & Scrutiny Committee

Thursday, 5th October 2017

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 7th September 2017.	6
5.	Annual Update from the Section 106 Officer Monitoring Group To receive an annual update from the Officer Monitoring Group on the Council's current S106 schemes.	11
6.	Processes for Business Rates Debt Recovery To consider a report from the Revenues, Benefits & Customer Services Manager which outlines the National Non Domestic Rates (NNDR) debt collection procedures in order to minimise write offs.	15
7.	Scrutiny of Business Cases in respect of the Capital Portfolio Fund and Development Loan Fund To receive a report from the Chief Executive that invites the Committee to consider a proposal to establish a sub-committee of the Overview and Scrutiny Committee to consider businesses cases in respect of the capital portfolio fund and development load fund.	45

8.	Overview and Scrutiny Committee Work Programme To receive a report from the Chief Executive that invites the Committee to agree additions to its work programme.	48
9.	Feedback from Cabinet To note the content of the Cabinet action list, following consideration of the recommendations from its meeting on 20 th September 2017.	55
10.	Press Involvement To consider any future items for scrutiny that might require publicity.	
11.	To consider any other business, details of which have been communicated to the Solicitor of the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	
12.	Exclusion of the Press and Public To consider passing the following resolution: “That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in paragraph 3 of Part 1 of Schedule 12A to the Act”.	

Part 2

Not open to the Press and Public

13.	To consider any other business, details of which have been communicated to the Solicitor of the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	
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WYRE FOREST DISTRICT COUNCIL

OVERVIEW & SCRUTINY COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

THURSDAY, 7TH SEPTEMBER 2017 (6.00PM)

Present:

Councillors: H E Dyke (Chairman), M Rayner (Vice-Chairman), J R Desmond, P Dyke, K Henderson, D Little, S J Walker, H S Williams, S J Williams and R Wilson.

Observers

Councillors: M J Hart, N Knowles, F M Oborski MBE, C Rogers and J A Shaw.

OS.27 Apologies for Absence

There were no apologies for absence.

OS.28 Appointment of Substitutes

No substitutes were appointed.

OS.29 Declarations of Interests by Members

No declarations of interest were made.

OS.30 Minutes

Decision: The minutes of the meeting held on 6th July 2017 be confirmed as a correct record and signed by the Chairman.

OS.31 How Are We Doing? Performance Update

The Committee received a report from the Business Improvement Officer which updated Members on the performance of the Council for quarter 1 (from 1st April to 30th June 2017).

Members were led through the report and considered each page of the appendices in turn. In relation to WFF 17/18 16 Crown House/Kidderminster Western Gateway, the Director of Economic Prosperity and Place assured Members that the authority continued to have discussions on the future of Crown House with its tenant, Telereal Trillium, to achieve a positive outcome which was mutually beneficial to both parties.

Agreed: The progress in performance for quarter 1 be noted.

OS.32 Annual Report on Treasury Management Service and Actual Prudential Indicators 2016/17

The Committee considered a report from the Corporate Director: Resources which provided a review of the treasury management activities for 2016/17, in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

The Corporate Director: Resources led Members through the report and advised that this would be the first of 3 statutory reports which would be presented to the Committee during the municipal year. She added that the Council's Treasury Management Consultants, Capita, had provided a comprehensive Member training session on 4th September which was followed by a detailed scrutiny of the report by the Treasury Management Review Panel. The Corporate Director: Resources was pleased to advise that the authority was performing in accordance with its Treasury Management Service Strategy.

The Chairman of the Review Panel, Councillor F M Oborski, encouraged every Member of the Council to attend the training and she thanked the Corporate Director: Resources, and her team for the excellent job they do in this service area.

Agreed: Recommend to Council to:

- 1. Approve the actual 2016/17 prudential and treasury indicators.**
- 2. Note the annual treasury management report for 2016/17.**

OS.33 Wyre Forest Health and Wellbeing Plan Update

The Committee received a report which provided an update on the work undertaken to improve health and wellbeing in Wyre Forest. The Head of Strategic Growth led Members through the report and advised that the Council worked closely with the Public Health team at Worcestershire County Council to ensure that it made a positive contribution towards improving the health of the residents within the Wyre Forest district.

The Committee reviewed the projects undertaken over the past year and endorsed the new plan for 2017/21. Members welcomed the continuation of the annual Showcase Event for Older People, which provides a wealth of advice and information from a variety of organisations about the services they provide.

Agreed: Recommend to Cabinet:

The Wyre Forest Health and Wellbeing Strategy and Health Action Plan 2017/21, as set out at Appendix 2 of the report, be approved.

OS.34 Climate Change Update

The Committee received a report from the Principal Health and Sustainability Officer which provided an update on the implementation of the Wyre Forest Climate Change Action Plan 2016/17, and sought endorsement of the updated plan for 2017/18.

The Head of Strategic Growth led Members through the report and highlighted the four key themes, namely; Warmer, healthier homes; Building a low carbon economy; Transport and infrastructure; Healthy and resilient communities, which the Worcestershire Climate Change Strategy focuses on.

Members reviewed the work undertaken by the Health and Sustainability Team in conjunction with Partners over the past year and commended the positive use of social media in promoting projects such as the Wyre Forest Repair Cafe.

Members endorsed the new action plan for 2017/18 and hoped it would have a positive impact on the district.

Agreed: Recommend to Cabinet:

The Climate Change Action Plan 2017/18, as set out at Appendix 2 of the report, be approved.

Councillor P Dyke left the meeting at this point, (7.05pm).

OS.35 Open Space, Playing Pitch and Sports Built Facilities Strategies

The Committee considered a report from the Spatial Planning Manager which presented the Open Space, Playing Pitch and Sports Built Facilities Strategies which will form part of the evidence base to inform the Council's emerging Local Plan and Infrastructure Delivery Plan.

The Spatial Planning Manager led Members through the report and advised that the documents conformed with recent Sport England guidance.

Members welcomed the documents which provided an up-to-date assessment of the current and future provision of open space, sport and recreation facilities that should be provided across the district.

Agreed: Recommend to Cabinet:

The Open Space, Playing Pitch and Built Facilities Strategies be approved.

OS.36 Compulsory Acquisition of Land & Properties & Empty Property Strategy

The Committee considered a report from the Corporate Director: Economic Prosperity & Place which set out the additional powers that the Council could use to compel land and property owners to make better use of their under-utilised or vacant assets.

Councillor S Walker left the meeting at this point (7.19pm), and returned at 7.21pm.

Councillor M J Hart left the meeting at 7.21pm.

The Corporate Director: Economic Prosperity & Place led Members through the report and outlined the powers which the authority currently had and those proposed by the Government, following the publication in February 2017 of its White

Paper: Fixing our Broken Housing Market, which encouraged local authorities across the country to find creative ways to increase the number of houses available to buy or rent.

A discussion ensued and Members welcomed the proposals and agreed that the more tools the authority had to expedite the process of reducing the number of empty properties within the district by bringing them back into use should be supported.

Agreed: Recommend to Cabinet:

The principle of utilising more fully the powers to force the acquisition and sale of vacant land and properties, and the adoption of the updated Empty Property Strategy, be supported.

OS.37 Public Space Protection Order (PSPO)

The Committee considered a report from the Corporate Director: Community Well-being and Environment which set out the results of a public consultation exercise undertaken over a 10 week period commencing on 19 June 2017 about the proposed introduction of a new Public Spaces Protection Order (PSPO) in the district.

The Corporate Director: Community Well-being and Environment, led Members through the report and a summary of the 927 consultation responses received.

Members supported the introduction of a PSPO as dog fouling was an emotive issue and any powers that the authority had to tackle issues of community concern should be used. In light of the responses received relating to the number of dogs one person may have under their control at a time, Members requested that further consideration be given to this matter.

Agreed: Recommend to Cabinet:

- 1. In response to the positive support for measures to control dogs, a Public Spaces Protection Order (PSPO) is made in the Wyre Forest District, under powers contained within the Anti –Social Behaviour, Crime and Policing Act 2014, commencing 1 October 2017 for a period of 3 years on the basis set out in the report.**
- 2. The fixed penalty amount shall be £100 for each notice issued.**
- 3. Further consideration be given to limiting the number of dogs one person may have under their control at a time.**

OS.38 Feedback from Cabinet

Agreed: The content of the Cabinet decision list following consideration of the recommendations from its meeting on 11th July 2017 be noted.

OS.39 Work Programme

The Committee considered the work programme for the current municipal year. The Chairman advised that following a scrutiny proposal form submitted by Councillor Knowles relating to the write-off of outstanding debts, Officers had been invited to attend the next Committee meeting to explain the procedure to Members.

Agreed: The work programme be noted.

OS.40 Press Involvement

There were no future items for scrutiny that might require publicity.

There being no further business, the meeting ended at 8.05pm.

