

Open

# Council

# Agenda

6pm  
Wednesday, 25th September 2013  
Council Chamber  
Wyre Forest House  
Finepoint Way  
Kidderminster



## Council

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**COUNCIL MEETING**

**17<sup>th</sup> September 2013**

**TO ALL MEMBERS OF THE COUNCIL, HONORARY ALDERMEN,**

**PRESS AND PUBLIC**

Dear Member

**YOU ARE INVITED** to attend a meeting of the Wyre Forest District Council to be held **at 6.00p.m. on Wednesday 25th September 2013**, in the Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster.

The Agenda for the meeting is enclosed.

Yours sincerely,

Ian Miller  
Chief Executive

## **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 this 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.

### **(A) TERMS OF REFERENCE OF THE COUNCIL**

The Council

1. Is the ultimate decision making Body.
2. Determines the Budget (but reserves powers to itself in relation to requirements).
3. Is responsible for appointing (and dismissing) the Leader of the Council.
4. Appoints at its Annual Meeting, the Regulatory Committees, the Overview and Scrutiny Committee and any other Committees/Forums necessary to conduct the Council’s business.
5. Decides on matters where the Cabinet is not minded to determine a matter in accordance with Council policy.

### **(B) MATTERS RESERVED TO THE COUNCIL**

1. Those reserved by Law e.g. levying a rate, borrowing money, promotion of or opposition to a Bill in Parliament.
2. Matters reserved to the Council by financial regulations.
3. The adoption and amendment of Standing Orders, including the powers and duties of Committees and other forums.
4. Power to make, amend, revoke or enact or enforce any byelaws.
5. The determination of the objectives of the Council.
6. Matters of new policy or variation of existing policy as contained within the budget and policy framework.
7. Local Development Framework adoption.
8. Any function where a decision would be contrary to a plan, policy, budget or strategy previously adopted by the Council, which would be contrary to the Council’s Standing Orders, Financial Regulations or Executive arrangements.
9. The Scheme of Delegations to Officers.

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At the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

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If any attendee is under the age of 18 the written consent of his or her parent or guardian is required before access to the meeting room is permitted. Persons under 18 are welcome to view the meeting from the Stourport and Bewdley Room.

**If you have any queries regarding this, please speak with the Council's Legal Officer at the meeting.**

Wyre Forest District Council

Council

Wednesday, 25th September 2013

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

<b>Agenda item</b>	<b>Subject</b>	<b>Page Number</b>
1.	<b>Prayers</b>  To be read by Pastor Philip Hearn from Kidderminster Evangelical Church.	
2.	<b>Apologies for Absence</b>	
3.	<b>Declarations of Interests by Members</b>  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.	<b>Minutes</b>  To confirm as a correct record the Minutes of the special meeting held and ordinary meeting held on 24 <sup>th</sup> July 2013.	10
5.	<b>Public Participation</b>  In accordance with the Council's scheme for public speaking at meetings of Council, to allow members of the public to present petitions, ask questions, or make statements, details of which have been received by 12 noon on Monday 16 <sup>th</sup> September 2013.  <i>If you wish to speak on an urgent matter that has arisen since the deadline and you could not reasonably have known about it at the time, you should register your interest in speaking no later than 9am on the day of the meeting of Council. In the case of a request to speak on an urgent matter, the Solicitor to the Council will rule on whether or not the matter is urgent and that ruling will be final.</i>	-
6.	<b>Questions</b>  To receive questions submitted in accordance with Standing Order A5 by Members of the Council, details of which have been received by 12 noon on Monday 16 <sup>th</sup> September 2013 and the replies of the Leader of the Council or other appropriate Cabinet Member.	25

	<p><i>In the case of an urgent matter that has arisen since the deadline above, and could not have been reasonably known at that time, it must be delivered in writing to the Solicitor to the Council no later than 9am on the day of Council.</i></p>	
7.	<p><b>Chairman's Communications</b></p> <p>To note the engagements of the Chairman of the Council since the Council's last meeting.</p>	26
8.	<p><b>Leader of the Council Announcements</b></p> <p>To receive announcements from the Leader of the Council.</p>	
9.	<p><b>Motions Submitted under Standing Orders</b></p> <p>Two motions have been received in accordance with Standing Orders (Section 7, 4.1).</p> <p>1. <i>From Councillor J Shaw, Leader of the Labour Group</i></p> <p><b>Rewiring Council Services</b></p> <p><i>Council, notes</i></p> <p><i>that England is now widely recognised to be the country with the most centralised system of government in Europe;</i></p> <p><i>that devolution has brought decisions about tax and spending, and the quality of public services, closer to voters in Scotland and Wales, while English voters have not gained comparably greater influence over decision-making that affects their taxes and services;</i> <i>considers</i></p> <p><i>that the likely scale of change in how public services are funded and provided makes it democratically unsustainable for those changes to be decided within the existing over-centralised model;</i></p> <p><i>that services need to be reformed and integrated across local agencies to enable them to prevent problems, rather than belatedly picking up the fragmented pieces;</i></p> <p><i>that voters should be given back a meaningful say on a wider range of tax and spending decisions, through place-based budgetary arrangements, the abolition of the Barnett formula and the reinstatement of fair financial distribution agreed among English councils, the re-creation of a municipal bond market, and the certainty of multi-year funding settlements for the life of a Parliament;</i></p> <p><i>that central government should enable such enhanced local decision-making by joining up and reducing in size Whitehall departments, and by reducing Ministers' powers to intervene in local decisions;</i></p>	

	<p><i>that such a revised settlement between central and local government should be put beyond capricious future revision by giving formal constitutional protection to local democracy;</i></p> <p><i>and resolves</i></p> <p><i>to support the Local Government Association’s Rewiring Public Services campaign, which embodies these objectives;</i></p> <p><i>to ask Wyre Forest’s Member of Parliament, Mark Garnier, to support the campaign, and</i></p> <p><i>to make the council’s position clear to the Secretary of State.</i></p> <p><i>2. From Councillor J Shaw, Leader of the Labour Group</i></p> <p><b>Supermarket Levy</b></p> <p><i>“Council, as a partner with seventy other local authorities in the “Local Works” Supermarket Levy campaign, resolves to submit the following proposal to the government under the Sustainable Communities Act:</i></p> <p><i>“That the Secretary of State gives Local Authorities the power to introduce a local levy of 8.5% of the rate on large retail outlets in their area with a rateable annual value not less than £500,000 and requires that the revenue from this levy be retained by each Local Authority, in order to be used to improve local communities in its area, by promoting local economic activity and local services and facilities, in so doing contributing to community wellbeing and protection of the environment.”</i></p> <p><i>Council notes that, under the terms of the Sustainable Communities Act, evidence about the impact of supermarkets on other retail outlets locally, and the opinions of interested local persons, have to be presented in the submission to government.”</i></p>	
<b>10.</b>	<p><b>Urgent Motions submitted under Standing Orders</b></p> <p>To consider motions in the order they have been received which, by reason of special circumstances, should be considered as a matter of urgency, in accordance with Standing Orders (Section 7, 4.1 (vii)).</p>	
<b>11.</b>	<p><b>Corporate Governance Report</b></p> <p>To receive a report from the Solicitor to the Council which asks Council to agree Corporate Governance updates and appropriate changes to the Council’s Constitution.</p>	27
<b>12.</b>	<p><b>Scrap Metal Dealers Act 2013</b></p> <p>To consider a report from Director of Worcestershire Regulatory Services on behalf Wyre Forest District Council on the Scrap Metal Dealers Act 2013 which comes into force from 1<sup>st</sup> October 2013.</p>	39



13.	<p><b>Policy and Budget Framework</b></p> <p>Matters which require a Decision by Council.</p> <p><b>Recommendations from Cabinet 17<sup>th</sup> September 2013</b></p> <p><b>a. Treasury Management Strategy Statement and Annual Investment Strategy Backward Look 2012/13</b></p> <p><b>b. Community Housing Group – future right to buy receipts</b></p> <p>Please note that the reports and associated documents, referred to above, have been circulated electronically to Members. Public inspection copies are available on request. Please refer to the front cover for contact details.</p>	65
14.	<p><b>Elections and Preparing for Individual Electoral Registration</b></p> <p>To consider a report from the Chief Executive on the May, June and August 2013 elections, and the preparations towards Individual Electoral Registration.</p>	66
15.	<p><b>To consider any other business, details of which have been communicated to the Solicitor to 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.</b></p>	
16.	<p><b>Exclusion of the Press and Public</b></p> <p>To consider passing the following resolution:</p> <p>“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 the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	

## Part 2

### Not open to the Press and Public

17.	<p><b>Sale of Property and Future Funding Arrangements</b></p> <p>To consider a report from the Solicitor to the Council on the disposal of a property in Kidderminster.</p>	76
18.	<p><b>To consider any other business, details of which have been communicated to the Solicitor to 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.</b></p>	

**WYRE FOREST DISTRICT COUNCIL**

**SPECIAL COUNCIL**

**COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER**

**24TH JULY 2013 (6.00PM)**

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**Present:**

Councillors: F M Oborski (Chairman), D C H McCann (Vice-Chairman), J Aston, G W Ballinger, R Bishop, C Brewer, J-P Champion, S J M Clee, E Davies, N J Desmond, H E Dyke, P Dyke, N Gale, B T Glass, D R Godwin, J Greener, I Hardiman, P B Harrison, J A Hart, M J Hart, P V Hayward, V Higgs, A T Hingley, T Ingham, M B Kelly, N Knowles, H J Martin, B McFarland, C D Nicholls, J W Parish, J Phillips, M Price, M Rayner, C Rogers, M A Salter, J A Shaw, D R Sheppard, N J Thomas, S J Williams and G C Yarranton.

**C.24 Prayers**

Prayers were said by Rose Lawley of Kidderminster Parish Church Team Ministry and Industrial and Workplace Chaplain for Kidderminster and Wyre Forest.

**C.25 Apologies for Absence**

Apologies for absence were received from Councillors T L Onslow and A M Sewell.

Condolences were passed on to Councillor Jim Parish on the loss of his wife and Members were pleased to see him at the meeting.

**C.26 Declarations of Interests by Members**

There were no declarations of interests.

**C.27 Electoral Arrangements for Wyre Forest District Council**

Council considered a report from the Chief Executive which asked whether or not to change the cycle of elections for Wyre Forest District Council.

The Leader of the Council introduced the report and informed Members that the Boundary Commission review was ongoing and the number of councillors would be reduced to 33 with all out elections in 2015. The Council now had to decide whether to continue with elections by thirds or to hold elections every four years after 2015. A consultation had been held and although not a huge response, there were 75.1% of respondents that wished the current system to be changed. The Kidderminster Shuttle had also run an online poll where 200 people had cast their vote and this had resulted in 49% wishing to move to four yearly elections.

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There were significant financial savings to be made if the Council were to move to four yearly elections and it was felt that by doing so, front line services could be protected. The reasons for both options were detailed in the report.

Members were informed that the decision to hold four yearly elections required a 2/3<sup>rd</sup> majority of Members to vote for it.

Councillor Shaw, the Leader of the Labour Group referred to his amendment that asked "Council resolves to defer a decision on the Electoral Arrangements for Wyre Forest District Council until 27<sup>th</sup> November 2013". He explained that the purpose of the motion was to block any further work until six months had passed from the original decision when Members could relook at the issue. He went on to say that the number of people who had replied to the consultation had been miniscule and did not reflect a real consultation. The Council did not need to rush into a decision particularly bearing in mind that the Kidderminster Community Governance Review would be considered at the Council meeting following this Special Council meeting. He also stated that he believed discussions were being held across North Worcestershire.

Councillor Knowles seconded the amendment and believed that good enough reasons had been put forward for the decision to be deferred. There were a lot of decisions to be made in the near future, i.e. number of councillors to be reduced, the elections cycle and the future of the Kidderminster Town Council. He felt that there had not been sufficient methods of consultation used which had resulted in a poor response.

The Director of Community Assets and Localism confirmed to Members that the amendment was for consideration but as the Boundary Commission review into the reduction of the number of Councillors had commenced, the Council could not stop that review.

Councillor Ballinger spoke to the amendment and stated that the Independent Community & Health Concern Group fully supported the Labour amendment and felt there were other ways the Council could save money. He referred to the Independent Remuneration Panel's (IRP) recommendations that were presented to Council in February 2013 but these had not been approved. The Kidderminster Shuttle poll had showed that 200 people had voted and there was a 49% majority voting for four yearly elections. He also felt that the Council were heading towards a unitary council. He felt that there was no need to confuse the electorate in changing a system that currently worked well.

In response to a Members' question, the Director of Community Assets and Localism stated that with regard to any consultation carried out, it did not matter the level of response it had received but the decision had to have due regard to it.

The Leader of the Council stated that he was against the amendment in that a decision needed to be made in the Chamber this evening and urged Members to vote against the amendment. He replied that the possible amount of savings the Council could make if the decision was to have four yearly elections could protect front line services. By reducing the number of councillors to 33, it would mean that the remaining Members would gain an approximate 400 electors to their

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ward. He also stated that during the current Parliament, the Council would not go unitary.

Councillor H Dyke stated that even though not many had responded to the consultation, how could Members disregard those responses and totally ignore the public.

Councillor Davies stated that the response to the consultation was not valid in that not enough replies had been received.

Councillor Martin spoke for the amendment and stated that the delay would help to get all the facts and figures in place. He added that to wait for the Boundary Commission review decision would make more sense and urged Members to vote for the amendment.

Councillor McFarland felt that the Council should not make a decision until they were in possession of more facts. There had only been 233 respondents to the consultation and it was not significant enough for a decision to be made. Further information needed to be gathered as to why the public had not responded.

Councillor M Hart stated that he would not support the Labour amendment and added that it had been described as a wrecking motion. The potential savings that the Council could make if it went to four yearly elections were significant especially in light of staff numbers being reduced and staff being asked to work harder. Even though the response to the consultation was low, it could not be ignored.

Councillor Rayner was in support of the Labour amendment and felt that she could not make a decision until additional information was available.

Councillor Kelly felt that Councillors workloads were increasing. He also thought that the IRP recommendations should have been agreed by Members.

Councillor Nicholls thanked the 233 people that had responded to the consultation, but like some other Councillors felt he had to question the validity of the 0.3% response. He added that he also felt the Council could go unitary.

The Chairman reminded Members that the subject currently being discussed was the amendment by the Labour Group.

Councillor Desmond felt that a decision should be made this evening and no delay should be approved as all the information was to hand.

Councillor Williams stated that Parish Councils had voted on the consultation and even though they had only voted once, this vote represented the whole parish and this should be taken into consideration.

Councillor Phillips stated that although numbers of voters had declined in recent years, the public still had the option to cast their vote.

Councillor Gale felt that if the delay went ahead, then who could say whether the

vote would be the same. She also took exception to the point about not all Members took on casework, she worked extremely hard.

In his summing up, Councillor Shaw stated there was no justification in the reduction to 33 Members and did not understand the rationale of the Boundary Commission. He also stressed that he was disappointed in the legal advice he had received with regard to the consultation. Following a request from the Chairman, he withdrew his comment made about a Council Officer but said he would take the matter further.

A named vote was held on the amendment:

**For the Amendment (17)**

Councillors: J Aston, G W Ballinger, C Brewer, E Davies, B T Glass, V Higgs, M B Kelly, N Knowles, H J Martin, B McFarland, C D Nicholls, J Parish, M Price, M Rayner, J A Shaw, D Sheppard and N J Thomas.

**Against the Amendment (23)**

Councillors: R Bishop, J-P Campion, S J M Clee, N J Desmond, H E Dyke, P Dyke, N Gale, D R Godwin, J Greener, I Hardiman, P B Harrison, J Hart, M J Hart, P V Hayward, A T Hingley, T Ingham, D McCann, F M Oborski, J Phillips, C Rogers, M A Salter, S J Williams and G C Yarranton.

Upon a vote the amendment was lost.

Councillor Knowles felt that if the recommendations in the report were only to save the Council money, it was not a good enough reason. He also stated that if the Council could not get the public to respond to consultations in good numbers then the Council had failed.

Councillor Davies reiterated that as per point 4.10 of the report to Council, the Council should consider and have regard to the results of the public consultation and part of that was the validity of the process that took place.

Councillor Price felt that he could not vote for the recommendation as he did not agree with four yearly elections. He added he thought Members got lazy as they were nearing the end of their term and it would be more consistent for the electorate to have elections by thirds.

Councillor Desmond felt there was no right or wrong answer for the cycle of elections but did think that voting every year was confusing for the electorate. He did not think that Councillors got lazy as their term came to an end. He added it would be irresponsible to ignore the potential savings of £245K projected over a six year period.

Councillor Martin stated that all other bodies had all out elections for fixed terms e,g, Parliamentary/European Parliament/County Council, so it did make sense to have four yearly elections for the district, when other elections happened during the other years.

Councillor M Hart reiterated that point 4.10 of the report said the Council should have due regard to the consultation, and agreed that although the figures were

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disappointing, that was only one part of the issue. The Council needed to make financial savings.

Councillor McFarland could not support the four yearly elections as there was not enough evidence.

Councillor Campion summed up and stated that he was in his 10<sup>th</sup> year as a Councillor and he had never been to a Council meeting where an officer had been attacked in such a way and hoped that an apology would happen. There was a significant amount of money to be saved by going to four yearly elections. He also added that with regard to the IRP's recommendations, all Members took their basic Councillor allowance. Members were reminded that a 2/3rd majority was required for the recommendation for four yearly elections to happen and he asked Members to vote with their conscience. He felt that the named vote on the amendment was pointless but felt on the substantive vote it was important.

A named vote was held on the recommendation to hold elections every four years:

### **For the Recommendation to hold elections every four years (22)**

Councillors: R Bishop, J-P Campion, S J M Clee, N J Desmond, H E Dyke, P Dyke, N Gale, D R Godwin, J Greener, I Hardiman, P B Harrison, J Hart, M J Hart, P V Hayward, A T Hingley, H J Martin, D McCann, J Phillips, C Rogers, M A Salter, S J Williams and G C Yarranton.

### **Against the Recommendation to hold elections every four years (18)**

Councillors: J Aston, G W Ballinger, C Brewer, E Davies, B T Glass, V Higgs, T Ingham, M B Kelly, N Knowles, B McFarland, C D Nicholls, F M Oborski, J Parish, M Price, M Rayner, J A Shaw, D Sheppard and N J Thomas.

Upon a vote, as there was not a 2/3rds majority, the recommendation to hold elections every four years was lost.

**Decision: The current arrangements of elections by thirds to be retained.**

The meeting ended at 7.30 pm.

**WYRE FOREST DISTRICT COUNCIL**

**COUNCIL**

**COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER**

**24TH JULY 2013 (7.43PM)**

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**Present:**

Councillors: F M Oborski (Chairman), D C H McCann (Vice-Chairman), J Aston, G W Ballinger, R Bishop, C Brewer, J-P Campion, S J M Clee, E Davies, N J Desmond, H E Dyke, P Dyke, N Gale, B T Glass, D R Godwin, J Greener, I Hardiman, P B Harrison, J A Hart, M J Hart, P V Hayward, V Higgs, A T Hingley, T Ingham, M B Kelly, N Knowles, H J Martin, B McFarland, C D Nicholls, J W Parish, J Phillips, M Price, M Rayner, C Rogers, M A Salter, J A Shaw, D R Sheppard, N J Thomas, S J Williams and G C Yarranton.

**C.28 Apologies for Absence**

Apologies for absence were received from Councillors T L Onslow and A M Sewell.

**C.29 Declarations of Interests by Members**

There were no declarations of interests.

**C.30 Minutes**

**Decision: The minutes of the meeting held on 15<sup>th</sup> May 2013 be confirmed as a correct record and signed by the Chairman.**

**C.31 Public Participation**

There was no public participation.

**C.32 Questions**

The Council had received three questions.

**Question from Councillor J Shaw to the Leader of the Council, Councillor J-P Campion**

Since May '10, how many requests has the Local Boundary Commission received from councils seeking to reduce the number of councillors representing their local government area, and how many have been turned down?

**Response from Councillor Campion**

Thank you. As unfortunately Councillor Shaw knows, we do not hold this information. In the spirit of trying to be helpful, I did have a quick look around the Boundary Commission website but they do not seem to publish this kind of information but I'm sure a direct request to them or a Freedom of Information would end in a result.

**Supplementary Question from Councillor J Shaw**

I refer to outside bodies as the Local Boundary Commission is an outside body, if there were questions submitted by a Councillor that referred to information held by the County Council or by Local Enterprise Partnerships (LEP's) or by whomever else, would the answer still be "we do not hold the information"?

**Response from J-P Campion**

Obviously I can only speak for myself because of course those of you that have been around long enough, know that the matter of the question is for the questioner and the matter of the answer is for those answering the question, but I can only answer for myself, as we are not the County Council or LEP and if we do not hold it as an organisation or it cannot easily be gained then yes, the exact same answer would be given.

**Question from Councillor N Knowles to the Cabinet Member for Environmental Services, Councillor M J Hart.**

What arrangements are currently in place and what costs are incurred for Wyre Forest District Council waste collections and disposal? How much of our waste is put into the Hartlebury land fill site?

**Response from Councillor M J Hart**

The arrangements currently in place across this district that have been in place now for some time, our collections are 4 days a week, where we collect residual waste one week and recycling waste another and for those residents and taxpayers that wish an enhancement to their service can have their green waste collected for an exceptionally small fee. In terms of disposal, it either goes for recycling or for landfill at Hartlebury. Approximately 67% of the Wyre Forest waste goes to landfill and conversely 33% is recycled, which I must say is significantly more than it was about a decade ago when we started recycling in earnest in Wyre Forest, think it was about 8%.

**Supplementary Question from Councillor N Knowles**

Could Councillor Hart give us his impression about whether or not he thinks we are hands on enough in the process to ensure that the landfill to Hartlebury is absolutely efficient? It's a disposal process I think that Wyre Forest and taxpayers are hostage to a fortune and possibly County Council . Does he agree that looming over all of this is the issue of



Hartlebury incinerator?

**Response from Councillor M J Hart**

Well of course, the incinerator is looming over nothing because it's an energy from waste plant so lets set the record straight for all the viewers at home but of course I do not actually agree with Councillor Knowles. I do think that, we are, as a district as efficient as we can be at collecting waste but lets not blur the line, the County Council is the waste disposal authority perhaps when Councillor Knowles gets his wishes for a unitary authority then it will be the same collection and disposal authority but seriously the County Council is responsible for disposal and of course that is why the County Council are supporting energy from waste plants so that we can be as a County even more efficient at disposing of our waste so that even more of waste that would currently go to landfill can be used more efficiently.

**Question from Councillor N Knowles to the Leader of the Council.**

Would the Leader of the Council join me in my campaign to oppose the closure of Kidderminster TA Centre and ask government to reverse the decision?

**Reply from Councillor J-P Campion**

Thank you, it's ever so easy in local politics, something closes, we are against it aren't we, to campaign against it. Well, I don't know enough about how the TA Centre in Kidderminster affects our national defences or our international activity in terms of defence, I've got no idea whatsoever. I, as a local Kidderminster man think to myself of course would like to have a TA Centre in my community but what I would like to see is more information about, its the rationale behind it because I don't believe it's been articulated, what I would expect is that there is going to be a consultation. I understand that the Council gets involved, understand what they are proposing and make a normal rational response to it. What isn't always helpful is the knee jerk response that some political parties who are trying to score political points who are against it. It's good were against it, this is going to happen we're against it. Actually lets find out about it first to see whether or not it is the right thing for our local area.

**Supplementary Question from Councillor N Knowles**

I am very very disappointed with your initial response I've got to say but could you consider this, that the centre is used Monday to Friday every night, weekends by the soldiers and cadets. Would you further consider that soldiers in Cyprus based at the TA Centre and would you consider also that the Worcester Mercian Regiment use the centre as do the Royal Air Force and the Paras Association. The drill hall is hired out to several organisations and the police and I was going to ask but I'm guessing you're not going to agree with this, could we write to Colonel Colin Carter stating that Wyre Forest District Council wishes to keep the TA centre open.

**Reply from Councillor J-P Campion**

Maybe this is the reason as to why Labour consistently come bottom of the polls in Wyre Forest. What he needs to do is understand the issue. Why is he asking me a political point scoring question here at Council, why isn't he asking for it to be presented to Scrutiny? Why isn't he compelling somebody to come before scrutiny to explain and understand issues that we can form a response. Why isn't there a motion here tonight saying that we should either be for it or against with all the relevant information? Absolutely, I know it is a very busy and indeed important part of our local community but I also know large numbers of people outside of the district come here to use the centre. If I'm completely honest with Councillor Knowles, it seems a very brand new and nice smart unit and do not understand why they would want to close it but instead of being knee jerk, I might score some political points out of this, how about being responsible and use the proper process to make uniform changes.