SECTION 106 - BALANCES HELD

SCHEME	ORIGINAL SUM RECEIVED	INCOME REC'D	REPAYMENT DATE / DETAILS	RESPONSIBLE OFFICER	CURRENT BALANCE 09/08/2017 £	EXPENDITURE DEADLINE	PROGRESS UPDATE
PUBLIC OPEN SPACES							
Britannia Gardens/Watery Lane, Stourport Com. Sum. £1,070 drip fed to revenue annually for 10 years. 2019/20 is year 10 of 10.	10,700.00	1998/99	No obligations	Kay Higman / Alan Breen	2,140.00	None	No action required as for maintenance of play area/open space.
Timber Lane/Mill Road Stourport-on-Severn Com. Sum Open Space £153,074.10. Play areas or offsite contribution.	153,074.10	2005/06	Being renegotiated	Kay Higman / Alan Breen/Paul Allen	153,074.10	Being renegotiated	Layout of open space agreed and work prior to transfer almost complete. Agreement nearly finalised to have off site contribution for play in lieu of provision at Timber lane. Subject to planning approval and negotiation, still ongoing.
Church Street, Kidderminster For St Georges Park - Original Public Open Space Contribution £2,397.60	2,397.60	2007/08	2017/18 - Obligation to spend Public Open Space contribution within 10 years of receipt or repay	Kay Higman / Alan Breen	0.00	2017/18	Spent at St Georges Park on architect plans for the 'Bandstand Project'.
Load Street, Bewdley FOR QE11 Gardens - Original Public Open Space Contribution £1,234.80	1,234.80	2008/09	2018/19 - Obligation to spend Public Open Space contribution within 10 years of receipt or repay	Kay Higman / Alan Breen	182.80	2018/19	To be spent at QE2 Gardens on soft landscaping within the gardens this winter.
Franchise Street, Kidderminster Public Open Space £62,207.02. For Brinton Park for HLF Funding.	62,207.02	2009/10	2019/20 - Obligation to spend Public Open Space contribution and Public Art within 10 years of receipt or repay	Kay Higman / Alan Breen	37,418.51	2019/20	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.
New Forest Close, Rock Future Play Area maintenance £35,000. To be spent on replacing equipment and then remainder split over 10 years for maintenance costs.	35,000.00	2010/11	No obligations	Kay Higman / Alan Breen	30,707.00	None	Play area being transferred to Rock Parish Council with the remaining commuted sum. Rock PC will then maintain thereafter.
Stourvale/Oxbow Way, Kidderminster £1,000 drip fed to revenue annually for 6 years. 2017/18 is year 6 of 6. Annual contribution to play area at Clensmore.	6,000.00	2010/11	£1,000 annually	Kay Higman / Alan Breen	6,000.00	Annual Review	No action required as for maintenance.
Live & Let Live, Wolverley (Woodhamcote Manor) Pub Open Space £3,880 (in Kidderminster) To be POS in Kidderminster so could go to King George Vth.	3,880.00	2011/12	2021/22 - To spend within 10 years of date of receipt or repay	Kay Higman / Alan Breen	3,880.00	2021/22	To be spent on King George Vth on additional Play provision on the site for Juniors/teens '17/18.
Areley Common First School Public Open Space Contribution £9,878.40 received in 2011/12. To be spent on Stourport Riverside.	9,878.40	2011/12	2021/22 - Obligation to spend within 10 years of date of receipt or repay	Kay Higman / Alan Breen	2,507.89	2021/22	To be spent at Stourport Riverside on Play Area resurfacing.
Castle Locks, Kidderminster Public Open Space Contribution £30,800. To be spent on Park Lane or other POS in Kidderminster area Possibly Brinton Park.	30,800.00	2011/12	2018/19 - To spend Public Open Space Contribution within 7 years.	Kay Higman / Alan Breen	30,800.00	2018/19	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.
108-109 Bewdley Hill, Kidderminster To be spent on Brintons Park.	15,759.51	2012/13	Obligation to spend Public Open Space contribution within 10 years of receipt or repay	Kay Higman / Alan Breen	15,759.51	2022/23	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.

Agenda Item No. 5

SCHEME	ORIGINAL SUM RECEIVED	INCOME REC'D	REPAYMENT DATE / DETAILS	RESPONSIBLE OFFICER	CURRENT BALANCE 09/08/2017 £	EXPENDITURE DEADLINE	PROGRESS UPDATE
Bellway re Churchfields 2012/13 Phase 1 - Offsite POS Contribution £100,000 2015/16 Phase 2 - Offsite POS Contribution £86,215.54 (£80,000 plus indexation). £106,215.54 to be spent on Springfield Park. £80,000 to be divided equally between St Georges and Baxter Gardens.	186,215.54	2012/13 and 2015/16	2022/23 - Obligation to spend within 10 years of date of receipt or repay	Kay Higman / Alan Breen	73,644.00	2022/23	Springfield - Parks Development Projects - New Pedestrian path on main field, Hard/Soft Landscaping Works on Main Entrance (complete). St Georges - Towards the 'Bandstand Project' Baxter Gardens - new Shelter complete, Access paths on site complete, remaining monies to be spent on further development work in Baxter
Sutton Arms, Kidderminster Public Open Space Contribution. To be spent on Brinton Park.	15,640.80	2013/14	2023/24 - To spend Public Open Space contribution within 10 years of receipt or repay	Kay Higman / Alan Breen	15,640.80	2023/24	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.
Richmond Road POS Open space - to be spent on Northwood Lane.	1,799.04	2013/14	2023/24 - Repayable after 10 years from receipt if not used	Kay Higman / Alan Breen	0.00	2023/24	Northwood lane - To be spent on new Notice Board for the site and additional park furniture - now complete and spent.
Redcross House, Park Street, Kidderminster Public Open Space Contribution (£2,779.20 & £103.93 indexation). To be spent on Brinton Park.	2,883.13	2014/15	2024/25 - To spend Public Open Space contribution within 10 years of receipt or refund	Kay Higman / Alan Breen	1,585.22	2024/25	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.
Upton Road, Kidderminster Public Open Space Contribution (31,385.80). To be spent in Broadwaters Park.	31,385.80	2014/15	2024/25 - To spend Public Open Space contribution within 10 years of receipt or refund	Kay Higman / Alan Breen	31,385.80	2024/25	Broadwaters - Open Space Development Projects '21, quotes being sourced 17/18 and 18/19.
Former MAC Development, Stourport (Redrow Development) Public Open Space Contribution (split 50:50 with Town Council). WFDC amount to be spent on Stourport POS.	104,717.00	2014/15	No obligation	Kay Higman / Alan Breen	104,717.00	None	50/50 split with Town Council. Money given to STC. WFDC contribution to be spent at Stourport Riverside for resurfacing and further play provision on site 18/19.
Former Reilloc Chain Site, Stourport Public Open Space Contribution £15,134.43.	15,134.43	2015/16	2025/26 - To spend Public Open Space contribution within 10 years or refund	Kay Higman / Alan Breen	756.23	2025/26	Bewdley Hill Open Space - New pedestrian Access paths throughout the site, new park bins and benches and 2 No Entrance signs. Monies spent 2016. Remaining balance to be spent on soft landscaping on site this winter.
Blackwell Street, Kidderminster (Blue Square Kidderminster Ltd) Public Open Space Contribution	8,400.00	2016/17	2026/27 - To spend Public Open Space contribution within 10 years or refund	Kay Higman / Alan Breen	8,400.00	2026/27	To be spent on Brinton Park HLF.
Castle Road / Park Lane Public Open Space Contribution	6,878.00	2017/18	2027/28 - To spend Public Open Space contribution within 10 years or refund	Kay Higman / Alan Breen	6,878.00	2027/28	To be spent on Bandstand project at St Georges Park.
Land Adj. Vales, Worcester Road, S-O-S Contribution towards creation of wetlands	67,210.00	2008/09	No obligations	Paul Allen	67,210.00	None	Land transfer not yet complete. Land access issues exist.
The Briars, Habberley Road, Kidderminster Woodland Maintenance £22,500. £544.63 remaining of woodland maintenance. To be spent at White Wickets.	22,500.00	2011/12	No obligations	Paul Allen	0.00	None	Works completed and money spent.
PUBLIC ART							
Franchise Street, Kidderminster Public Art £9,331.05.	9,331.05	2009/10	2019/20 - Obligation to spend Public Art within 10 years of receipt or repay	Kay Higman	9,331.05	2019/20	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.
Live & Let Live, Wolverley (Woodhamcote Manor) Pub Art Contribution £9,000.	9,000.00	2011/12	2021/22 - To spend within 10 years of date of receipt or repay	Kay Higman	9,000.00	2021/22	This money is to be spent as the Council's partnership contribution for HLF bid for Brinton Park and therefore is being reserved for this.

Agenda Item No. 5

SCHEME	ORIGINAL SUM RECEIVED	INCOME REC'D	REPAYMENT DATE / DETAILS	RESPONSIBLE OFFICER	CURRENT BALANCE 09/08/2017 £	EXPENDITURE DEADLINE	PROGRESS UPDATE
Kidderminster Town Centre Public Art	20,000.00			Kay Higman	11,200.00		£5,000 has been transferred to Revenue for KAF in 2016/17 and £3,800 in 2017/18 for Frank Freeman public art purchase made for installation outside M and S.
CAR PARKING							
Aldi Car Park	99,999.00	2015/16	2025/26 - To spend car park contribution within 10 years or refund	Steve Brant	99,999.00	2025/26	To compensate the council for loss of income from spaces taken up by the Aldi building works. Allocated sum divided into 10 year programme and earmarked for any essential works.

Agenda Item No. 5

SCHEME	ORIGINAL SUM RECEIVED	INCOME REC'D	REPAYMENT DATE / DETAILS	RESPONSIBLE OFFICER	CURRENT BALANCE 09/08/2017 £	EXPENDITURE DEADLINE	PROGRESS UPDATE
GROUND'S MAINTENANCE							
Bewdley Medical Centre Bank Work Works to maintain the bank behind the medical centre.	30,000.00	2016/17		Steve Brant	30,000.00		Works to maintain the bank behind the medical centre. £30,000 to be spent over the next 3 years at £10,000 per annum.
SUSTAINABLE TRANSPORT							
Lion Square - Sustrans Sustainable transport & environmental improvements £10,000.	10,000.00	2003/04	No obligations	Jonathan Elmer	10,000.00	None	To be committed as part of the wider proposals for the 'Kidderminster Eastern Gateway' now known as Lion Fields.
Kidderminster College, Market Street Sustainable transport £75,000.	75,000.00	2003/04	No obligations	Jonathan Elmer	75,000.00	None	To either be committed towards: 1) The wider proposals for the 'Kidderminster Eastern Gateway' now known as Lion Fields; OR 2) As a contribution towards the redevelopment of Kidderminster Railway Station.
PLANNING							
Churchfields, Kidderminster (Hurcott Road) Air Quality.	10,000.00	2011/12	2021/22 - Obligation to spend within 10 years of date of receipt or repay	Paul Round	10,000.00	2021/22	Secured for AQMA attenuation works including transport related studies and modelling to provide solution to Air Quality issues in Blackwell Street, which includes wider traffic solutions to enable the help deliver the aspirations set out within the adopted Churchfields Masterplan.
Tesco Stourport Road, Stourport Signposting Contribution (£20,000 & £3,894 indexation).	23,894.00	2014/15	2019/20 - To spend Signposting contribution within 5 years of receipt or refund	Paul Round	23,894.00	2019/20	Secured to facilitate improved pedestrian signage to encourage linked trips to the Town Centre.
AFFORDABLE HOUSING							
Sutton Park Road Affordable Housing.	85,000.00	2012/13	Obligation to spend contribution within 10 years of receipt or repay	Kate Bailey	85,000.00	2022/23	Funding committed to 4 x social rented units in Habberley.
Millbank Court, Kidderminster (Millbank House) Affordable Housing £28,500.	28,500.00	2014/15	2024/25 - To spend Affordable Housing contribution within 10 years of receipt or refund	Kate Bailey	28,500.00	2024/25	Please see above.
Castle Locks, Kidderminster Affordable housing £185,250 (Park Lane or other in Kidderminster).	185,250.00	2014/15	No obligation for Affordable Housing.	Kate Bailey	185,250.00	None	Please see above.
St Cassians Way, Chaddesley Corbett Affordable Housing Contribution (£25,000 plus indexation £879.88 plus late payment £663.66 = £26,543.54)	26,543.54	2017/18	2027/28 - To spend Affordable Housing contribution within 10 years of receipt or refund	Kate Bailey	26,543.54	2027/28	We are working with the Parish Council to develop an affordable housing scheme in the ward.
					£1,196,404.45		

Key

Currently held on balance sheet

Currently held in revenue cost centre



Overview & Scrutiny Committee

Agenda Item No. 6

Briefing Paper

Report of: Lucy Wright – Revenues, Benefits & Customer Services Manager

Date: Thursday, 5th October 2017
Open

Processes for Business Rates Debt Recovery

1. Summary

- 1.1 This report outlines the National Non Domestic Rates (NNDR) debt collection procedures in order to minimise write offs. The report will also refer to Council Tax debt collection although the main topic brought to the Committee is regarding NNDR and the processes taken to avoid write offs.

2. Background

- 2.1 Recovery processes are laid down by statute in The Council Tax (Administration and Enforcement) Regulation 1992 and subsequent amendments for Council Tax and in the Non-domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments for NNDR. These processes must be adhered to with regard to Revenues debt collection.

- 2.2 The Council currently has 3,473 properties liable for NNDR.

- 2.3 Every year the amount of tax to be collected alters. The final figure is based on the total property charge minus exemptions and reliefs. The total gross charge for NNDR on 1st September 2017 was:

	£
Gross property charge	33,215,879
Plus void properties	2,574,749
Plus SBR supplement	<u>643,164</u>
	36,433,792
Minus reliefs and exemptions	6,901,411
Business rates to collect 2017/18	<u><u>29,532,381</u></u>

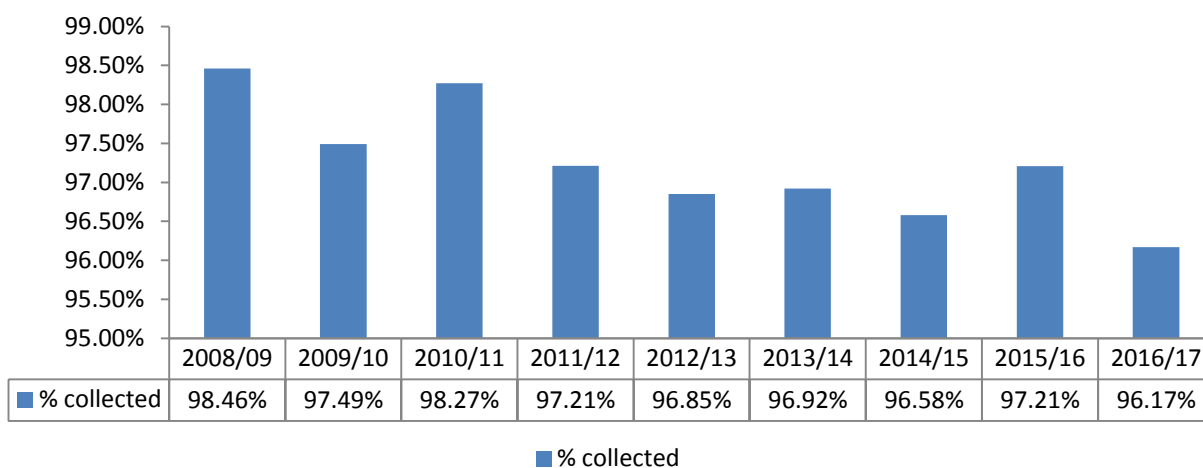
- 2.4 In 2016, the Council created a post specifically to support the team to manage the complex NNDR caseload. The NNDR Officer is also responsible for debt collection of business rates. Officers follow the regulations set out in 2.1 when collecting income and abide by the Council's Revenues Debt Recovery Policy as shown in **Appendix One**.

- 2.5 The recovery processes for NNDR are very similar to Council Tax up to the point of a liability order being granted. If debts remain unpaid, the only option is to refer the debt to an enforcement agent. When these cases are returned

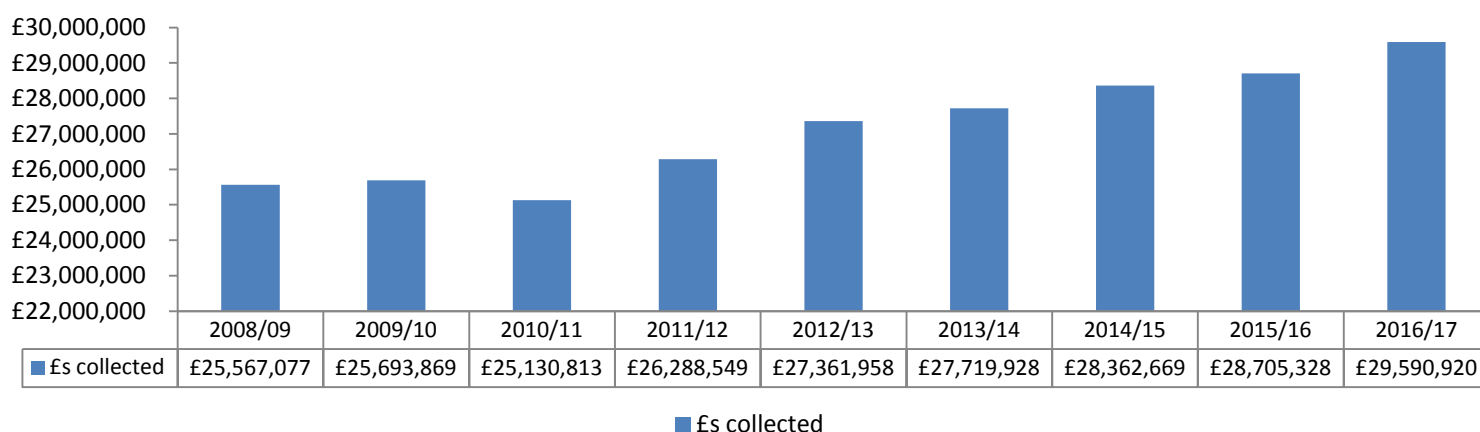
as unsuccessful, the only options available to the Council are bankruptcy or insolvency.

- 2.6 The charts below shows the collection rates for NNDR. The first chart shows the % in year collection and the second chart shows the amount collected in £s. There was a reduction in the percentage collected in 2016/17 which can be attributed to the liquidation of a large High Street property owner, the delay from the Valuation Office to split the former Sealine site after it was occupied by more than one business and a late payment for another large unit.

Business Rates % collected



Business Rates £ collected

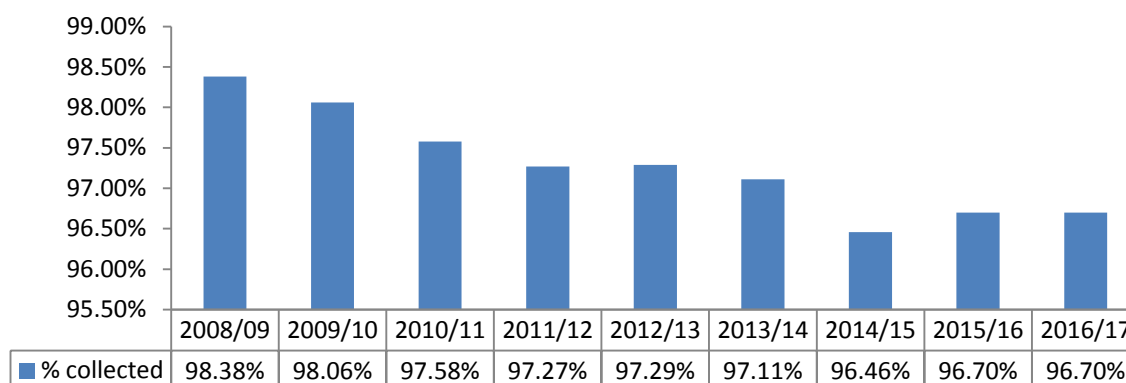


- 2.7 The chart shows a reduction in the percentage of NNDR collected in 2016/17. However year to date figures show the collection rate to be 48.91% compared to 48.11% at the same time last year. Less money has been collected but this is due to the additional discretionary reliefs that have been granted which will be returned by central Government by way of Section 31 grants.

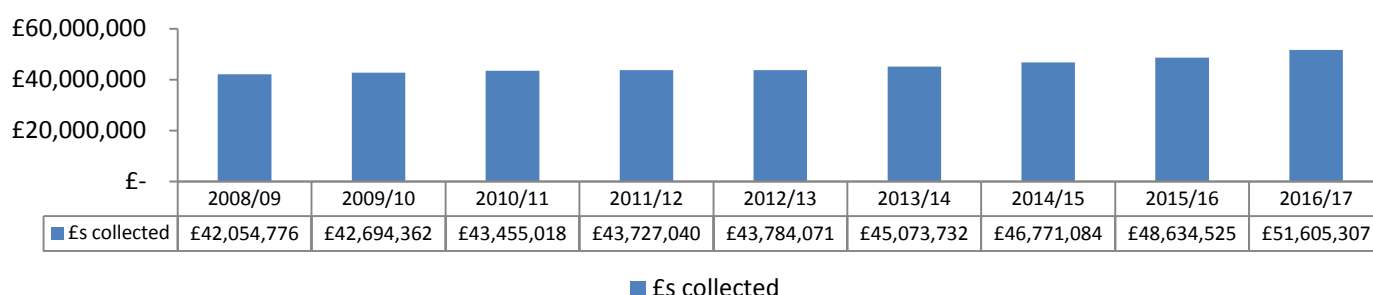
- 2.8 The same charts have been included overleaf for Council Tax. This shows the collection rate is now starting to improve despite the introduction of

Council Tax Reduction Scheme in 2013. The total amount of £s collected has increased significantly. This is provided to add context and aid general understanding of the overall workload of the Revenues team.

Council Tax % collected



Council Tax £ collected



2.9 When making a decision on the correct recovery process, Officers take a holistic approach. The factors that need to be taken into consideration are the relevant legislation, the impact on the Council's financial situation, the administrative burden and the implications particularly for struggling businesses. The computer system used allows automation in the early stages of recovery and manual intervention and decision making is required for non standard and/or complex cases. As some of the case studies show in **Appendix Three**, it is not the case that companies about to go into administration are necessarily behind on their business rates payments. Conversely, being in arrears on business rates is not an automatic indication that a business will fail.

2.10 Full details of the recovery process are shown in **Appendix One** and as per section 11.8 of the policy, debts are only considered for write off when:

- The recovery team have been unable to trace the debtor using all available methods.
- Where the debtor is deceased, there is no joint liability and the executor reports there are insufficient funds to clear the debt.

- Where the debtor has been declared bankrupt and there is no prospect of recovery.
- Where the Magistrates remit all/part of a debt during committal proceedings.
- In the case of a debt of a company, if that company ceases to exist.
- If a debt is barred by statute (unsummonsed and over 6 years old).
- Where the council is subject to an Individual Voluntary Agreement that is less than the full liability.