**Urgent Question from Councillor J Shaw to the Leader of the Council, Councillor J-P Campion**

To what extent has the political and/or officer leadership of the council been involved with Bromsgrove District and Redditch Borough councils in their current discussions with the Department for Communities and Local Government about transferring services from the county council to the North Worcestershire districts?

**Reply from J-P Campion**

Nice and short answer, the same one as I gave electronically when the question was first put, it no and no.

**Supplementary question from Councillor J Shaw**

Would the Leader of the Council give an undertaking that if he should be involved in any way which might mean someone telephoning him or sending him a letter or email will he undertake to keep all 42 Councillors aware of any further initiatives there may be because initiatives there have been?

**Reply from J-P Campion**

Contrary to the snide assertions that we had in the Special Council meeting, I actually hold this chamber in very high regard. If I wanted to debate the unitary issue, I would want a mandate from this authority first before we went to talk to any partners, absolutely I would want to make sure that this authority was behind me before we entered into any of those kind of negotiations. We have as an authority enormous challenge ahead of it and our community and staff are relying on us to make good quality decisions and in exactly the same way that the health service have been absolutely had both its arms tied behind its back over the last couple of decades by successive governments by change after change, this authority needs to get on with the job it is mandated to do which is to deliver our local services. I don't believe currently that the unitary debate is a good one.

Whilst the current government and indeed no current government minister can predict what will happen in the next Parliament, that will be a matter for the Parliamentarians for that Parliament but the current ones that are part of the coalition have said not during this Parliament. I hope as is the normal way which is during the policy development process running up to general elections, parties will set out whether they are supportive or against local government reorganisations then this Council can shape its plans to meet that but ultimately in the meantime, I'm getting on with it and this Council is getting on with delivering those important services to our communities.

**C.33 Chairman's Communications**

The Council received a list of functions attended by the Chairman or Vice-Chairman since the Council's last meeting.

The Chairman thanked everyone who had attended the BBQ at Arley Arboretum which had been a success. The profit so far was in the region of £720. She announced she was to launch a grand prize draw with tickets at £1 each with the prize being a VIP trip to the West Midlands Safari Park. The prize would be drawn on 18<sup>th</sup> October 2013.

**C.34 Leader's Announcements and Report**

A copy of the Leader's Announcement had been circulated to all Members.

The Leader of the Council drew Members attention to what was happening with the Lawrences fire. The Council were taking part in a multi-agency approach and had taken steps to extinguish the fire which had started six weeks ago. Members had also been invited to a briefing where an update was given. He gave congratulations to the Duke and Duchess of Cambridge on the birth of their son – Prince George Alexander Louis.

Councillor Ballinger had concerns that the Icelandic update was always distributed on the evening of Council and asked for it to be circulated with the agenda. He felt that Wyre Forest District Council had become a laughing stock in the community to allow the Lawrences fire to burn for six weeks.

Councillor Champion responded that it was nothing new for his report to be presented on the evening of Council and would continue to do so, this would enable the most up to date information to be available for Members. The information was also available at the Treasury Management Review Panel meetings. It was an important and significant issue and the Council would hopefully get the vast majority of their money back.

With reference to the Lawrences fire, the response was the priority of the fire service and the Council had to respond to protect the health and safety of the public. Officers from the Council had been present on the evening of the fire.

Councillor Knowles stated that the Icelandic organisations had a legal responsibility to repay their debtors and he asked the Leader to invite the administrators to the Council to explain to the taxpayers of the Wyre Forest District that the Council might only receive back a significant portion of money.

Councillor J-P Campion stated he would ask the Chief Executive to write to the administrators to invite them to the Council. In relation to the amount of investment the Council could expect back, it was reported that the Council did have preferential status on the money.

**C.35 Motions Submitted Under Standing Order No. D1 (1)**

No motions were received under Standing Orders.

**C.36 Urgent Motions Submitted Under Standing Order No. D1 (7)**

No urgent motions were received under Standing Orders.

**C.37 Kidderminster Governance Review**

Council received a report from the Director of Community Assets and Localism which asked for consideration of all representations received in response to the Council's initial consultation as part of the Community Governance Review (CGR) Kidderminster and to decide on whether to proceed to a second stage.

Members were informed that Kidderminster Charter Trustees had presented a petition of local names for a review to be held to have its own town council. The responses to the consultation had resulted in no support for a town council. An additional recommendation was circulated for a small working group to be convened to look into the review.

Councillor Kelly referred to the circulated amendment for consideration of this item to be postponed until the next full meeting of the Council for consultation with the Petitioners. He stated that Kidderminster had been trying to obtain town council status since 1974. 5,700 had signed the petition and he thought that the cards people had received as part of the consultation had confused them as they thought they had already voted.

Councillor Ballinger asked Council to have the advice given re checked and for the voting to be looked at again.

Councillor Knowles supported the amendment to postpone the review and stated that the decision should go back to the Charter Trustees for them to act upon.

The Chairman of the Council reminded Members that the Kidderminster Charter Trustees were not the petitioners, the people who signed it were and the Charter Trustees had only delivered the petition.

The Leader of the Council stated that the working group could be made up

of any number of Councillors but a conclusion was needed at the meeting tonight on how to progress.

Councillor H Dyke did not understand what the motion would achieve by delaying the process.

Councillor Martin added that he agreed with the amendment to delay the process and it should be given back to the public to see what they wanted to do.

Councillor Rayner stated that the consultation on the Electoral Arrangements at Special Council this evening together with this consultation did not have any statistical value to them.

In response to a Members question, the Director of Community Assets and Localism advised Members that the wording "due regard" meant that you must show that you have actively considered the results of part of the decision making process.

Councillor P Dyke stated that the results of the consultation had resulted in 53% of the population not wanting a Kidderminster town council therefore that would be the way he would vote.

Councillor McFarland stated that the petition should go back to the Charter Trustees for them to debate why only 1,559 replies were received to the consultation yet approximately 5,700 people signed the petition.

Councillor Kelly summed up his amendment and explained that town councils had been created in Bewdley and Stourport-on-Severn and thought that Kidderminster now needed one, the petition had shown that it was wanted. He urged Members to vote for the amendment.

Upon a vote, the amendment was lost.

Councillor Davies said she was not against Kidderminster having a town council but a way forward had got to be found and thought the working party was a good idea.

Councillor M Hart explained that the 5,700 people that had signed the petition had done so to start a process to find out whether the people of Kidderminster wanted a town council. He understood that only 1,559 of the electorate had voted in the consultation but whichever way the result was, the decision made should be acted on.

In response to a Member query, it was confirmed that the questions in the consultation had been carried out in accordance with the legislation.

Councillor Desmond replied that he was amazed at the results of the consultation but the Council had to have due regard to the response and the working party was the correct way to take the process forward.

Councillor Campion stated the response from the consultation showed what the people of Kidderminster wished for.

The Director of Community Assets and Localism explained to Members that by having a working party, the group could look into other options available, i.e. the Council initiating a review itself. She highlighted that at the February 2013 Council meeting, a statutory timetable had been agreed that required a review to be completed within a year and Members needed to be mindful of those timescales.

Councillor Hingley felt she owed an apology to the electorate as the process had become very confusing for them.

Upon a vote, the recommendations together with the additional one were agreed.

**Decision:**

- 1. The second stage of consultation with the proposal to create the parish of Kidderminster (and for the parish to be called Kidderminster) should not be undertaken.**
- 2. Delegated authority be granted to the Director of Community Assets and Localism for the drafting and publishing of the results of the consultation review in accordance with The Local Government and Public Involvement Health Act 2007.**
- 3. The Chief Executive be authorised to convene a working group of Members to consider future options.**

**C.38 Corporate Governance Report**

Council received a report from the Director of Community Assets and Localism which asked Council to agree Corporate Governance updates and appropriate changes to the Council's Constitution.

The Leader of the Council moved that Councillor E Davies be appointed as Chairman and Councillor J Phillips be appointed as Vice-Chairman of the Audit Committee.

Councillor B McFarland proposed Councillor Knowles as Chairman and Councillor M B Kelly as Vice-Chairman of the Audit Committee.

Councillor M Hart reminded Group Leaders that this had been part of a discussion held at the last Group Leaders meeting where nominations had been asked for.

Upon a vote, the decision to appoint Councillor E Davies as Chairman and Councillor J Phillips as Vice-Chairman of the Audit Committee was carried.

**Decision:**

1. **Councillor E Davies be appointed as the Chairman of the Audit Committee and Councillor J Phillips be appointed as Vice Chairman for the Audit Committee.**
2. **The updated political balance be agreed.**
3. **Tracey Southall be appointed as the Officer with responsibility for administration of the Council's financial affairs under section 151 of the Local Government Act 1972.**
4. **All consequential amendments to the Constitution be made.**

Councillor T Ingham left the meeting at this point, (9.07pm).

### **C.39 Policy and Budget Framework**

Councillor Hingley presented the Cabinet recommendations and informed Members that the plan was a major achievement for the Council and passed on her thanks to the Director of Economic Prosperity & Place and the Officers involved for their dedication in bringing the plan to fruition. It was a living document and would be subject to updating during its lifespan.

Councillor Champion thanked the Local Development Framework Review Panel and the Overview & Scrutiny Committee for all the work that had been undertaken. He added that the plan would not only protect the community but key infrastructures in the district would happen.

Councillor Knowles congratulated Officers on all the excellent work carried out. However, he did ask for an improved road system in the district, such as access to the motorways.

The Chairman of the Local Development Framework Review Panel thanked everyone for the incredible amount of work that had been done especially the size of the documentation that had been digested.

#### **Decision:**

- a) **The Inspector's report as attached to the report to Cabinet at Appendix 1 be accepted in its entirety including the proposed main modifications.**
- b) **The Site Allocations and Policies Local Plan incorporating the modifications as recommended in Appendix A of the Inspector's Report to the Cabinet report be adopted to be used to determine planning applications from the 24<sup>th</sup> July 2013.**
- c) **The Kidderminster Central Area Action Plan incorporating the modifications as recommended in Appendix B of the Inspector's Report to the Cabinet report be adopted to be used to determine planning applications from the 24<sup>th</sup> July 2013.**

- d) **The accompanying Policies Map as attached at Appendix 3 to the report to Cabinet be adopted.**
- e) **To note that upon Adoption of the Plans, the list of remaining 2004 Adopted Local Plan Saved Policies (as set out at Appendix 4 to the report to Cabinet), will be fully replaced by those incorporated within the Adopted Core Strategy, the Site Allocations and Policies Local Plan and the Kidderminster Central Area Action Plan.**
- f) **Delegated authority be granted to the Director of Economic Prosperity and Place to make the necessary presentational amendments, including the minor amendments as set out at Appendix 2 to the report to Cabinet, to the Site Allocations and Policies Local Plan, Kidderminster Central Area Action Plan and the accompanying Policies Map.**

The meeting ended at 21.16 p.m.



**WYRE FOREST DISTRICT COUNCIL**

**COUNCIL MEETING**  
**25<sup>TH</sup> SEPTEMBER 2013**  
**QUESTIONS TO COUNCIL**

**1. Question from Councillor N Knowles to the Cabinet Member for Community Well-Being, Councillor I Hardiman.**

The Conservative Council Administration is set upon reducing Council's 42 seats to 33. I see this as a loss of democratic accountability for the public. Would the Cabinet Member agree that an elected Kidderminster Town Council would help restore this deficit of public accountability and would he agree to continue trying to get a Town Council for Kidderminster, as I shall?

**2. Question from Councillor N Knowles to the Leader of the Council.**

At the last Council meeting I asked the Leader if he would invite the Directors of the Icelandic Banks that owe Wyre Forest District Council money, to our next meeting and he said he would. Where are they?

**CHAIRMAN'S FUNCTIONS**

**2013/2014**

**JULY 2013**

26<sup>th</sup> Worcester Inaugural Banquet  
31<sup>st</sup> Food Bank AGM

**AUGUST 2013**

9<sup>th</sup> Opening of KAF

**SEPTEMBER 2013**

6<sup>th</sup> Funeral of Arthur Lewis  
7<sup>th</sup> Stourport Carnival \*  
8<sup>th</sup> Mayor of Pershore Late Summer Garden Party  
11<sup>th</sup> Visit to St Mary's Churchyard Dig  
14<sup>th</sup> Kidderminster Fire Station  
14<sup>th</sup> Heritage Open Day  
21<sup>st</sup> British Masters Judo Championships  
22<sup>nd</sup> Redditch Civic Service  
23<sup>rd</sup> Mayor of Droitwich's Bollywood Night

**WYRE FOREST DISTRICT COUNCIL**

**COUNCIL**  
**25<sup>TH</sup> SEPTEMBER 2013**

**Corporate Governance Report**

<b>OPEN</b>	
<b>SUSTAINABLE COMMUNITY STRATEGY THEME:</b>	-
<b>CORPORATE PLAN PRIORITY:</b>	Delivering Together with Less
<b>CABINET MEMBER:</b>	Councillor J-P Campion
<b>RESPONSIBLE OFFICER:</b>	Solicitor to the Council
<b>CONTACT OFFICER:</b>	Caroline Newlands EXT 2715 Caroline.newlands@wyreforestdc.gov.uk
<b>APPENDICES:</b>	Appendix 1 - Member/Officer Protocol

**1. PURPOSE OF REPORT**

- 1.1 To agree changes to the Corporate Governance Framework.

**2. RECOMMENDATIONS**

**Council is asked to DECIDE that the following amendments are made to the Corporate Governance Framework:**

- 2.1 **The Protocol for Member/Officer Relations attached at Appendix 1 be adopted and incorporated into the Council's Constitution;**
- 2.2 **The participation in a Joint Scrutiny Committee established to oversee the decisions of the LEP Birmingham & Solihull LEP Supervisory Board that provides for at least one member representation from Wyre Forest.**
- 2.3 **To authorise the Solicitor to the Council to agree and enter into all necessary legal documents to effect the above decisions and update the Council Constitution accordingly.**

**3. BACKGROUND AND KEY ISSUES**

Member officer protocol

- 3.1 The current Protocol for Member/Officer Relations in section 16 of the Constitution was adopted nearly 10 years ago.
- 3.2 As part of the Action Plan produced in response to the results of the Employee Satisfaction Survey undertaken in 2012/13 and the more detailed work carried out by Carol Yapp, officers were tasked with refreshing the member/officer protocol.

- 3.3 The proposed document gives greater detail emphasising the positive outcomes of members and officers working together to deliver services to the community that they serve.
- 3.4 Inevitably with budget constraints, the nature of service delivery changes, whilst public expectations remain high. More than ever a close working relationship, built on mutual trust and respect, is important and the protocol seeks to reinforce and guide in this respect.
- 3.5 In addition, the document is updated to reflect the way decision making is undertaken at the Council, new legislation and references to other policies and protocols adopted by the Council since the current Protocol was adopted.

LEP Joint Scrutiny Committee

- 3.6 Cabinet has already delegated relevant executive functions to the Birmingham & Solihull LEP Supervisory Board. The proposed Joint Scrutiny Committee will act as a Joint Committee under ss 101, 102 Local Government Act 1972 and s 21 Local Government Act 2000 (as amended), and will be hosted under local government arrangements by Solihull Metropolitan Borough Council and the Chief Executive of Solihull Metropolitan Borough Council shall be Secretary to the Joint Scrutiny Committee
- 3.7 The Committee will make reports or recommendations to the Supervisory Board with respect to the discharge of any functions which are the responsibility of the Supervisory Board, and will review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Supervisory Board which are as follows:
- To provide effective decision making and clear political accountability for management of the Single Local Growth Fund and other significant funding streams that cover the full GBS LEP geography as agreed with the LEP Board;
  - To empower the GBSLEP Board;
  - To oversee and review the activities of the GBSLEP Board;
  - To co-ordinate and liaise with GBS Local Transport Board; and
  - To consider any further measures necessary to strengthen the GBSLEP Board.
- 3.8 It is currently proposed that there will be one representative from each District on the LEP Board.

**4. FINANCIAL IMPLICATIONS**

- 4.1 There are no financial implications as a result of this report.

**5. LEGAL & POLICY IMPLICATIONS**

- 5.1 Whilst there is no legal requirement to produce a Member/Officer protocol, it has been the practice of the Council to have one and was agreed as part of the Action Plan endorsed by Members in response to the Employee Satisfaction Survey.
- 5.2 The LEP Joint Scrutiny Committee will act as a Joint Committee under ss 101, 102 Local Government Act 1972 and s 21 Local Government Act 2000 (as amended).

**6. EQUALITY IMPACT NEEDS ASSESSMENT**

- 6.1 A full equality impact assessment is not required as no adverse impact has been identified under the main equality strands.

**7. RISK MANAGEMENT**

- 7.1 There are no significant risks resulting from this report.

**8. CONCLUSION**

- 8.1 Decision of Full Council is required to make the changes contained in this report.

**9. CONSULTEES**

- 9.1 None.

**10. BACKGROUND PAPERS**

- 10.1 None.

## **A Protocol for Member/Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It is hoped the Protocol will help build and maintain good working relationships between Members and Officers as they work together

Employees who are required to give advice to members are referred to as "Officers" throughout.

- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be prescriptive or comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances. This protocol is to a large extent no more than a statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty.
- 1.4 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.
- 1.5 The provisions of this Protocol will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Protocol, the No Surprises Protocol and the Council's policies, procedures and processes.
- 1.6 The principles underlying the protocol are:
- Selflessness – serving only the public interest.
  - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
  - Objectivity – taking decisions on merit.
  - Accountability – to the public; being open to scrutiny.
  - Openness – giving reasons for decisions.
  - Personal judgement – reaching one's own conclusions and acting accordingly
  - Respect for others – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/officer and officer/officer).
  - Duty to uphold the law – not acting unlawfully.
  - Stewardship – ensuring the prudent use of a council's resources.
  - Leadership – acting in a way which has public confidence.

- 1.7 Both Councillors and Officers serve the public and they are indispensable to one another. However, their responsibilities are distinct. Councillors decide policy for Council and Officers give effect to Council policies.

## **2. Members**

- 2.1 Mutual respect between Councillors and Officers is essential to good Local Government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

It is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

- 2.2 In line with the Code of Conduct, as set out in Section 14 of this Constitution, a Member must treat others with respect and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

- 2.3 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

2.4 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

2.5 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (section 151 Officer) and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- improperly interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

### **3. Officers**

3.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Member's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.

3.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards
  - be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.



- act with honesty, respect, dignity and courtesy at all times
  - provide support and learning and development opportunities for Members to help them in performing their various roles
  - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
  - comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council
- 3.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.
- 3.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.
- 3.7 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - ensure that any criticism is made in private
  - take up the concern with the appropriate Director or Deputy Chief Officer.
  - If the matter is of a particularly serious nature to inform the Chief Executive
- 4. The Relationship: General**
- 4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the Public, whereas Officers are accountable to the Council as a whole.
- 4.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.
- 5. Officer Advice to Party Groups**
- 5.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 5.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a Committee meeting to a presentation to a full party group meeting. Whilst in practice such Officer support

is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

- 5.3 Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of *Council* business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of *party* business are to be discussed;
  - (ii) Party Group Meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - (iii) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 5.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 5.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 5.6 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).
- 6. Support Services to Members And Party Groups**
- 6.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport, etc.) to Members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

**7. Members' Access to Information and to Council Documents**

- 7.1 Members are free to approach any Council Directorate to provide them with such information, explanation and advice (about the Directorate's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Directorate's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director or Deputy Chief Officer concerned.
- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a **statutory** right to inspect any Council document *which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting*. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear in Part II (exempt) of the Agenda for meetings. Further details are contained in the Access to Information section of the Council's Constitution and the Access to Information Procedure rules set out therein. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 7.4 The **common law right** of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents *so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the "need to know" principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the particular Director or Deputy Chief Officer who holds the document in question (with advice from the Solicitor to the Council).
- 7.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 7.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore a right

to inspect, a document which forms part of the internal workings of another party group.

- 7.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Solicitor to the Council.
- 7.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.
- 7.10 The Code of Conduct states that a Member must not disclose confidential information or information which he or she believes to be of a confidential nature, except in some specific circumstances detailed in paragraph 4 (a) of the Code. (See Section 14 of this Constitution which also includes the Council's Protocol on the Disclosure of Confidential Information).
- 7.11 For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

## **8. Officer/Chairman Relationships**

- 8.1 It is clearly important that there should be a close working relationship between the Chairman of a Committee and the Directors or Deputy Chief Officers who support that Committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Party Groups.
- 8.2 Whilst the Chairman of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chairman and an Officer in this area should be referred to the Chief Executive for resolution.
- 8.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken only by the Council, regulatory committees such as planning, the Cabinet, individual Cabinet Members, the Leader of the Council or an Officer.
- 8.4 The Council's delegation scheme and resolutions passed at Committee meetings authorise named officers to take action in consultation with one or more Members such as the Chair and Vice-Chair of a Committee or a Cabinet member. In these circumstances it is the Officer, rather than the Member, who takes the action and it is the Officer who is accountable for it.
- 8.5 Finally, it must be remembered that Officers within a Directorate are accountable to their Director/Deputy Chief Officer and that whilst officers should always seek to assist a Chairman (or indeed any member) they must not, in so doing, go

beyond the bounds of whatever authority they have been given by their Directors/  
Deputy Chief Officer

## **9. Correspondence**

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of “silent copies” should not be employed. Acknowledging that the “BCC” system of e-mailing is used, it should be made clear at the foot of any e-mails if another Member has received an e-mail by adding “cc Councillor x.”
- 9.2 Official letters or emails on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear over the name of a Member, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.
- 9.3 Correspondence to individual Members from Officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked “confidential”. This is to avoid recriminations and allegations of unfair treatment.

## **10. Press Comments and Press Releases**

- 10.1 For more detailed information regarding the role of Members in connection with the issue of press releases, reference should be made to the Council’s Media Protocol dated May 2011 or any replacement thereof**
- 10.2 Directors or nominated representatives may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an Officer expressly or impliedly make any political opinion, comment or statement.
- 10.3 Any press release that may be necessary to clarify the Council’s position in relation to disputes, major planning developments, court issues or individuals’ complaints should be “signed off” by the appropriate Director or Solicitor to the Council after consultation with the Leader or Deputy Leader of the Council.

## **11. Involvement of Ward Councillors**

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

**12. Breaches of the Protocol**

- 12.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director or Deputy Chief Officer. Where the Officer concerned is a Director or Deputy Chief Officer, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.
- 12.2 On the Members' side, where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Standards Committee if appropriate.
- 12.3 Breaches of the protocol by a Member may also constitute a breach of the Members' Code of Conduct.

**WYRE FOREST DISTRICT COUNCIL**

**COUNCIL**  
**25<sup>TH</sup> SEPTEMBER 2013**

**Scrap Metal Dealers Act 2013**

<b>OPEN</b>	
<b>RESPONSIBLE OFFICER:</b>	Director of Worcestershire Regulatory Services on behalf of Wyre Forest District Council
<b>CONTACT OFFICER:</b>	Niall McMenamin – 01527 881454 Senior Licensing Practitioner Worcestershire Regulatory Services niall.mcmenamin@worcsregservices.gov.uk
<b>APPENDICES:</b>	Appendix 1 - Explanation of the provisions of the Act Appendix 2 - Guidance from Secretary of State on setting licence fees Appendix 3 - Proposed fees

**1. PURPOSE OF REPORT**

- 1.1 The Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28th February 2013 and comes into force from 1st October 2013. Council are asked to delegate authority and set fees so that the legislation can be effectively implemented from 1<sup>st</sup> October 2013.

**2. RECOMMENDATION**

The Council is requested to **RESOLVE** that:

- 1) under section 5 of the Constitution in part 8 after the words “the Gambling Act 2005;” that the words “applications made under paragraph 2 or 3 of Schedule 1 of the Scrap Metal Dealers Act 2013 for the grant or variation of a licence where there is doubt as to the suitability of the applicant or to revoke or vary a licence under section 4 of the Scrap Metal Dealers Act 2013;” be added and the scheme of delegation to officers shall be amended to show that officers have delegated authority to deal with all applications under the Scrap Metal Dealers Act 2013 where there are no grounds to refuse.
- 2) The fees to be charged under the Scrap Metal Dealers Act 2013 are set as shown in the table at Appendix 3.