Any debt that is written off must be approved by the Corporate Director of Resources if under £5,000.

Debts between £5,000 and £10,000 must be approved for write off by the Corporate Director of Resources in consultation with the Cabinet Member for Resources.

Requests to write off debts in excess of £10,000 must be authorised by the Cabinet.

- 2.11 The table below shows the number of reminders, summonses and liability orders for NNDR accounts since 2012/13 which have remained fairly static. Approximately 35% of businesses are subject to enforcement activity of some sort each year.

Year	Reminders	Summons	Liability Orders	Enforcement Agents	TOTAL
2012/13	1,334	227	257	169	1,987
2013/14	1,475	309	196	131	2,111
2014/15	1,442	326	224	67	2,059
2015/16	1,449	180	139	151	1,919
2016/17	1,457	318	207	73	2,055

3. Key Issues

- 3.1 **Write Offs** - The amounts put forward for write off have increased as the table below shows.

Year	Write off amount	Liquidation Administration Bankruptcy	No longer trading	Absconded - no trace	Other	Write offs as % of property charge
2012/13	£169k	£46k	£38k	£46k	£39k	0.62%
2013/14	£134k	£47k	£31k	£1k	£55k	0.48%
2014/15	£380k	£35k	£260k	£46k	£39k	1.34%
2015/16	£341k	£114k	£200k	£14k	£13k	1.19%
2016/17	£1,072m	£848k	£171k	£90k	0	3.62%
2017/18 to date	£202k	£20k	£149k	£20k	£13k	1.39%

Note – In 2016/17 £575k was written off due to Hobart 52 Ltd (former Woolworths) and £140k due to Smethwick Drop Forge both large RV sites and both companies liquidated.

Year	No of reminders issued	No of accounts written off
2012/13	1,334	191
2013/14	1,475	100
2014/15	1,442	172
2015/16	1,449	145
2016/17	1,457	159

3. 2 The table above compares the number of reminders issued each year to the total number of accounts that were written off.
3. 3 **Appendix Two** provides a more detailed breakdown of the data in terms of the amount of write offs and the financial year the debt related to.
3. 4 **Rates Avoidance** - Many business premises are leased. When a business fails it can result in the premises standing empty so there are no assets available for the enforcement agents to collect. Where the business is a limited company unless other assets of the company can be found, there is limited further action that can be taken.
3. 5 Since the NNDR Officer has been in post, the Council has been able to focus more on rates avoidance which is increasing. Officers are spending time challenging occupation and avoidance to ensure only legitimate reliefs are granted. They are working closely with neighbouring authorities to ensure a consistent approach is taken to avoid any allegations of unfair treatment.
3. 6 Challenging cases of suspected rates avoidance is time consuming and complex. Case studies have been compiled and can be found in **Appendix Three**.
3. 7 In 2014/15, the Government issued a consultation on rates avoidance which Wyre Forest District Council responded to. A summary of the responses can be found in **Appendix Four** however the most common forms of avoidance are:
- Repeated artificial/contrived periods of occupation
 - Artificial/contrived occupation by charities
 - Empty properties “owned” by charities and when next in use appears to be for charitable purposes
 - Insolvency/phoenix companies
3. 8 Although there has not been significant news since the consultation responses were issued, the Government are currently asking for volunteers from Local Authorities to take part in a pilot scheme to test Business Rates Retention. One area of concern for Councils regarding this scheme is around rates avoidance and so the Government are currently looking at ways to remove the legitimate ways of avoiding paying business rates. The Government have recently confirmed that responses to recent Business Rates Retention consultations are currently being analysed which will form further development of the business rates policy and that plans for a review of

business rates will be set out in due course.

<https://www.theyworkforyou.com/wrans/?id=2017-09-06.9030.h&p=24745#g9030.r0>

- 3.9 The Charity Commission has signed a Memorandum of Understanding with three Local Authority bodies as part of a pilot programme of information sharing aimed at addressing cases of business rates avoidance. This includes property owners who rent out commercial properties to a charity at a peppercorn rent in order to take advantage of the 80% mandatory business rates relief which would otherwise have to be paid if the property remained empty.

4. Options

- 4.1 The Overview and Scrutiny consider the process outlined in the report and provide comments and views for consideration.

5. Consultation

- 5.1 Not applicable

6. Related Decisions

- 6.1 None

7. Relevant Council Policies/Strategies

- 7.1 Revenues Debt Recovery Policy

8. Implications

- 8.1 Resources: The financial implications are contained in paragraph 3.1.

9. Equality Impact Needs Assessment

- 9.1 Not applicable

10. Wards affected

- 10.1 All

11. Appendices

- 11.1 Appendix One – Revenues Debt Recovery Policy
Appendix Two – Business rates write offs by year
Appendix Three – Case Studies
Appendix Four – DCLG Summary of responses to business rates avoidance

12. Background Papers

None.

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REVENUES DEBT RECOVERY POLICY

1.0 Introduction

- 1.1 Wyre Forest District Council is responsible for the collection of council tax and national non-domestic rates (NNDR) on behalf of Worcestershire County Council, West Mercia Police Authority, Hereford & Worcester Fire and Rescue Authority and Parish/Town Councils in the district.
- 1.2 This policy has been developed in order to achieve an efficient and effective revenue collection and sets out the recovery process that will be followed by the Revenues recovery team.

2.0 Aims

- 2.1 The aims of the recovery policy are to:
- Comply with current regulations and incorporate the council's corporate policies where applicable.
 - Use cost effective and fair recovery practices so that all balances and instalments due are paid and ensure those that can pay, do pay.
 - Ensure there is a professional, consistent and timely approach to recovery action.
 - Encourage debtors to engage with the council as soon as possible if they have difficulty in meeting their liability.
 - Be responsive to individual circumstances including ability to pay in order to differentiate between those who can't pay and those who won't pay.
 - Maximise the levels of income collected and minimise the level of arrears.
 - Ensure that debts are managed in accordance with legislative provisions and best practice.
 - Provide individuals in financial hardship with support and advice to claim all relevant benefits, exemptions, relief and discounts and ensure they are referred to specialist debt advisors if necessary.
 - Treat individuals fairly and consistently regardless of age, sex, race, gender, disability and sexual orientation and to ensure that individuals' rights are protected under Data Protection and Human Rights legislation.

3.0 Debts covered by this policy

- 3.1 **Local Taxation** – Council Tax recovery processes are laid down by statute in The Council Tax (Administration and Enforcement) Regulation 1992 and subsequent amendments.

3.2 **National Non Domestic Rates** – Business Rates recovery processes are laid down by statute in the Non-domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 and subsequent amendments.

3.3 Details of the recovery of **housing** benefit overpayments can be found in the [Housing Benefit Overpayment Policy](#)

4.0 Annual billing

4.1 Annual council tax and business rates bills (demand notices) are issued in March every year which set out the total amount of liability due. Amended bills are issued daily when changes of circumstances are reported and actioned.

4.2 All bills include a monthly payment instalment arrangement over 10 months and if paying by instalments, the amount payable is due on the 1st of each month. There is the option to pay over 12 instalments as long as the first payment is made by the end of April.

4.3 The most cost efficient payment method is direct debit which will be actively promoted. The methods of payments accepted are:

- Direct debit
- Automated phone payments by debit/credit card
- Website payments
- Internet banking/bank transfers/BACS payments
- PayPoint and Post Office outlets by cash or card
- Cheques by post only
- Standing order

5.0 Reminders

5.1 A recovery timetable is drawn up at the start of every financial year to ensure fairness and consistency. Balances must be paid by the due date stated on the bill.

5.2 If an instalment has not been paid, a reminder notice will be issued.

5.3 The reminder notice will state the deadline the payment must be made by and if paid by that date and the account kept up to date, no further action will be taken.

5.4 A maximum of 2 reminders will be issued in any one financial year in accordance with the regulations. A second reminder will only be issued if the customer pays the first reminder on time and then fails to pay a further instalment by the due date.

5.5 Failure to pay after a reminder is sent may result in a cancellation notice. This means the full balance becomes due and the right to pay by instalments are lost for the rest of the financial year.

6.0 Final Notices – Council Tax

- 6.1 Once two reminder notices have been issued during the financial year and a further instalment is not paid, a final notice will be issued. The final notice gives 7 days only to pay the remaining balance due for the year in full. Final notices are also issued on closing accounts or where only one instalment is due.

6.2 Final Notices – Business Rates

Once one reminder notice has been sent then the full balance will become due if the payment has not been made and a further reminder letter is required.

7.0 Summons

- 7.1 If payment is not made as instructed on the notices previously issued, a summons is requested from the Magistrates Court. The summons issued will be for the total balance and not just for missed instalments.
- 7.2 If the customer has a Council Tax Reduction Scheme claim waiting to be processed, recovery action may be held pending the decision. This will depend on the amount outstanding but the council reserves the right to proceed with issuing a summons and subsequent recovery action.
- 7.3 This involves the council making a complaint to the court requesting the issue of a summons which directs the customer/s to appear before the court to show why they have not paid the debt.
- 7.4 A summons may be issued to 2 or more tax payers jointly liable for the debt and each liable person may be served with an individual summons.
- 7.5 The cost of raising the summons is added to the outstanding debt. The summons costs for 2015/16 are £50.00 and is made up of both the council's administration costs and court costs.
- 7.6 The summons will be issued with at least 14 days between issue and the court date and will state when the liable person/s must attend court.
- 7.7 If the amount due plus costs are paid before the court hearing, the tax payer will not have to attend court and the council will not proceed to obtain a liability order.
- 7.8 If arrangements to pay are made the council will still proceed to obtain a liability order but as long as payments are made in accordance with the arrangement no further recovery action will take place.
- 7.9 If the liable person/s does not pay or does not attend court, the hearing will proceed in their absence.

8.0 Liability Orders

- 8.1 At the hearing, the magistrates must be satisfied that the council has followed the correct procedures which are sending a bill, reminders and summons to the property or last known address. The council must confirm who is liable for council tax and that the debt is outstanding. If the magistrates agree that the amount shown on the summons is payable by the customer they will issue a Liability Order. A liability order is a legal instrument that allows the council to collect the outstanding debt.
- 8.2 The cost of the liability order is added to the outstanding debt. The liability costs for 2015/16 are £30.00 and is made up of both the council's administration costs and court costs.
- 8.3 The liability order is a decision by the court confirming that the person listed is liable to pay the sum due and that the balance has not been paid in accordance with the law. This order gives the council powers to recover the debt using other methods such as:
- Requesting financial information including your employment status and employer details;
 - Taking money directly from wages using an Attachment of Earnings Order;
 - Taking money directly from DWP benefits;
 - Instructing an Enforcement Agent to collect the debt;
 - Starting winding up proceedings against limited companies;
 - Starting bankruptcy proceedings against individuals;
 - Seeking a Charging Order against the property;
 - Starting committal proceedings for imprisonment for up to 90 days.