**3. BACKGROUND**

- 3.1 The increased value of metal has caused a growing problem of metal thefts throughout the U.K. The Home Office has provided an estimate that there were between 80,000 – 100,000 reported metal theft offences in 2010/11 alone and which is costing the economy up to an estimated

£260 million per year. A wide range of sectors have been targeted, which includes transport infrastructure, electricity and telephone links, street furniture, memorials, commercial and residential buildings, including churches and schools.

- 3.2 The Council currently regulates the scrap metal and motor salvage industries under the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001.
- 3.3 In late 2012, the Government introduced initial measures to prohibit cash payments for scrap metal; to amend Police powers of entry into unregistered scrap metal sites; and to increase the existing financial penalties for offences under the Scrap Metal Dealers Act 1964. These changes were contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- 3.4 The Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28<sup>th</sup> February 2013. On 6<sup>th</sup> August 2013 the Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 was made which confirmed that the majority of the provisions of the Act will come into force on 1st October 2013.
- 3.5 The Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator, but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’. Further guidance on assessing the suitability of applicants can be found in paragraphs 17-19 of **Appendix 1**. The regulations setting out relevant offences, relevant enforcement actions and the Secretary of State’s guidance on determining suitability are yet to be published.
- 3.6 As provided in Section 4 of the Council’s Constitution the Council’s function in respect of licensing and registration (with the exception of policy making) is delegated to the Licensing and Environmental Committee and the Director of Economic Prosperity and Place is delegated to exercise authority under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operator regulations 2002 and any re-enactments, replacement or consolidation of those statutes.

#### **4. KEY ISSUES**

##### **4.1 Summary of the Act**

The main aim of the 2013 Act is to raise standards within the scrap metal industry; by replacing the overlapping regimes for vehicle salvage and scrap metal with one regulatory regime, and by giving Councils the responsibility for the licensing and enforcement of the Act in conjunction with the police.



4.2 A detailed explanation of the provisions of the Act is attached at **Appendix 1**.

4.3 The main provisions of the 2013 Act are:

- An extended regime to include a wide range of businesses.
- Amended definition of scrap metal.
- The introduction of a national register of licenses to be held by the Environment Agency (Each Council previously held a register individually).
- The introduction of two different types of licences, Site and Collector.
- The introduction of a suitability test for applications and licensees.
- The introduction of a licence fee to be determined by the Council.
- The introduction of the power to revoke a licence
- The introduction of entry and inspection powers
- The power to obtain closure notices for unlicensed sites
- The introduction of increased record keeping requirements
- The introduction of a requirement to display licenses
- The continuation of the offence of buying scrap metal for cash and additional offences relating to each of the powers and duties contained in the 2013 Act.

**4.4 Transitional Timetable**

The majority of the provisions of the 2013 Act are coming into force on 1<sup>st</sup> October 2013. A summary of the key dates is shown below:

1 <sup>st</sup> September 2013	Power for local authority to set fees under the 2013 Act was commenced.
1 <sup>st</sup> October 2013	Requirement for a licence under the 2013 Act takes effect.
1 <sup>st</sup> October 2013	All operators already registered under the 1964 or 2001 Acts deemed to have a licence under the 2013 Act.
1 <sup>st</sup> October 2013 – 15 <sup>th</sup> October 2013	All operators registered under the 1964 or 2001 Acts to apply for licences under the 2013 Act. Provided that an existing operator applies during this period, their deemed licence will continue to have effect until their application under the 2013 Act is determined (including any appeals against refusals).
16 <sup>th</sup> October 2013	If an operator registered under the 1964 or 2001 Acts has failed to apply for a licence under the 2013 Act by this date, their “deemed” licence will lapse and they will not be able to trade until a licence under the 2013 Act is granted.
1 <sup>st</sup> December 2013	The remaining “enforcement” provisions under the 2013 Act take effect.

**4.5 Delegation of Functions and Powers Under the Act**

If a Local Authority proposes to either refuse an application or revoke or vary a licence, it must give the applicant or licensee a notice that sets out what the authority proposes to do and the reasons for it.

4.6 The applicant or licensee will have not less than 14 days to either make a representation or inform the Council that it wishes to do so. If the applicant or licensee informs the Council that it wishes to make representation then it must be allowed a further reasonable period in which to do so.

4.7 The Council must consider the representations made and if the applicant or licensee wishes to make oral representations the Council must allow them to do so by giving them the opportunity of appearing before and being heard by a person appointed by the Council.

4.8 The determination of licences under the Licensing Act 2003 and the Gambling Act 2005 that require a committee decision are dealt with by the Licensing Sub Committee and it is proposed that the Sub Committee also deal with applications requiring a committee decision under the Scrap Metal Dealers Act 2013

4.8 It is recommended that Licensing Sub-Committees are delegated to consider any representations made by the applicant or licensee. It is also recommended that the power to determine (including the power to refuse) applications and to revoke or vary licences should be delegated to Licensing Sub-Committees, where there is doubt as to the suitability of the applicant or licence holder and the matter has been referred to the Sub Committee for decision.

4.9 As referred to above authority is presently delegated to the Director of Economic Prosperity and Place to carry out all other functions and exercise all other powers provided under the Scrap Metal Dealers Act 2013. This will include:

- The administration of all applications
- The grant of licences to applicants deemed suitable persons
- The supply of relevant information to those agencies described in the section 6 of the Act
- Compliance with the notification requirements imposed on the authority under section 8 of the Act
- Exercise of the compliance and enforcement powers contained in the Act

**4.10 Setting Fees**

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

- 4.11 In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. The fee guidance was published by the Home Office on 12<sup>th</sup> August 2013 and is attached at **Appendix 2**.
- 4.12 Officers have calculated proposed fees with regard to this guidance and have included in the calculations the costs arising from the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed.
- 4.13 The costs associated with dealing with contested licence applications, including any required Licensing Sub-Committees, have also been included in these calculations.
- 4.14 The calculations also include the costs of ensuring those who are licensed under the Act as scrap metal dealers comply with the provisions of the Act, but do not include the costs involved in any enforcement activity against unlicensed scrap metal dealers.
- 4.15 The fees being proposed are shown at **Appendix 3**.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 Implementation of the Act will be achieved using existing resources.
- 5.2 The proposed licence fees have been calculated as required on a cost recovery basis, having regard to the statutory guidance and reflecting the cost of the procedures and formalities of administering the statutory regime.
- 5.3 The cost of enforcement of the Act against unlicensed operators will be borne by the Council. Costs might be recovered following a successful prosecution but this is not guaranteed.

## **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 The Scrap Metal Dealers Act 2013 provides the Council with a number of powers and duties in relation to the regulation of scrap metal dealers. Appropriate delegation of these powers and duties by the Council is required to enable the effective implementation of the legislation.
- 6.2 Schedule 1(6) of the Scrap Metal Dealers Act 2013 provides the Council with the power to set fees for licences. In setting the fees the Council must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.

**7. RISK MANAGEMENT**

- 7.1 Failure to take steps to enable implementation the legislation will result in the Council being unable to control and regulate scrap metal dealers.
- 7.2 If no fees are set, then the Council cannot charge applicants who apply for licences after 1<sup>st</sup> October 2013.
- 7.3 If fees are set incorrectly, without due regard to the guidance issued by the Secretary of State, they may be subject to legal challenge.

**8. EQUALITY IMPACT ASSESSMENT**

- 8.1 There are no issues over Equality Impact Assessment.

**9. CONCLUSION**

- 9.1 The implementation of the Scrap Metal Dealers Act 2013 will enable the council to fulfil its legal obligation line the new legislation. It will put in place an effective process of both controlling and regulating the activities of scrap metal dealers and collectors operating within the district. Fees are set to cover the cost of delivering the service and are based on a cost neutral/recovery basis.

**10. CONSULTEES**

- 10.1 Solicitor to the Council.
- 10.2 Members of the Licensing and Environmental Committee.

**11. BACKGROUND PAPERS**

- 11.1 Scrap Metal Dealers Act 2013.

## APPENDIX 1

### THE SCRAP METAL DEALERS ACT 2013 (“Act”)

#### Definition of Scrap Metal Dealer

1. A person carries on business as a scrap metal dealer (“**SMD**”) for the purposes of this

Act if the person:

- a. Carries on business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- b. Carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

This will not include persons who manufacture articles if the selling of scrap metal is only a by-product of that or are surplus materials not needed in the manufacturing.

2. A person carries on business as a motor salvage operator if the person carries on business which consists:

- a. Wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
- b. Wholly or mainly in buying written off vehicles and subsequently repairing and reselling them,
- c. Wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), nor
- d. Wholly or mainly in activities falling within paragraph (b) and (c).

3. Scrap metal includes:

- a. Any old, waste or discarded metal or metallic material, and

- b. Any product, article or assembly which is made from or contains metal and is broken worn out or regarded by its last holder as having reached the end of its useful life.

This does not however include gold, silver or any alloy, which contains 2% or more (by weight) of gold or silver. There is also provision for the Secretary of State to amend the definition of scrap metal.

### **Requirement for Licence**

4. The Act repeals the previous regulatory regime contained in the Scrap Metal Dealers Act 1964, and introduces a licensing regime under which:
  - a. No person may carry on business as a scrap metal dealer unless authorised by a licence under the Act ("**Scrap Metal Licence**").
  - b. Introduces an offence for failure to comply with 1(a) above, which is punishable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).
5. The Licence will be issued by the Local Authority and must be one of the following types:
  - a. A site licence; or
  - B. A collector's licence.

### **Site licence**

6. This will authorise the licensee to carry on business at any site in the authority's area, which is identified in the licence.
7. It must include:
  - a. Name of licensee;
  - b. Name of authority;
  - c. Identify all sites in the authority's area at which the licensee is authorised to carry on business;
  - d. Name the site manager of each site, and
  - e. State the date on which the licence is due to expire.

**Collector's licence**

8. This authorises the licensee to carry on business as a mobile collector in the authority's area.
9. It must:
  - a. Name the licensee;
  - b. Name the authority; and
  - c. State the date on which the licence is due to expire.

**Term of the Licence**

10. A licence expires at the end of the period of **3 years** beginning with the day on which it is issued.
11. But if an application to renew a licence is received before the licence expires, the licence continues in effect and –
  - a. If the application is withdrawn, the licence expires at the end of the day on which the application is withdrawn;
  - b. If the application is refused, the licence expires when no appeal is either possible or is finally determined or withdrawn;
  - c. If the licence is renewed, it expires at the end of the period of 3 years beginning with the day on which it is renewed or (if renewed more than once) the day on which it is last renewed.

**Applications**

12. A licence is to be issued or renewed on an application, which must be accompanied by-
  - a. If the applicant is an individual, the full name, date of birth and usual place of residence of the applicant,
  - b. If the applicant is a company, the name and registered number of the applicant and the address of the applicant's registered office,

- c. If the applicant is a partnership the full name, date of birth, and usual place of residence of each partner,
- d. Any proposed trading name,
- e. The telephone number and email address (if any) of the applicant,
- f. The address of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to do so,
- g. Details of any relevant environmental permit or registration in relation to the applicant,
- h. Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years ending with the date of the application,
- i. Details of the bank account, which is proposed to be used in order to comply with section 12 (scrap metal not be bought for cash etc).

If the application relates to a site licence, it must also be accompanied by-

- j. The address of each site proposed to be identified in the licence (or, in the case of an application to renew, of each site identified in the licence whose renewal is sought), and
  - k. The full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
13. The Local authority may request (either when the application is made or later) that the applicant provide such further information as the authority considers relevant for the purpose of considering the application.
14. An applicant who in response made to a request under 10 above:
- a. Makes a statement knowing it to be false in a material particular, or
  - b. Recklessly makes a statement which is false in a material particular,
- Is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).



**Fee**

15. The Local Authority must set the fee to accompany the application and in doing so must have regard to the guidance issued from time to time by the Secretary of State.

**Issue of Licence**

16. The Council must not issue or renew a Scrap Metal Licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.

**Suitable person**

17. In determining whether an applicant is a suitable person the Council may have regard to any information which it considers relevant including:

- a. Whether the applicant or site manager has been convicted of any relevant offence (as defined by regulations to follow);
- b. Whether the applicant or site manager has been the subject of any relevant enforcement action (as defined by regulations to follow);
- c. Any previous refusal of any application for the issue or renewal of a Scrap Metal Licence (and the reasons for refusal);
- d. Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- e. Any previous revocation of a Scrap Metal Licence (and the reasons for the revocation);
- f. Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- g. Any guidance issued by the Secretary of State on determining suitability.