9.0 Recovery following liability orders

- 9.1 After the hearing notices are issued confirming that an Order has been granted. This notice contains a requirement to supply certain information. If the liable person does not provide the requested information this could lead to prosecution and a fine.
- 9.2 The notice issued warns the debtor that unless they pay or make arrangements to pay, further recovery action will be taken which are detailed in section 11.
- 9.3 The information obtained will then help the recovery team to decide the next course of action to recover the money owing.

10.0 Hardship

- 10.1 The recovery team welcomes and encourages contact to be made during all stages of recovery in order to make arrangements to clear the balance owing. The council is committed to reducing poverty and hardship and the team will review each case on its own merit.
- 10.2 Extended payment arrangements may be agreed and the recovery team will expect the current year's council tax to be paid first together with an agreed amount to pay off any previous years debt.
- 10.3 Where the customer is in receipt of Council Tax Reduction Scheme, arrangements must be in place to pay any outstanding balance by the end of the financial year. Council Tax Reduction Scheme claimant debts will only be passed to Enforcement Agents as a last resort after careful consideration by the recovery team.
- 10.4 The recovery team will consider applications for a discretionary reduction in liability which is a scheme the council operate for those in significant hardship. For more information see the [Discretionary Reduction in Liability Policy](#).
- 10.5 Before pursuing any of the following methods of recovery, consideration will be given to looking at any other debts that the tax payer may owe to the Council and all outstanding debts will be pursued as a whole. This will be carried out in conjunction with the corporate debt recovery officer.

11.0 Methods of recovery

- 11.1 **Attachment of Earnings Order** – The council can tell an employer to make deductions from earnings of their employee and to pay the deducted amount to the council.
 - 11.1.1 Failure to provide employment details when requested could result in an additional fine of up to £500 for non-disclosure and £1,000 for supplying false information.
 - 11.1.2 Failure to comply with the order may result in the employer being fined.

The amount deducted will be in line with regulations and will depend on earnings.
 - 11.1.3 Employers can deduct £1 per order for every time a deduction is made to cover administration costs and deductions will continue until the debt is paid. Changes in employment must be reported to the recovery team within two weeks.
- 11.2 **Deductions from DWP benefits** – The council can ask the Department for Work and Pensions (DWP) to make deductions from Universal Credit,

Income Support, Jobseekers Allowance, Pension Credit or Employment Support Allowance.

11.2.1 The amount deducted will be in line with regulations and will depend on the amount of benefit in payment.

11.2.2 Changes to benefit entitlement must be reported to the recovery team within two weeks.

11.3 **Enforcement agents** – the council will instruct their Enforcement Agents to collect the balance owing when a customer has failed to provide income details, failed to agree an acceptable payment plan and/or make the agreed payments.

11.3.1 Enforcement fees are fixed and the letter will explain what happens if the account is referred and the costs that will be added to the debt.

11.3.2 In most cases if a debtor owes less than £1,500 the enforcement agents fees are:

- £75 when the case is referred
- £235 if no response is received following contact attempts by phone/email/text and they have to visit the property
- £110 if they have to take goods and sell them at auction

11.3.3 If the debt is over £1,500 the enforcement agents will charge an additional fee of 7.5% of the amount over £1,500.

11.3.4 The recovery team will check each case to identify if any employer details are available, for any notes that indicate the customer is vulnerable or that there are exceptional circumstances.

11.3.5 The revenues team will continually monitor the performance of the Enforcement Agents to ensure they are an efficient and effective collection method.

11.3.6 If the Enforcement Agent cannot identify sufficient goods to clear the debt, or cannot gain lawful entry to the property, they will advise the council accordingly. The recovery team will then consider further recovery action as listed below.

11.4 **Bankruptcy/Insolvency** – The council will consider taking bankruptcy proceedings where at least one other method of recovery listed above has been attempted and failed and the debt owed is more than £5,000.

11.4.1 There are significant costs associated with this method of recovery that are incurred by the customer and their home may be lost so these proceedings will be used with caution.

11.4.2 A full risk assessment will be undertaken by the recovery team using all the information available from the council's records

including Land Registry checks, credit reference reports and Company House records where applicable.

- 11.4.3 The team will liaise with Social Care and other relevant partners to check for vulnerability before proceeding. All cases referred for bankruptcy proceedings will be authorised by the Revenues, Benefits & Customer Services Manager.
- 11.4.4 Once authorisation to proceed is agreed a letter will be delivered to the debtors property in person or first class post, outlining the intention to start bankruptcy proceedings and the implications of this course of action.
- 11.4.5 Arrangements to pay will be considered if a customer makes contact and a hold will be placed on further proceedings at this stage. Failure to adhere to the arrangement would warrant bankruptcy action being reconsidered.
- 11.4.6 If a customer or their representative contacts the recovery team at this stage highlighting extenuating circumstances or vulnerability the matter will be referred to the Revenues Service Manager and the Revenues, Benefits & Customer Service Manager to make a decision on the information received.
- 11.4.7 If the council does not receive payment or contact to make arrangements to pay within 14 days, a Statutory Demand will be served which is the first formal stage that may lead to bankruptcy.
- 11.4.8 The council will allow at least 14 days from the issue of the Statutory Demand before passing the case to the council's bankruptcy practitioners.
- 11.4.9 Once a case is referred to the bankruptcy practitioner, all further contact will not be dealt with by the council and will be referred to the practitioner. The documents issued will recommend the debtor seek their own independent legal advice.
- 11.5 **Charging Orders** – When a customer owns property and the council holds information suggesting that payment is unlikely through bankruptcy or where the current address of the debtor is unknown or overseas, a Charging Order may be appropriate. A Charging Order secures the debt but payment will be delayed until the property is sold.
 - 11.5.1 A full risk assessment will be undertaken by the recovery team using all the information available from the council's records including Land Registry checks, credit reference reports and Company House records where applicable.
 - 11.5.2 The team will liaise with Social Care and other relevant partners to check for vulnerability before proceeding. All cases referred for Charging Orders will be authorised by the Revenues, Benefits & Customer Services Manager.
 - 11.5.3 A factor to consider when deciding to proceed with a Charging Order would be the length of time it will take for the council to receive the

money which may run into years in addition to the life of a Charging Order which is 12 years.

- 11.5.4 Once a Charging Order has been granted against a property, the council can apply to the court for an order to evict and force the property to be sold and the debt recovered from the proceeds of the sale.
- 11.5.5 The council may still look to recover any debt that remains not covered by the Charging Order, by other methods.
- 11.6 **Committal proceedings** – Where a debt remains unpaid by way of sale of goods or through other methods previously listed, the council will consider an application for a Warrant of Commitment.
 - 11.6.1 The council will apply to the Magistrates Court for a further summons to be issued for the debtor to appear before the court to enquire into their means. The ‘means enquiry’ will be to establish whether the failure to pay was due to ‘wilful refusal’ or ‘culpable neglect’.
 - 11.6.2 If the debtor refuses to attend court, the hearing cannot take place and the council will apply for an arrest warrant with bail.
 - 11.6.3 The arrest warrant with bail will be hand delivered to the debtor and will state the date and time to appear in court.
 - 11.6.4 If the debtor does not then appear in court after being bailed, the council will ask the Magistrates Court to issue a warrant for arrest without bail. This will require immediate arrest of the debtor who will be detained pending the hearing at court.
 - 11.6.5 Committal action could result in a prison sentence of up to 90 days. If any arrangement to pay is offered at this stage, it will be up to the Magistrates Court to consider and not the council.
 - 11.6.6 If the court agrees to an arrangement to pay, payments must be made direct to the council. Failure to adhere to the court order will result in the debtor appearing before the court to seek an immediate committal to prison.
- 11.7 **Tracing debts** – All debts owed to the council will be pursued in accordance with this policy. If the debtor leaves their last known address without a forwarding address, the council will use various means of tracing the debtor which may involve external tracing agents.
- 11.8 **Write offs** – Every effort is made to protect the public purse and collect debts owed to the council and recovery is rigorously pursued in accordance with this policy. Debts will only be considered for write off when:

- The recovery team have been unable to trace the debtor using all available methods.
- Where the debtor is deceased, there is no joint liability and the executor reports there are insufficient funds to clear the debt.
- Where the debtor has been declared bankrupt and there is no prospect of recovery.
- Where the Magistrates remit all/part of a debt during committal proceedings.
- In the case of a debt of a company, if that company ceases to exist.
- If a debt is barred by statute (unsummonsed and over 6 years old).
- Where the council is subject to an Individual Voluntary Agreement that allows less than the full liability.

11.8.1 Any debt that is written off must be approved by the Corporate Director of Resources if under £5,000.

Debts between £5,000 and £10,000 must be approved for write off by the Corporate Director of Resources in consultation with the Cabinet Member for Resources.

Requests to write off debts in excess of £10,000 must be authorised by the Cabinet.

11.8.2 The council may still recover the debt if circumstances change and it becomes recoverable.

11.9 **Winding up (Business Rates)** – If the rate payer is a limited company, the council can apply to ‘wind up’ the business. The council will consider winding up proceedings where at least one other method of recovery listed above has been attempted and failed.

11.9.1 There are significant costs associated with this method of recovery that are incurred by the rate payer so these proceedings will be used with caution.

11.9.2 After agreeing this method of recovery against a business, the council will send a formal request for payment advising of the intended action and subsequent consequences if the debt is not paid.

11.9.3 If no response is received within 14 days the council will consider whether a petition for the winding up of the company should be issued.

11.9.4 If the council seeks a petition from the High Court, the petition will be served on the rate payer telling them of a date and time of the hearing. At this stage, significant costs are added to the debt.

11.9.5 If the rate payer refuses to attend court to make representation to the judge, this generally results in the company being wound up.

11.9.6 Once the company has been wound up, the matter is then referred to the Official Receiver.

12.0 Review

12.1 This policy will be reviewed periodically and any amendments authorised by the Revenues, Benefits & Customer Services Manager in conjunction with the Corporate Leadership Team as required.

APPENDIX TWO

Year	Total Write Off	Cabinet Write Off	Delegated Write Off
2012/13	£169,420	£0	£169,421
2013/14	£133,915	£0	£133,915
2014/15	£380,132	£246,527	£133,605
2015/16	£340,748	£149,225	£191,523
2016/17	£1,072,633	£170,214	£902,418
2017/18	£202,124	£155,810	£46,314

Year							
	Pre 2012	2012	2013	2014	2015	2016	TOTAL
2012/13	£113,117	£56,303	£0	£0	£0	£0	£169,420
2013/14	£24,507	£71,121	£38,287	£0	£0	£0	£133,915
2014/15	£125,584	£129,842	£81,929	£42,777	£0	£0	£380,132
2015/16	£35,765	£52,782	£108,131	£120,469	£23,601	£0	£340,748
2016/17	£184,173	£141,353	£174,035	£236,287	£225,972	£110,813	£1,072,633
2017/18	£14,542	£37,523	£42,424	£49,879	£42,644	£15,112	£202,124

The table above shows the liability year to which the write off relates.