18. When considering applications from companies or partnerships the Council shall apply the criteria set out in 8 to any director, secretary, shadow director (i.e. any person in accordance with whose directions or instructions the directors of the company are accustomed to act) of the company and each partner within a partnership.

19. The Council may also consult the following on the suitability of an applicant:
- a. Any other local authority;
  - b. The environment agency;
  - c. The Natural Resources Body for Wales;
  - d. An officer of a police force.

**Conditions on Licence**

20. If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:
- a. That the dealer must not receive scrap metal except during the hours 9am to 5pm;
  - b. All scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

**Variation of licence**

21. A local authority may, on application vary a licence by changing it from one type of licence to the other, but the licence cannot be transferred from one person to another.
22. If any of the details of the licence or its sites changes the Licensee must apply for a variation. A Licensee who fails to do so is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000). It is a defence to this offence that the person took all reasonable steps to avoid committing the offence.

**Revocation of Licence**

23. The Council may revoke a Scrap Metal Licence if it is:
- a. satisfied that the Licensee does not carry on business at any of the sites identified in the licence;
  - b. satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence;

- c. no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.
24. If the licensee or any site manager is convicted of a relevant offence the Council can vary the licence to add the conditions at 11(a-b) above.
25. The revocation comes into effect when either an appeal is not made within the allotted time or when the appeal is finally determined or withdrawn.
26. If during the appeal period the Council considers that the licence should not continue in force without conditions it may by notice provide:
- a. That until revocation comes into effect the Scrap Metal Licence is subject to the conditions set out at 11(a-b) above.
  - b. That a variation as in 13 above comes into effect immediately.

**Right to make representations**

27. If a Local Authority proposes to:
- a. Refuse an application;
  - b. Revoke a licence;
- It must give the applicant or licensee a notice that sets out what the authority proposes to do and the reasons for it.
28. The applicant or Licensee will have not less than 14 days to either make a representation or inform the Council that it wishes to do so. If the applicant or licensee informs the Council that it wishes to make representation then it must be allowed a further reasonable period in which to do so.
29. The Council must consider the representations made and if the applicant or licensee wishes to make oral representations the Council must allow them to do so by giving them the opportunity of appearing before and being heard by a person appointed by the Council.

**Notice of Decision**

30. If the Authority refuses an application or revokes or varies the licence it must give a notice setting out the decision and the reasons for it.

31. The notice must state:

- a. That they may appeal against the decision;
- b. The time within which they may appeal;
- c. In the case of a revocation or variation when that will take effect.

### **Appeals**

32. An applicant/licensee may appeal to the Magistrates court against:

- a. The refusal of an application;
- b. The inclusion of a condition on a licensee;
- c. The revocation/variation of a licensee.

33. The appeal must be made within 21 days beginning with the day on which the notice referred to above was given.

34. On appeal the Magistrates Court may:

- a. Confirm, vary or reverse the authority's decision, and
- b. Give such directions as it considers appropriate having regard to the provisions of this Act.

### **Supply of information by authority**

35. The Council must supply any information (which has been supplied to it under this Act and which relates to a Scrap Metal Licence or to an application for or relating to a licence) to:

- a. Any other local authority;
- b. The Environment Agency;
- c. The Natural Resources Body for Wales; or
- d. An officer of a police

Who requests it for purposes relating to the Act.

36. This does not limit any other power the Council has to supply such information.

### **Register of Licences**

37. The ***Environment Agency*** must maintain a register of Scrap Metal Licences issued by authorities in England. This was previously the responsibility of the Council.

### **Display of Licence**

#### **Site Licence**

38. The licence holder must display a copy of the licence (in a prominent place in an area accessible to the public) at each site identified in the licence.

#### **Collector's Licence**

39. The licence holder must display a copy of the licence (in a manner which enables it easily to be read by a person outside the vehicle) on any vehicle that is being used in the course of the dealer's business.

### **Penalty**

40. A licence holder who fails to comply with the above is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Verification of supplier's identity**

41. A SMD must not receive scrap metal from a person without verifying the person's full name and address.

42. Verification must be made by reference to documents, data or other information obtained from a reliable and independent source. Regulations may be made to specify what these will be.

43. Breach of the above is an offence for which the following are liable:

- a. The SMD;
- b. If the metal is received at site the site manager;
- c. Any person who, under arrangements made by a person within (a –b) above who has responsibility for verifying the name and address.

44. It is a defence to this offence to show that the person made arrangements to ensure that the metal was not received in breach of the Act and took all reasonable steps to ensure that those arrangements were complied with.

45. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

**Offence of buying scrap metal for cash**

46. A SMD must not pay (including paying in kind for goods or services) for scrap metal except by cheque or by electronic transfer. This may be amended by the Secretary of State to include other methods of payment.

47. If a SMD breaches this section the following persons are guilty of an offence:

- a. The SMD;
- b. If payment is made at a site, the site manager;
- c. Any person who makes the payment acting for the dealer.

48. It is an defence if the person made arrangements to ensure that the payment was not made in breach and took all reasonable steps to ensure that the payment was not made in breach.

49. A person guilty of an offence under this section is liable to a fine not exceeding level 5 on the standard scale (currently £5,000).

**Records: receipt of metal (Section 13)**

50. If the SMD receives any scrap metal in the course of their business they must record the following information:

- a. The description of the metal, including the type, form, condition, weight and any marks identifying previous owners or other distinguishing features;
- b. The date and time of its receipt;
- c. If the metal is delivered in or on a vehicle, the registration mark of the vehicle;
- d. If the metal is delivered from a person, the full name and address of that person;
- e. If the SMD pays for the metal the name of the person who makes the payment acting for the dealer.

51. The SMD must keep copies of any documents it uses to verify the name and address of that person.

52. If the SMD pays for the metal by cheque they must keep a copy of the cheque, or if they pay by electronic transfer a copy of the receipt identifying the transfer or the particulars identifying the transfer.

**Records: disposal of metal**

53. If a SMD disposes of any scrap metal in the course of business (which applies whether or not it is in the same form in which it was received, it is disposed of to another person or it is despatched from site) it must record the information set out below:

Site licence

- a. The description of the metal, including its type (or types if mixed), form and weight;
- b. The date and time of its disposal;
- c. If the disposal is to another person, the full name and address of that person;

- d. If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.

Collector's Licence

- a. The date and time of disposal;
- b. If the disposal is to another person, the full name and address of that person.

Supplementary

- 54. The information must be recorded in a manner, which allows the information and the scrap metal to be readily identified by reference to each other.
- 55. The information must be kept for 3 years from when the metal was either received or disposed of.
- 56. If there is a breach of any of the requirements relating to record keeping the following persons will be guilty of an offence:
  - a. The SMD;
  - b. If metal is received at or (as the case may be) despatched from a site, the site manager;
  - c. Any person who, under arrangements made by a person within (a) or (b) has responsibility for fulfilling the requirement.
- 57. It is a defence to prove that the person:
  - a. Made arrangements to ensure that the requirement was fulfilled, and
  - b. Took all reasonable steps to ensure that those arrangements were complied with.
- 58. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

**Right to enter and inspect**

- 59. A constable or an officer of the local authority may enter and inspect a licensed site at any reasonable time on notice to the site manager, or without notice to the site manager if:



- a. Reasonable attempts to give such notice have been made and have failed, or
- b. Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of notice would defeat the purpose.

This does not however apply to residential premises, nor is the constable or officer allowed to use force to enter the premises this can only be done in exercise of a warrant (which can be obtained under the act).

60. A constable or officer may require production of and inspect any scrap metal kept at any premises or mentioned in any warrant obtained under the Act.

61. A person who:

- a. Obstructs the exercise of a right of entry or inspection under this section, or
- b. Fails to produce a record required to be produced under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Closure of Unlicensed Sites**

62. Where a constable or the local authority is satisfied that premises are being used by a SMD in the course of business and that it is not a licensed site they may issue a closure notice.

63. When the notice has been given the constable or LA may make a complaint to a justice of the peace for a closure order. This must be made not less than 7 days after or more than 6 months after the date on which the closure notice was given.

64. The justice may then issue a summons to answer the complaint.

65. A closure order may require:

- a. That the premises be closed immediately to the public and remain closed until a constable or LA make a certificate to terminate the order;

- b. That the use of the premises by a SMD in the course of business be terminated immediately;
- c. That any defendant pays into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

66. It may also make such conditions as the court considers appropriate to the admission of persons to the premises and the access by persons to another part of any building or other structure of which the premises form part.

67. The police and LA also have powers to enforce a closure order and any person who intentionally obstructs them in exercising those powers is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

### **Review of the Act**

68. Before the end of 5 years beginning with the day on which section 1 of the act comes into force the Secretary of State must carry out and publish the conclusion of its review of the Act.

69. The report must in particular:

- a. Set out the objectives intended to be achieved by this Act,
- b. Assess the extent to which those objectives have been achieved, and
- c. Assess whether it is appropriate to retain or repeal the Act or any of its provisions in order to achieve those objectives.

## **Scrap Metal Dealer Act 2013: guidance on licence fee charges**

### **Context**

The Scrap Metal Dealers Act 2013 (referred to in this guidance as the 2013 Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.

### **Introduction**

The 2013 Act will allow local authorities to decide who should and should not be licensed, allowing them to refuse a licence upon application or to revoke a licence at any time if they are not satisfied that the applicant is a suitable person to carry on business as a Scrap Metal Dealer. The act also creates closure powers for unscrupulous dealers who operate without a licence. It extends the record keeping requirements placed upon scrap metal dealers and requires the verification of the people Scrap Metal Dealers are transacting with. The act will integrate the separate regulation for motor salvage operators with the scrap metal sector and bring to an end the cash exemption given to some collectors under the 1964 Act.

Finally, the 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. This element of the legislation will be the focus of this guidance.

The intention is for the act to be implemented in October 2013.

### **Licensing requirements placed upon scrap metal dealers**

Section one of the 2013 Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer<sup>1</sup>. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale. In addition, Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the authority.

### **Aim and scope**

Local authorities will be responsible for administration and compliance activity in relation to the 2013 Act. This guidance is provided to local authorities in relation to the carrying out of their fee raising function. It also provides information for the benefit of those who will be applying for a scrap metal dealer's licence and the general public. This guidance applies to local authorities in England and Wales and is produced in accordance with the 2013 Act.

### **Legal status**

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This Guidance is therefore binding on all licensing authorities to that extent.

### **What costs can local authorities charge for when issuing a licence?**

The 2013 Act provides that an application for a licence must be accompanied by a fee set by the local authority. This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service does not exceed the costs of providing the service.

LAs should specify fees for each category of application. Specifically we would expect a fee to be specified for the assessment of an application for a licence, the assessment of an application to vary a licence, and the assessment of an application for licence renewal.

Local authorities should specify fees which are payable by licence applicants for the assessment and administration activity within the new licensing regime brought about by the 2013 Act. They should do this by identifying what they need to do to assess the type of licence in question and calculating their best estimate of the cost to be incurred by the LA. The authority will then be able to calculate a best estimate of unit cost for each case.

In effect, the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting the local authority's enforcement records in order to determine the suitability of the applicant is chargeable within the licence fee costs as are costs associated with contested licence applications.

Registering authorities should review fees regularly to check whether they remain appropriate.

### **Can a local authority charge for enforcement activity?**

The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) and (7) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.

### **What are the different types of licences?**

There are two types of licence specified within the act, one is for a site licence and the other is for a mobile collector licence (carrying on business otherwise than at a site). The licence authorises the licensee to carry on business as a scrap metal dealer at the sites listed in it (in the case of a site licence) or within the local authority area (in the case of a mobile collector's licence).

### **Site licences**

A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

### **Collectors licences**

A collector's licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal.

The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licence does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use a fixed site, they will need to obtain a site licence from the relevant local authority.

The Act 2013 also specifies that a licence will be issued by the local authority in whose area a scrap metal site is situated, or (in respect of a mobile collector) in the area that the collector operates.

### **Do different fees apply?**

Yes. Fees charged for a site licence would reflect the extra work involved in processing these licences and will vary from a collector's licence.

### **Display of licences**

The form in which a licence is issued must enable it to be displayed in accordance with section ten of the 2013 Act. All licensees are therefore required to display a copy of their licence. For site operators the licence must be displayed in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil this requirement. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

The cost of providing a licence in a form which can be displayed should be included in the local authority licence fee charges.