Case Study One – Company A

Company A is the owner of an empty building which is currently split by the Valuation Office Agency into ten assessments. They entered into a licence agreement with a charity which resulted in a reduction in their business rates bill and the liability then passed to the charity. The rent payable to Company A was a nominal amount of £1 per year. The NNDR Officer had to determine whether or not the charity was entitled to charitable rates relief as set out by legislation. The relief was refused as the charity was not occupying the premises at that time. Charitable rate relief can only be granted when a premises is being occupied by a charitable organisation in furtherance with their aims.

The charity stated their purpose was to provide training for 'emergency planning' situations. They stated the property was unoccupied with the exception of two half days every six months.

The charity who was now responsible for paying 100% business rates on the empty premises, wanted to claim unoccupied relief on the basis that the premises' next use would be of a charitable nature. By awarding this relief, the charity would pay no business rates. Legislation states we would require proof the next occupation was charitable. The charity stated that by using the premises for two half days for 'emergency planning' the next use was in fact charitable.

Through closely working with neighbouring authorities, use of legislation and case law the NNDR Officer refused the charitable reliefs accordingly. This was on the basis that the charity was not wholly or mainly occupying the building for the days in question. Nor was the occupation that of a charitable nature.

This case study shows that the Council has been deprived of 100% business rates from the property owner by leasing it to an organisation who are deliberately set up to avoid paying rates.

The Council was granted a liability order against the charity and the case referred to an Insolvency Practitioner. Although the charity have paid the practitioners costs, they owed approximately £3.5 million in unpaid business rates across the West Midlands and decided liquidate their organisation. There are no assets to pay the outstanding rates so there is no alternative but to consider the balance for write off.

The rates liability returned to Company A who have now leased the premises to another charity who also wish to claim 100% relief under the same legislation. The Officer will undertake the statutory test to be satisfied that the terms are legitimate before deciding whether or not the reliefs will be granted. The landlord is paying these charitable organisations to avoid empty property rates and we cannot envision these rate avoidance tactics will cease due to the saving they are making by not being responsible for empty property rates.

Case Study Two – Company B and Company C

A high street property with a rateable value in excess of £120,000 was left empty following the liquidation of a national chain. Delays arose from the outset as the lease remained with the liquidated company. Once the lease was finally disclaimed the liability reverted back to the owner, Company B, but remained unpaid.

All due recovery processes were followed including referral to enforcement agents but the unit was empty and there were no assets to seize. Company B was based in the Channel Islands, where our enforcement agents have no jurisdiction. After lengthy investigations and the appointment of an insolvency practitioner, a decision was taken to wind up the business.

The liquidation process was at a cost to the Council however it was hoped that there would be money available towards the annually increasing business rates debt. Company B was eventually liquidated with no dividends paid leaving the debt to be written off.

The premises were then sold at auction to Company C. Since the sale, leases have been drawn up for either charities or smaller companies who are believed to be fictitious. The unit however has remained unoccupied since the sale. The case has again been referred to an insolvency practitioner and property solicitor who have made the decision the leases are not genuine. The business rates liability has therefore transferred back to Company C. The annual business rates bill remains unpaid.

Case Study Three – Company D and Company E

Company D had been trading at a premises with a rateable value of £267,500 since 2015. During 2015 and 2016 the business rates were paid by a combination of standing order and cheque. All payments were made on time and no recovery action commenced. During the current financial year two reminders were issued. This was because payments made mid month and not on the first of the month as the notices state. No recovery action could commence against this company as the Company was paying and the Council could not under legislation gain a liability order.

Company D went into administration on 20th July however the Council has been at no financial loss as the administrators sold the trade and assets, for an undisclosed sum, to Company E from the date Company D went into administration. Company E continues to trade at the site and have been billed for business rates whilst Company D received a refund for their overpaid rates.

Case Study Four

A company has been trading from a premises with a rateable value of £28,000 since 2009. Since 2011 they have been paying by standing order every month. During the past three years they have received one reminder notice. This is because a standing order can take three to five days to reach its recipient therefore payments were sometimes over a week late.

On 7th September we were advised the company went into administration. The company continues to trade with the administrators' approval and the administrators have guaranteed business rates would be paid during this period. At the date of the administration the company had overpaid their rates bill. The liability continues to be paid.

Case Study Five – Company F

Company F have owned a premises with a rateable value of £477,500 since 2009. The Company have leased the premises to tenants during this period. The tenant paid the business rates in full. This equated to payments of £210,957.53 during 2014/15's financial year. Since 2015 the property has remained empty and in Company F's name.

The company decided to employ a rating agent to help with their rising business rates bill. The rating agent makes use of the '6 week rule' in order reduce Company Fs business rates bill.

Company F stores items in the premises which are of benefit to them. Legislation states that if a company is storing stock or items of benefit then the premises are to be treated as occupied. The Company will 'occupy' the premises for just over six weeks. After a six week period the Company will remove the items in the premises so that it is completely empty. Legislation states that if a premises is empty and unoccupied and if the occupation lasted for six weeks or more, prior to it becoming empty, they can have six months 100% empty property relief.

Company F then uses this cycle of occupation and empty property rate. Unfortunately, although this practice causes financial loss to the Council it is not illegal, rather making use of the legislation. Council Officers are aware of the practice and visit the premises each time it becomes occupied and empty to make sure the occupation meets the criteria set out in legislation. They also confirm that stock has in fact been removed and does not remain in the premises. Although no write offs have occurred, this practice has a financial impact on the Council as Company F now only pays 12 weeks in a financial year. This is approximately £28,000 per year meaning the Council loses out on just over £190,000 per year on this premises.



Department for
Communities and
Local Government



HM Treasury

Business Rates Avoidance

Summary of Responses

July 2015
Department for Communities and Local Government
HM Treasury



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July 2015

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Summary of responses

Methods and scale of avoidance

Q1. Which methods of avoidance are you familiar with and how commonly have you seen them used?

This question attracted a very high level of comment. The majority of local authorities were aware of or came across more than one type of avoidance in their areas. A number of respondents also mentioned a specific method of avoidance in relation to pubs/ bars. The most common methods they were familiar with were those highlighted in the December 2014 discussion paper:

- a. avoidance of empty property rates through repeated periods of artificial/contrived occupation
- b. avoidance of empty property rates through artificial/ contrived occupation of properties by charities
- c. avoidance of empty property rates through artificial/ contrived arrangements where charities own a property and it appears that when next in use it will be mostly for charitable purposes
- d. avoidance of empty property rates through the use of insolvency exemptions.

Authorities suggested that use of the first avoidance method list above had increased since the ruling in the Makro Properties Limited v Nuneaton & Bedworth Borough Council case in 2012.

Business respondents suggested they were familiar with many of the avoidance methods. Many businesses suggested that there was a distinction between different methods of avoidance in that some methods were considered to be a flexible way to allow ratepayers to manage their liability for business rates, whereas others were aggressive avoidance scenarios. The distinction appeared to centre around the extent to which arrangements were contrived and whether third parties were involved.

Q2. What do you consider to be the defining features of specific methods of avoidance?

This question was mainly answered by local authorities and attracted both general and specific comments. The respondents who answered this question directly were focused on

the defining features of the most popular avoidance methods. It was suggested that the defining features of the avoidance of empty property rates through repeated periods of artificial/contrived occupation were: that the occupier sought to occupy the property as minimally as possible; and that the landlord and occupier entered into a tenancy agreement that required a very short notice period while the property is actively marketed. Another feature is that ratepayers notify the council retrospectively of occupation periods.

In cases where avoidance of empty property rates through artificial/ contrived occupation of properties by charities takes place, it was suggested that unsuitable premises (i.e. those that were overly large or located inconveniently) for the charity's purposes were often taken on. Also, it was suggested that charities are often unable to substantiate their claims of future use – on which the eligibility of a future relief depends - and occupation is minimal or infrequent. Some responses identified the use of insolvency exemptions to avoid rates, as highlighted by the discussion paper. One of the more general comments was that agents are often involved in advising occupiers on artificial or contrived arrangements for the purposes of avoidance.

Q3. What is your view on the scale of avoidance?

The majority of local authorities felt that the scale of avoidance is growing. A number of local authorities expressed the view that it is difficult to assess accurately the level of avoidance although some of them provided estimates for their areas. The Local Government Association's initial estimates suggest around £230m per annum is lost to avoidance.

The majority of other types of respondents did not comment on this question. Nevertheless some representative bodies suggested that some local authorities may overestimate the involvement of certain organisation types in rates avoidance or that there isn't sufficient evidence on the scale of business rate avoidance. A few rating agents suggested that the scale of avoidance is either low or declining.

Tackling avoidance

Q4. What are your views on giving local authorities general or more specific anti-avoidance powers, whereby authorities can withhold reliefs and exemptions where they reasonably conclude that the main purpose or one of the main purposes of the ratepayer's occupation or arrangements is to receive the relief or exemption and/or that the arrangements or occupation is contrived or artificial?

This question attracted a high number of comments. Some local authorities were in favour of the government providing them with greater powers (either through specific or general anti-avoidance rules) although a mix of local authorities and rating agents were opposed.

Those opposed claimed that sufficient, clear and well established powers, statutory mechanisms and rules already exist. It was suggested that granting specific anti-avoidance powers could lead to differences in interpretation of the legislation by local authorities, causing more cases to be taken to the courts, which in turn would cause resource and funding problems to local authorities. Local authorities who were in favour of these powers felt that legislation would need to be developed so that they clearly define the responsibilities of the parties involved and set out potential consequences for the ratepayer.

Q5. What changes could be made to legislation that sets out which types of ratepayers or properties are eligible for exemptions or reliefs, to make it easier for authorities to distinguish between ratepayers legitimately entitled to reliefs or exemptions and those seeking to abuse them?

This question attracted a wide variety of comments and the majority of them suggested that legislation should be tighter, clearer and more prescriptive. Some respondents suggested defining the occupation of a property as a percentage of the utilised floor space; or extending the length of time an occupier is required to occupy a property in order to qualify for a relief; or placing a cap on the number of times that an exemption for an empty property can be claimed. Others suggested removing/reducing some reliefs or exempting properties below a certain rateable value threshold could reduce abuse of reliefs. It was also suggested that the Insolvency Service and the Charity Commission should use their powers more effectively or be given more powers. A few respondents suggested that there is no need for any change in the legislation.