### **Police objections to licence applications**

The police may object to a licence application where they believe that the applicant is not a suitable person as defined within the act. The police can object where, for example, the applicant has been convicted of a relevant offence. LAs should also consider representations from other organisations or individuals in considering the applicant's suitability

Where the police do object, the local authority should take this into consideration but must use their own judgement and discretion when taking a licence decision. The local authority must allow for the person whose licence is about to be refused or revoked to be afforded the right to make representations. The local authority considering the matter must restrict its consideration to the issue of suitability of applicant and provide comprehensive reasons for

its decision.

Costs associated with considering oral and written representations should be included in licence fee charges.

### **Appeals**

There is a right of appeal to the Magistrates' Court against a decision to refuse a licence application, to include a condition within the licence, to revoke the licence or to vary the licence. The costs associated with appeals and the costs of defending an appeal in the Magistrate Court should not be included in licence fee charges.

The costs associated with defending a Judicial Review into whether the local authority has failed to have regard to the guidance on fees is not chargeable under the licence regime.

### **Revocation of a licence and formulating and imposing licence conditions**

If a licence has been granted, it may be revoked or licence conditions imposed on a scrap metal dealer if the subsections within Clause 4 of the Scrap Metal Dealers Act are triggered. A local authority may impose conditions pending an appeal against revocation (section 4 (7)) or if the applicant or site manager has been convicted of a relevant offence (section 3 (8)).

### **Variation of licence**

Schedule 1 paragraph 3(1) indicates that a local authority may, on an application, vary a licence by changing it from one type to another and (2) if there is a change in any of the matters mentioned in section 2(4)(a), (c) or (d) or (6)(a).

These changes should be recorded by the local authority. The applicant is also under a duty to notify any convictions for relevant offences to the local authority. These measures ensure that a single record will be held of the licence holder's history in terms of licensing matters.

### **National Register of Scrap Metal Dealers**

Whilst a local authority can recover any costs incurred in transmitting information about a licence, the costs which the Environment Agency incurs are not chargeable under the licence regime.

### **How long will a licence be valid for?**

Schedule 1 paragraph 1 of the 2013 Act specifies the terms of a licence. It indicates that a licence expires at the end of the period of 3 years beginning with the day on which it is issued.

### **Additional regulations and guidance**

The Home Office will be publishing regulations in relation to relevant offences and the identification required to sell scrap metal over the summer of 2013. These regulations will be published on [www.gov.uk](http://www.gov.uk). We will also be working with the Local Government Association, the British Metal Recycling Association and British Transport Police to produce additional guidance on the requirements of the new act.

The Local Government Association guidance will include a breakdown of reasonable timescales for each of the activities associated with setting a fee.

## **Annex A - Definitions**

### **What is a local authority?**

'Local authority' means —

- (a) in relation to England, the council of a district, the Common Council of the City of London or the council of a London borough;
- (b) in relation to Wales, the council of a county or a county borough.

### **What is a scrap metal dealer?**

#### **21 'Carrying on business as a scrap metal dealer' and 'scrap metal'**

(2) A person carries on business as a scrap metal dealer if the person—

- (a) carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- (b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

### **What is a mobile collector?**

'Mobile collector' means a person who—

- (a) carries on business as a scrap metal dealer otherwise than at a site, and
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

### **What is a motor salvage operator?**

(4) For the purposes of subsection (2)(b), a person carries on business as a motor salvage operator if the person carries on a business which consists —

- (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
  - (b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
  - (c) wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), or
  - (d) wholly or mainly in activities falling within paragraphs (b) and (c).
-

**Proposed Fees – Scrap Metal Dealers Act 2013**

Site Licence (New)	£290 (plus £150 per additional site)
Site Licence (Renewal)	£240 (plus £150 per additional site)
Collectors Licence (New)	£145
Collectors Licence (Renewal)	£95
Variation of Licence	£65
Copy of Licence (if lost or stolen)	£25



## WYRE FOREST DISTRICT COUNCIL

**COUNCIL**  
**25<sup>TH</sup> SEPTEMBER 2013**

**POLICY AND BUDGET FRAMEWORK**  
**MATTERS WHICH REQUIRE A DECISION BY COUNCIL**

**RECOMMENDATIONS FROM THE CABINET –17<sup>TH</sup> SEPTEMBER 2013**

**Purpose of Report**

To consider recommendations from the Cabinet on matters outside the policy framework or approved budget of the Council.

**SUPPORTING INFORMATION**

Would Councillors please note that the related reports and documents have not been included in the Council book, as they have already been sent to Members via the Cabinet agenda. Copies have been included in the electronic circulation of the Council agenda and a public inspection copy is available on request. The policy documents, referred to below, have been posted on the Council's website.

<b>RECOMMENDATIONS TO COUNCIL</b>	<b>CABINET MEMBER</b>
<p><b>Annual Report on Treasury Management Service and Actual Prudential Indicators 2012/13</b></p> <p><b>Recommend to Council:</b></p> <ol style="list-style-type: none"> <li><b>1. The actual 2012/13 prudential and treasury indicators in this report to Cabinet be approved.</b></li> <li><b>2. The annual treasury management report for 2012/13 be noted.</b></li> </ol>	<p><b>Councillor Nathan Desmond</b></p>
<p><b>Community Housing Group – Right To Buy Receipts</b></p> <p><b>Recommend to Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Subject to clarification from the Secretary of State regarding a variation to the original transfer deed, preserved right to buy receipts in the period from 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2019 be shared equally between the Community Housing Group and Wyre Forest District Council.</b></li> <li><b>2. The receipts retained by CHG will be invested in affordable housing in Wyre Forest, with the mix of affordable housing units concerned being agreed with WFDC.</b></li> </ol>	<p><b>Councillor Anne Hingley</b></p>

**WYRE FOREST DISTRICT COUNCIL****COUNCIL**  
**25<sup>TH</sup> SEPTEMBER 2013****Elections and Preparing for Individual Electoral Registration**

<b>OPEN</b>	
<b>SUSTAINABLE COMMUNITY STRATEGY THEME:</b>	-
<b>CORPORATE PLAN PRIORITY:</b>	Delivering together, with Less
<b>CABINET MEMBER:</b>	Councillor N J Desmond
<b>RESPONSIBLE OFFICER:</b>	The Deputy Returning Officer for County Council Elections and Electoral Registration Officer Ian Miller
<b>CONTACT OFFICER:</b>	Alison Braithwaite Ext 2781 Head of Transformation and Communications
<b>APPENDICES:</b>	Appendix 1 – Turnout per polling station and costs for Elections in May, June & August 2013

**1. PURPOSE OF REPORT**

- 1.1 To note the Deputy Returning Officer's report on the Worcestershire County Council elections held in May 2013 and By-Elections in June and August 2013.
- 1.2 To receive a report from the Electoral Registration Officer on the preparations towards Individual Electoral Registration.

**2. RECOMMENDATION**

The Council is asked to:

- 2.1 **NOTE the report on the Worcestershire County Council Elections held in May 2013, the By-Elections in June and August 2013, and preparations towards Individual Electoral Registration.**

**3. BACKGROUND**

- 3.1 The four yearly Worcestershire County Council's Elections were held on 2 May 2013 with each Division having one seat except for the Stourport-on-Severn Division which had two. The overall turnout was 30.1% which was 7.9% lower than the turnout for the County Council Elections on 4 June 2009.
- 3.2 The number of postal votes issued for the elections in May 2013 was 10,330 with 69.42% being returned. This was fractionally higher than the 68.07% that were returned from the 9,102 issued for the county elections in 2009. The trend of postal voters being far more likely to cast their vote than people voting in person has become well-established and therefore, while other measures to encourage participation will continue, the most effective is likely to be encouraging more people to register for a postal vote.

- 3.3 On 27 June 2013, a county council By-Election was held for the Stourport-on-Severn Division (one seat) following the resignation of Councillor Eric Kitson. A further County By-Election was held on 1 August 2013 for the St Marys Division due to the death of Councillor Anthony Baker. The turnout for the Stourport-on-Severn and St Marys By-Elections was 21.43% and 20.45% respectively.
- 3.4 The Count for both By-Elections was held at Wyre Forest House, which enabled them to be broadcast live via the council's webcast system. The webcasts can be viewed for a period of 6 months from the date of the recording at <http://www.wyreforestdc.public-i.tv/core/portal/home> They will then be stored in the webcast archive.
- 3.5 For comparison purposes a breakdown of the turnout figures per Division for the County Council Elections in 2009 and 2013 is set out in Table 1.

Table 1

Turnout %	2009	2013	% Difference in Turnout
<b>Bewdley</b>	42%	35.8%	↓ 6.2%
<b>Chaddesley</b>	41.70%	32.3%	↓ 9.4%
<b>Cookley, Wolverley &amp; Wribbenhall</b>	43.32%	33.87%	↓ 9.45%
<b>St Barnabas</b>	38.59%	29.42%	↓ 9.17%
<b>St Chads</b>	37.01%	30.6%	↓ 6.41%
<b>St Georges &amp; St Oswalds</b>	35.64%	26.5%	↓ 9.14%
<b>St Johns</b>	37.59%	30%	↓ 7.59%
<b>St Marys</b>	30.38%	24.6%	↓ 5.7%
<b>Stourport-on-Severn</b>	37.09%	29.1%	↓ 7.99%

- 3.6 Table 1 shows that for the elections in May 2013 the turnout for all Divisions was between 5.7% and 9.45% down on turnout in 2009. This downward trend in turnout is not unique to the Wyre Forest District and is reflected nationally and regionally. Steps need to be taken to reverse this trend. Apart from seeking to ensure higher levels of response to the annual canvass for 2013/14, the Electoral Registration Officer will continue to conduct campaigns to drive up the number of people who register to vote.
- 3.7 Turnout figures per Polling Stations and the cost per vote at each one for the May elections and the June and August by-elections are set out in **Appendix 1**. For the May elections the **cost per vote cast at polling stations** ranged from £1.03 for Areley Kings Village Hall to £65.06 for one of the polling districts that votes at the Fred Bennett Centre. The average cost per vote at a polling station for these elections was £4-00. The polling district which recorded the highest cost in May recorded an even higher cost per voter at the 1 August by-election, demonstrating the need for this polling district to be merged with another at the next appropriate opportunity.

- 3.8 These figures will be scrutinised as part the **review of polling districts and polling places**. The Electoral Registration and Administration Act 2013 introduced a change to the timing of compulsory reviews of UK Parliamentary polling districts and polling places. The next compulsory review must now be started and completed between 1 October 2013 and 31 January 2015 (inclusive). Subsequent compulsory reviews must be started and completed within the period of 16 months that starts on 1 October of every fifth year after 1 October 2013. The next review for Wyre Forest will be undertaken in 2014 after completion of the electoral review by the Local Government Boundary Commission for England due to the implications it will have on the number and shape of wards across the District. Some changes to polling districts may also be required. The review of polling places and polling districts will need to consider the cost of the venues that are identified as polling places and ensure a cost-effective number and size for polling districts.
- 3.9 A “wash up” meeting was held with agents and candidates after the May elections to discuss a number of issues that had affected the smooth administration of the elections and the changes that had been made to management structure and process to improve performance. A significant matter had been the need to reissue postal votes in Stourport for the May election after an error in the printing of the ballot paper. The “wash up” meeting after the June by-election in Stourport confirmed that much improved performance had been achieved by the Elections Team in their processes and documentation, and further refinements were introduced for the by-election in St Marys. A “wash up” meeting for the St Marys by-election will be held on 30<sup>th</sup> September 2013.