Q6. Do you have any views on what changes could be made to the administration of reliefs and exemptions that would help prevent or tackle business rates avoidance?

This question attracted a range of comments, the majority from local authorities. The respondents mentioned that limiting backdating for retrospective claims and a more formal application process would make the granting of reliefs a more transparent process. In addition to this, better training could be given to those tasked with considering applications for exemptions and reliefs from ratepayers. Another suggestion was that local authorities should have the right to inspect the interior of empty properties before any relief is granted and that ratepayers should be obliged to notify local authorities of any changes in terms of occupancy. It was also suggested that reliefs should be discretionary so local authorities could set their own criteria.

It was suggested by a high number of respondents that ratepayers should be able to dispute their business rates liability at a Valuation Tribunal rather than a Magistrates'

Court. This would ensure rates continued to be paid whilst ratepayers disputed their liability.

Q7. What are your experiences in taking action against those avoiding business rates?

The majority of responses came from local authorities who mentioned that they have experience of taking avoidance cases to court. The main comment was that doing so places a considerable burden and cost on the local authority in terms of the work involved, such as carrying out property inspections and gathering evidence, which was seen as a significant barrier to taking legal action. In contrast, it was suggested that those involved in avoidance schemes were incentivised to take legal action and legal advice because the gains to be made from successfully avoiding business rates were sufficiently high.

Q8. Do you have any views on what steps could be taken to help authorities come together to tackle attempted business rates avoidance?

The majority of the respondents suggested that a centralised information sharing portal where local authorities could share experiences and solutions would be helpful and provide more consistency to the way they tackle avoidance. Others requested further financial support from the government such as a funding scheme that would help local authorities take joint action in order to cover legal costs.

Some identified the need for two-way data and information sharing between local authorities, the VOA and other public bodies to help strengthen attempts to tackle avoidance. While others called for guidance for local authorities on gathering evidence of avoidance, on what is expected of the council's inspectors, on the legal issues involved in tackling avoidance, and on best practices. It was suggested that local authorities could act proactively by withholding reliefs and exemptions.

Q9. Do you have any alternative suggestions as to how to tackle business rates avoidance?

This question attracted a range of views, the majority of them from local authorities. It was suggested that increasing awareness of avoidance schemes and improvement of understanding of the rules around business rate reliefs are the best methods available to the government to reduce tax avoidance by charitable vehicles. Closer co-operation with HMRC could enable ratepayers to report any new avoidance schemes more easily. Another suggestion was that the responsibility of paying business rates could be placed on the freeholder so that the local authority would be able to recover the charges against the

property. In general the need for improved communication channels between local authorities, the Charity Commission and Companies House was highlighted.

List of respondents

The following is a full list of respondents to the discussion paper:

Altus UK LLP	Cherwell District Council
Association of Convenience Stores	Cheshire East Council
Association of Licenced Multiple Retailers	Cheshire West and Chester Council
Baker Davidson Thomas	City of Lincoln and North Kesteven Council
Basingstoke and Deane Borough Council	City of York Council
BCH Developments Limited	Colliers International UK
Birmingham City Council	Commercial Development Projects Limited
Blackburn with Darwen Borough Council	Crawley Borough Council
Blackpool Council	Derwent Lodge Estates Limited
BNP Paribas Real Estate	Distribution Supplies Limited
Borough Council of Wellingborough	District Councils' Network
Boston Borough Council	Dudley MBC
Bracknell Forest Borough Council	Dunlop Heywood
Bradford Metropolitan District Council	Durham County Council
Braintree District Council	East Herts Council
Brent Council	East Lindsey District Council
Brighton and Hove City Council	East Riding of Yorkshire Council
British Property Federation	Federation of Small Businesses
British Retail Consortium	Fifield Glyn Ltd
Cannock Chase District Council and Stafford Borough Council	Fylde Council
Capital Space Ltd	GL Hearn Limited
CBRE Ltd	Greater Manchester Non-Domestic Rating Benchmarking Group
Centreland	Gravesham Borough Council
Charity Law Association	

Hatfield White	M&M Property Asset Management LLP on behalf of Shopping Centre Director Iain Minto
Hertfordshire County Council	
Institute of Revenues Rating and Valuation	MUA Property Services Ltd
Islington Council	National Council for Voluntary Organisations, Charity Retail Association, Charity Finance Group and Institute of Fundraising
Kent authorities	
Kingston upon Hull City Council	Newcastle City Council
Knowsley Metropolitan Borough Council	North Somerset Council
Lancaster City Council	Northampton Borough Council
Leeds City Council	Nottingham City Council
Leicester City Council	Oxford City Councils
Leicestershire Partnership (Harborough District , Hinckley & Bosworth Borough and North West Leicestershire District Councils)	Pendle Borough Council
Liberata	Preston City Council
Lingwood Estates PLC	Rating Surveyors Association
Local Government Association	Reigate Banstead Borough Council
London Borough of Bexley	Ribble Valley Borough Council
London Borough of Ealing	Rossendale Borough Council
London Borough of Enfield	Royal Borough of Kingston upon Thames
London Borough of Merton	Royal Institution of Chartered Surveyors
London Borough of Sutton	Rushcliffe Borough Council
London Borough of Tower Hamlets	Sefton Council
London Borough of Waltham Forest	Shared Revenues Partnership and the Anglia Revenues Partnership
Mettam Ware	Sheffield City Council
Milton Keynes Council	Slough Borough Council
	Solihull Metropolitan Borough Council
	South Cambridgeshire District Council

South Holland District Council
South Kesteven District Council
South Norfolk Council
South Northamptonshire Council
South Tyneside Council
St Helens Council
Stockport Metropolitan Borough Councils
Stoke-on-Trent City Council
Stockton-on-Tees Borough Council
Sunderland City Council
Tameside Metropolitan Borough Council
Telford and Wrekin Council
Thurrock Council
Tonbridge & Malling Borough Council
Trafford Council
Urban Splash
Vail Williams LLP
Welwyn Hatfield Borough Council
West Lindsey District Council
Westminster City Council
WHR on behalf of a number of interested parties
Wilkin Chapman LLP
Wokingham Borough Council
Wolverhampton City Council
Wyre Council
6 individual respondents



Overview and Scrutiny Committee

Briefing Paper

Report of: Ian Miller, Chief Executive

Date: Thursday 5th October 2017

Open

Scrutiny of business cases in respect of the capital portfolio fund and development loan fund

1. Summary

- 1.1 This report invites the Committee to agree the creation of a sub-committee that could scrutinise business cases in respect of the capital portfolio fund and development loan fund. This follows a recent Cabinet decision to delegate its decisions to a Cabinet sub-committee to allow a swift and commercial approach.

2. Background

- 2.1 The background is set out in the Cabinet report of 20 September. This identifies reasons why a Cabinet sub-committee should be established, in order to allow swifter decision-making in respect of commercial processes rather than have to await the scheduled cycle of full Cabinet meetings. It now falls to the Overview and Scrutiny Committee to consider whether it wishes to make similar arrangements.

3. Key Issues

- 3.1 Even though the Overview and Scrutiny Committee meets about ten times a year, the issues identified in the Cabinet report are also relevant to it as the timing of Committee meetings may not align with the demands of these commercial processes. The Cabinet is resolute that the Overview and Scrutiny Committee should consider and provide a recommendation on all business cases that are submitted to the Cabinet for approval. Thus, following discussion with members of the Overview and Scrutiny Committee on 7 September, the report outlines below a proposal to establish a sub-committee of the Overview and Scrutiny Committee that would consider business cases. This would meet only when the timing of the decision-making process meant that the full Committee could not consider a business case. Thus some business cases may still come to the full Committee while others would be dealt with by the sub-committee.

- 3.2 The sub-committee would be politically balanced. While its proposed size means that three of the groups would be represented on it, the fourth and smallest group on the Council would not have a seat as a result of the current political balance. Political balance can change over time, of course. The current political balance of a sub-committee of five members would be: 3 Conservative, 1 Independent and Liberal Democrat and 1 Labour. It is important to stress that any member of the Council would be able to attend meetings of the sub-committee and, with the agreement of the chairman, contribute to its discussions.

The proposal

- 3.3 The Overview and Scrutiny Committee is invited to **RESOLVE**:
- 3.3.1 to establish a sub-committee consisting of five members of the Overview and Scrutiny Committee, politically balanced;
- 3.3.2 that substitution of members is permitted in accordance with paragraph 3.11 of the Council Procedure Rules;
- 3.3.3 that the terms of reference of the sub-committee are solely to scrutinise, and make recommendations upon, business cases in respect of the capital portfolio fund and development loan fund;
- 3.3.4 that the sub-committee shall be chaired by the Chairman of the Overview and Scrutiny Committee. In the event that the Chairman is unable to be present at a meeting of the sub-committee, the sub-committee shall appoint one of its members to chair that meeting.

4. Options

- 4.1 This report relates to the operation of the Overview and Scrutiny Committee. The only options are to decide to set up a sub-committee as outlined in paragraph 3.3 or to continue to deal with these issues solely at meetings of the full committee.
- 4.2 There is also an option for the Committee to resolve that the sub-committee should have a vice-chairman and that this role should be filled by a councillor drawn from a political group that is not part of the administration. This “works” with the current political balance and would mean that the vice-chairman of the sub-committee would be the Labour representative. If the Committee chooses to support such an approach, the alternative wording required for the final part of the proposal would be:

“3.3.4 that the sub-committee shall be chaired by the Chairman of the Overview and Scrutiny Committee and shall have a Vice-Chairman drawn from a political group that is not part of the administration. Paragraph 2.6(ii) of the Council Procedure Rules shall apply to

meetings of the sub-committee as if it were a committee of the Council.”

5. Consultation

- 5.1 Meeting with members of the Overview and Scrutiny Committee, 7 September 2017.

6. Related Decisions

- 6.1 Cabinet decision to delegate its decisions to a sub-committee, 20 September 2017.

7. Relevant Council Policies/Strategies

- 7.1 Medium Term Financial Strategy, Cabinet, 20 December 2016.
7.2 Medium Term Financial Strategy, Council, 22 February 2017.
7.3 Strategies for the capital portfolio fund and loans to third parties, Cabinet, 14 June 2017.

8. Implications

- 8.1 Resources: the cost of servicing any meetings of a sub-committee would be met within existing budgets.
8.2 Involvement of councillors: as with any meeting of a committee of the Council, all members would be able to attend meetings of a sub-committee and, with the chairman’s agreement, contribute to discussion.

9. Wards affected

- 9.1 All.

10. Appendices

- 10.1 None.

11. Background Papers

- 11.1 Report to Cabinet, 20 September 2017, “Decision-making in respect of the capital portfolio fund and development loan fund”

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Overview and Scrutiny Committee

Briefing Paper

Report of: Ian Miller, Chief Executive

Date: Thursday 5th October 2017

Open

Overview and Scrutiny Committee Work Programme

1. Summary

- 1.1 This report invites the Committee to agree additions to its work programme. The current work programme is in the appendix.

2. Background

- 2.1 Members of the Committee met informally with officers on 7 September to discuss how they might shape the Committee's forward work programme in the light of the Local Government Association's Peer Review last March:

Extracts from Peer Review, March 2017

"It may be timely to take stock of certain elements, including Overview and Scrutiny, and the 'Member Champion' roles to ensure political leadership benefits from timely challenge, and additional support for key priorities, projects and initiatives.

Review Overview and Scrutiny and the 'Member Champion' role to ensure clarity of purpose, roles and expectations. This is an opportunity to take stock and reflect on both the strengths and areas for improvement.

Overview and Scrutiny has evidently made a positive and timely contribution to various key decisions and policy. We heard about several examples, including the task and finish group on market provision in towns which included stakeholder consultation, and how the work of scrutiny influenced the location of the new Leisure Centre. More recent examples include a panel looking at Section 106 monies, and work on Local Plans. Having an opposition chair of the Overview and Scrutiny Committee is seen to be a positive feature in terms of ensuring independence from the Cabinet.

There are, however, a number of different views about the current effectiveness of the function. It may be timely to take stock through a light-touch review of the role and purpose of Overview and Scrutiny at

Wyre Forest to re-state and clarify relationships and responsibilities. There currently looks to be a blurring of these, including a perception that any councillor can participate uninvited in meetings, and that Cabinet can be too involved.

There obviously needs to be a constructive relationship between executive and scrutiny, with each informing the other. But it is important that protocols and practice on the ground support the integrity and independence of the scrutiny function so it is free to hold to account, and develop evidence based recommendations for decision-makers to consider.”

- 2.2 Since June, the Chairman of the Committee has been operating new seating arrangements and a different approach in calling speakers to ensure that members of the Committee are given precedence over observers, including Cabinet members. These are perceived by members of the Committee to have worked successfully. As part of the “light touch review”, Committee members themselves have considered the work programme which - apart from regular monitoring type reports on the budget, performance etc. - seems rather dominated by consideration of reports before decisions are taken by the Cabinet. Contributing to the policy- and decision-making process will remain an important part of the Committee’s work, but the Committee has the opportunity to consider a wider range of things such as:

- shaping the policy agenda itself rather than merely responding to the “finished product” that is going to Cabinet;
- undertaking post-project or post-implementation reviews e.g. to see how new policies have bedded down;
- addressing community concerns about local service planning or delivery. These do not necessarily have to relate to the Council and its services: for example, examining what other bodies and organisations are doing that affects Wyre Forest.

- 2.3 Balanced against a desire to shape the programme to reflect its members’ views is the need for realism in terms of capacity. As a result of changes in committee support over many years, as well as the impact of austerity and past service efficiencies, the capacity among the Council’s officers to support an expanded programme of work is limited. There is scope for members perhaps to do more in some cases, for example in terms of background research and identifying community views; and the development needs of Committee members will be considered as part of future training programmes.

3. Key Issues

- 3.1 The informal meeting identified about a dozen potential topics and issues that could be considered. The Chairman and Vice-Chairman of

the Overview and Scrutiny Committee have considered these suggestions further and recommend that the following are prioritised for 2017 and 2018, recognising that some may fall to be concluded in the next municipal year.

3.2 The proposed additions to the programme are:

Topic	Potential timing	Comment
Police and Communities Together (PACT) meetings and how effectively they are working, including in responding to community concerns	January 2018-March 2018	Will involve West Mercia Police and/or the Police and Crime Commissioner
Availability of affordable and social rented housing, including the priorities and role of Wyre Forest Community Housing	December 2017 – mid 2018	<p>Delayed until relevant post in strategic housing services is filled</p> <p>The committee agreed to scrutinise some aspects of this as a result of proposals from Cllrs Oborski and Shaw, June 2017.</p> <p>Opportunity to look at WFCH as well as other registered social landlords</p> <p>Membership of panel identified so far: Cllrs Wilson, Shaw, Oborski, Knowles and Martin</p>
Review of service standards for highways maintenance including grass cutting/ weed control and frequency of works to aid joined up working with parish councils	September – November 2018	<p>Invite participation by Worcestershire County Council and parish councils</p> <p>Cutting schedule and arrangements for 2018 already set, so timing of recommendations potentially to inform decisions on works in 2019</p>

Review of civil enforcement issues including on and off street parking, litter, fly tipping etc.	May 2018 – July 2018 (PSPO) October 2018 – December 2018 (parking)	Timing to allow post-implementation review of public spaces protection order (dog fouling etc) and revised charging/designation arrangements for car parks, both commencing October 2017; also implementation of pay by phone option
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- 3.3 The Committee is invited to consider the proposals set out in paragraph 3.2 above and decide whether to include them in the work programme.
- 3.4 The informal discussion about the work programme also touched on the arrangements for review panels. The feeling was that, while any councillor can propose items for scrutiny, Overview and Scrutiny Committee members should expect to lead the process, for example by chairing any review panel that is established. However this is not a requirement of the constitution, and the consensus was that it should be.
- 3.5 All of the topics above will require the establishment of a small review panel, not all of whom have to be members of the Overview and Scrutiny Committee. It is recommended that the Committee appoints one of its standing members in each case to chair the panel, including for the panel looking at affordable housing. This person will lead the introduction of any report to the Committee in due course. Members are reminded that it is also possible to co-opt people who are not district councillors to assist with review panels, including providing “expert” input into the work of panels.
- 3.6 The Committee may also wish to make a recommendation that the Constitution should be amended to embed a requirement that review panels established by the Overview and Scrutiny Committee should always be chaired by a member of the Committee. (This would not affect the chairing arrangements for the Local Plans Review Panel as that appointment is made by full Council.) If the Committee agrees to recommend such an amendment to the Constitution, it would be discussed with Group leaders prior to being brought forward for debate at a future meeting of full Council.

4. Options

- 4.1 This report relates mainly to the operation of the Overview and Scrutiny Committee. The only option is to decide whether or not to include each of the identified topics in paragraph 3.2 in the work programme. In respect of the potential change to the constitution in paragraph 3.6, the Committee has the option to decide whether or not to make a recommendation.

5. Consultation

- 5.1 Meeting with members of the Overview and Scrutiny Committee, 7 September 2017.

6. Related Decisions

- 6.1 None.

7. Relevant Council Policies/Strategies

- 7.1 Terms of reference of the Overview and Scrutiny Committee, Part 5 of the Constitution.

8. Implications

- 8.1 Resources: as noted above, officer capacity to support additional reviews is limited and therefore careful programming of the work will be required.

9. Wards affected

- 9.1 All.

10. Appendices

- 10.1 Appendix 1: current work programme 2017-18.

11. Background Papers

- 11.1 LGA peer review, March 2017.

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Appendix 1

Overview and Scrutiny Committee Work Programme 2017-2018

June 2017

“How are we doing?” Q4 update (Housing and Planning)
Churchill & Blakedown Neighbourhood Plan Adoption
Strategies for the Capital Portfolio Fund and Loans to Third Parties –
Review of Wyre Forest District Local Plan (2015) Consultation on Preferred
Options
Tracking Recommendations 2016/2017
Scrutiny Proposal Form
EXEMPT Capital Portfolio Fund: Proposed Acquisition

July 2017

Kidderminster Town Centre Business Improvement District (BID)
Strategic Facilities & Asset Management Plan (including Wyre Forest House
Tenancy Management & Marketing Strategy)
Establishing a Local Authority Trading Company (LATC)
Housing Enforcement Policy Update
Nominations for the Treasury Management Review Panel
EXEMPT Residential Unit Investment Business Case

September 2017

“How are we doing?” Q1 update (Enabling)
Annual Report on Treasury Management Service and Actual Prudential
Indicators 2016/17
Wyre Forest Health and Wellbeing Plan Update
Climate Change Update
Open Space, Playing Fields and Sports Built Facilities Strategies
Compulsory Acquisition of Land & Properties & Empty Property Strategy
Public Space Protection Order (PSPO)

October 2017

Annual update from S106 Monitoring Group
‘Write-off’ Procedure
Scrutiny of business cases in respect of the capital portfolio fund and
development loan fund
Overview and Scrutiny Committee Work Programme

November 2017

Treasury Management Mid Year Report
“How are we doing?” Q2 update (Business and People)
Depot 2020 Invest and Improve Project
Local Plan Project Plan
Hereford and Worcestershire Joint Municipal Waste Management Strategy Review
(JMWMS)

December 2017

Establishment of a Local Authority Trading Company

February 2018

“How are we doing?” Q3 update (Place)

Treasury Management Report for 2018/19

Annual review of the North Worcestershire Community Safety Partnership
2017/18

Future use of the former Magistrates' Court, Worcester Street

WYRE FOREST DISTRICT COUNCIL

FEEDBACK FROM CABINET MEETING HELD ON
WEDNESDAY 20TH SEPTEMBER 2017

Agenda
Item No.

DECISION

7.1 The Introduction of a Public Space Protection Order (PSPO) in Place of Dog Control Orders

Decision: In line with recommendations 1 and 2 from the Overview and Scrutiny Committee, 7th September 2017

1.1 In response to the positive support for measures to control dogs, a Public Spaces Protection Order (PSPO) be made in the Wyre Forest District, under powers contained within the Anti-Social Behaviour, Crime and Policing Act 2014, commencing 1 October 2017 for a period of 3 years on the basis set out in the report to Cabinet.

1.2 The fixed penalty amount shall be £100 for each notice issued.

8.1 Compulsory Acquisition of Land and Properties and Empty Property Strategy

Decision: In line with the recommendations from the Overview and Scrutiny Committee, 7th September 2017

1.1 The principle of the use of compulsory purchase powers under s17 of the Housing Act 1985 and s226(1)(a) of the Town & Country Planning Act 1990 to acquire vacant and /or under used land and empty properties be approved, subject to reports being received and approved on an individual case by case basis.

1.2 The Empty Property Strategy 2017-22; be approved.

12.1 Wyre Forest Health and Wellbeing Plan

Decision: The Wyre Forest Health and Wellbeing Strategy and Health Action Plan 2017/21, as set out at Appendix 2 of the report to the Overview and Scrutiny Committee, be approved.

12.1 Climate Change Update

Decision: The Climate Change Action Plan 2017/18, as set out at Appendix 2 of the report to the Overview and Scrutiny Committee be approved.