#### **4. PREPARATIONS TOWARDS INDIVIDUAL ELECTORAL REGISTRATION**

- 4.1 The annual canvass which normally starts in August of each year has been delayed for 2013, due to the preparations required for moving towards Individual Electoral Registration (IER) where each person will be required to register individually, rather than by household.
- 4.2 The Electoral Registration (Postponement of 2013 annual canvass) Order specifies that no canvassing activity may be undertaken before 1 October 2013 and provides for the revised register to be published by 17 February 2013. The annual canvass for this District will start on 2 October 2013 and end on 19 January 2014.
- 4.3 The rationale behind the postponement is to support the move to IER by ensuring that registers are as accurate and complete as possible ahead of the comparisons of electors’ details with the data from the Department for Work and Pensions (DWP) in June 2014. Where an existing elector’s details can be confirmed by the DWP, that elector can be included on the IER register without the need for them to provide any personal identifiers. Where there is no match, those individuals will be invited to register under the new process and be requested to provide certain ‘identifying information’. This includes their date of birth and National Insurance Number.
- 4.4 People who fail to register under the new system in 2014 will have their registration carried forward until 2015 to ensure they are registered to vote at the 2015 UK General Election. However, postal or proxy voters will need to register under the new system in 2014 otherwise they will lose their right to vote using this method. Anybody else will have until the end of autumn 2015 to register under the new system. The West Mercia Authorities Electoral Administrators Group whose membership includes a representative from the Electoral Commission, is currently considering what local

arrangements can jointly be put in place to assist voters from other parts of the E.U. and people whose first language is not English. The arrangements will be set out in the public engagement strategy that councils have to produce to support the transition to IER.

- 4.5 All councils in the UK have recently participated in a “dry run” for IER. This involved data matching the names and addresses on the records of our current electoral register against data held by DWP. The process replicated what will be undertaken in June 2014. The dry run is a key element of the transition towards IER as it provided us with an indicative match rate for our electoral register which we can expect to achieve under live conditions in June 2014. It also enabled us to become familiar with the technical and businesses processes that have to be followed.
- 4.6 This Council’s IER dry run Score was 82.6% which was the third highest score in the West Mercia Region with Redditch Borough Council and Bromsgrove District Council having the highest scores of 83% and 83.5% respectively. The average IER score across the UK was 78%. The Council’s Land and Property Gazetteer Officer played a key role in aligning the electoral register with the property gazetteer which contributed to the score that this council achieved.
- 4.7 All Councils are required to draw up a comprehensive resource plan for the transition to IER by the end of September 2013 due to the staffing and financial implications this will involve for election teams. These costs will be met by Government funding.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 Costs for County Elections and By-Elections referred to in this report have been met by Worcestershire County Council.
- 5.2 The Government has committed to meeting the costs of transition to IER in full. The costs for the transition in Wyre Forest will be clearer following the production of the Resources Implementation Plan.

## **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 The legislative framework for the introduction and implementing of IER as well as electoral registration can be viewed at <http://www.electoralcommission.org.uk> Some of the statutory instruments referred to for IER are still in draft at the point of writing.

## **7. EQUALITY IMPACT NEEDS ASSESSMENT**

- 7.1 There are no equalities implications arising from this report.

## **8. RISK MANAGEMENT**

- 8.1 There are no significant risk management issues identified within this report, other than the financial and staffing implications for the transition to IER which are not yet fully known.

**9. CONCLUSION**

- 9.1 Robust and thorough planning by the Elections Team will support the delivery of the postponed Canvass, the preparations towards the Elections in May 2014 and the Transition to IER.

**10. CONSULTEES**

- 10.1 Cabinet Member for Resources and Transformation.  
10.2 Corporate Management Team.  
10.3 Elections Team.

**11. BACKGROUND PAPERS**

- 11.1 None.

**Agenda Item No. 14**

<b>APPENDIX 1</b>									
<b>Station No</b>	<b>Polling Place</b>	<b>District(s)</b>	<b>Eligible Electorate Total</b>	<b>No. Of Votes Cast</b>	<b>Expressed as % :</b>	<b>Polling Station Costs</b>	<b>Staff Costs</b>	<b>Cost per Elector</b>	<b>Cost Per Vote @ Polling Station</b>
1	Kidderminster Harriers Social Club	AG-A	1285	290	22.57%	£50.00	£578.87	£0.49	£2.17
2	Spennells Youth Centre	AG-B	1512	406	26.85%	£95.97	£578.87	£0.45	£1.66
3	Spennells Youth Centre	AG-B	1754	417	23.77%	£95.97	£578.87	£0.38	£1.62
4	Areley Kings Village Hall	AK-A, AK-C	2369	751	31.70%	£195.00	£578.87	£0.33	£1.03
5	Walshes Community Centre	AK-B	1831	456	24.90%	£50.10	£578.87	£0.34	£1.38
6	Riverside Elim Church	BE-A, BE-C	2218	657	29.62%	£200.00	£578.87	£0.35	£1.19
7	St Anne's CE Primary School	BE-B	1837	593	32.28%	£100.00	£578.87	£0.37	£1.14
8	Shatterford Village Hall	BE-D, BE-F	326	88	26.99%	£50.00	£418.87	£1.44	£5.33
9	Pound Green & Button Oak	BE-E	161	62	38.51%	£130.00	£418.87	£3.41	£8.85
10	Blakedown Parish Room	BL-A, BL-B, BL-C	1331	391	29.38%	£265.00	£578.87	£0.63	£2.16
11	Chaddesley Corbett Village Hall	BL-D, BL-E, BL-F, BL-G, BL-H	1413	382	27.03%	£500.00	£538.87	£0.74	£2.72
12	Salvation Army	BR-A	1199	197	16.43%	£160.00	£578.87	£0.62	£3.75
13	St Oswald's School (Surestart Centre)	BR-B	1391	261	18.76%	£106.00	£578.87	£0.49	£2.62
14	St. Oswald's Church Centre	BR-C	1597	418	26.17%	£215.00	£578.87	£0.50	£1.90
15	St George's Social Club	BR-D	1190	280	23.53%	£240.00	£378.87	£0.52	£2.21
16	Cookley Village Hall	CO-A	1726	503	29.14%	£250.00	£578.87	£0.48	£1.65
17	Franch Community Church	FR-A	1577	374	23.72%	£250.00	£578.87	£0.53	£2.22
18	St Barnabas' Community Hall	FR-B	1130	308	27.26%	£150.00	£538.87	£0.61	£2.24
19	Kidderminster Carolians Rugby Football Club	FR-C	2220	509	22.93%	£150.00	£538.87	£0.31	£1.35
20	St John Ambulance	GR-A1	1587	354	22.31%	£120.00	£468.87	£0.37	£1.66
21	St John Ambulance	GR-A2	518	135	26.06%	£120.00	£348.87	£0.91	£3.47
22	Fred Bennett Community Centre	GR-B	143	9	6.29%	£293.33	£292.20	£4.09	£65.06
23	Fred Bennett Community Centre	GR-C1	669	117	17.49%	£293.33	£292.20	£0.88	£5.00
24	Fred Bennett Community Centre	GR-C2	764	139	18.19%	£293.33	£292.20	£0.77	£4.21

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25	Milton Hall Baptist Church	GR-D1	680	111	16.32%	£125.00	£348.87	£0.70	£4.27
26	Milton Hall Baptist Church	GR-D2	364	87	23.90%	£125.00	£348.87	£1.30	£5.45
27	Kidderminster Harriers Social Club	GR-E	719	125	17.39%	£50.00	£418.87	£0.65	£3.75
28	Kidderminster County Buildings	HA-A1	802	188	23.44%	£60.00	£418.87	£0.60	£2.55
29	Kidderminster County Buildings	HA-A2, HA-C	2017	478	23.70%	£60.00	£578.87	£0.32	£1.34
30	Habberley Church Hall	HA-B1	1064	231	21.71%	£100.00	£508.87	£0.57	£2.64
31	Habberley Church Hall	HA-B2	490	150	30.61%	£100.00	£348.87	£0.92	£2.99
32	Scout Headquarters	LI-A	1504	349	23.20%	£215.00	£578.87	£0.53	£2.27
33	Stourport Community Centre	LI-B	622	168	27.01%	£151.60	£418.87	£0.92	£3.40
34	Stourport V1th Form Centre	LI-C, LI-D	1640	315	19.21%	£143.50	£578.87	£0.44	£2.29
35	Stourport V1th Form Centre	LI-D	987	264	26.75%	£143.50	£578.87	£0.73	£2.74
36	Half Crownwood Children's Centre	MI-A, MI-D	2263	466	20.59%	£80.00	£578.87	£0.29	£1.41
37	Old Rose and Crown	MI-B	1519	343	22.58%	£1,000.00	£578.87	£1.04	£4.60
38	Wilden Village Hall	MI-C	544	103	18.93%	£300.00	£418.87	£1.32	£6.98
39	Half Crownwood Children's Centre	MI-D	893	215	24.08%	£80.00	£578.87	£0.74	£3.06
40	St Chad's Church Hall	OF-A	1594	401	25.16%	£85.00	£578.87	£0.42	£1.66
41	Offmore Community Centre	OF-B	1941	515	26.53%	£93.64	£578.87	£0.35	£1.31
42	St Chad's Church Hall	OF-C	1150	319	27.74%	£85.00	£578.87	£0.58	£2.08
43	The Y Centre	OL-A1	1179	145	12.30%	£375.00	£578.87	£0.81	£6.58
44	Holy Innocents' Community Hall	OL-A2, SP-C2	973	244	25.08%	£182.25	£578.87	£0.78	£3.12
45	St. Peter's Church Hall	OL-B	1446	310	21.44%	£200.00	£578.87	£0.54	£2.51
46	Rock Village Hall	RO-A, RO-C	781	216	27.66%	£190.00	£418.87	£0.78	£2.82
47	Far Forest Village Hall	RO-B	947	252	26.61%	£176.00	£418.87	£0.63	£2.36
48	Evangelical Church	SP-A1, SP-B1	2492	486	19.50%	£125.00	£578.87	£0.28	£1.45
49	Evangelical Church	SP-A2, SP-B2	767	105	13.69%	£125.00	£418.87	£0.71	£5.18
50	Holy Innocents' Community Hall	SP-C1	1430	371	25.94%	£182.25	£578.87	£0.53	£2.05



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<b>Station No</b>	<b>Polling Place</b>	<b>District(s)</b>	<b>Eligible Electorate Total</b>	<b>No. Of Votes Cast</b>	<b>Expressed as % :</b>	<b>Polling Station Costs</b>	<b>Staff Costs</b>	<b>Cost per Elector</b>	<b>Cost Per Vote @ Polling Station</b>
51	Wolverley Memorial Hall	WO-A	1494	438	29.32%	£121.00	£578.87	£0.47	£1.60
52	Wribbenhall Parish Rooms	WR-A, WR-B, WR-C, WR-D	2106	548	26.02%	£50.00	£578.87	£0.30	£1.15
53	Wribbenhall Parish Rooms	WR-A	1421	372	26.18%	£50.00	£578.87	£0.44	£1.69
<b>TOTAL</b>			<b>67,577</b>	<b>16,412</b>	<b>24.29%</b>	<b>£9,146.77</b>	<b>£26,960.10</b>		

		<b>Cost per Elector</b>	<b>Cost Per Vote @ Polling Station</b>
<b>Cost per Elector going to Polling Station (PV not included)</b>	<b>Average Cost</b>	<b>£0.73</b>	<b>£4.00</b>
	<b>Median Cost</b>	<b>£0.57</b>	<b>£2.29</b>

Station No	Polling Place	District(s)	Eligible Electorate Total	No. Of Votes Cast	Expressed as % :	Polling Station Costs	Staff Costs	Cost per Elector	Cost Per Vote @ Polling Station
1	Areley Kings Village Hall	AK-C, AK-A	2362	449	19.01%	£195.00	£480.00	£0.29	£1.50
2	Walshes Community Centre	AK-B	1811	262	14.47%	£106.25	£480.00	£0.32	£2.24
3	Scout Headquarters	LI-A	1497	237	15.83%	£215.00	£480.00	£0.46	£2.93
4	Stourport Community Centre	LI-B	613	118	19.25%	£200.00	£360.00	£0.91	£4.75
5	Stourport Youth Centre	LI-C, LI-D	1628	211	12.96%	£143.50	£480.00	£0.38	£2.95
6	Stourport Youth Centre	LI-D	981	169	17.23%	£143.50	£360.00	£0.51	£2.98
7	Half Crown Wood Children's Centre	MI-D, MI-A	2249	290	12.89%	£80.00	£480.00	£0.25	£1.93
8	Old Rose and Crown	MI-B	1504	243	16.16%	£1,000.00	£480.00	£0.98	£6.09
9	Wilden Village Hall	MI-C	546	61	11.17%	£300.00	£360.00	£1.21	£10.82
10	Half Crown Wood Children's Centre	MI-D	884	144	16.29%	£80.00	£480.00	£0.63	£3.89
<b>TOTAL</b>			<b>14,075</b>	<b>2,184</b>	<b>15.52%</b>	<b>£2,463.25</b>	<b>£4,440.00</b>		

		Cost per Elector	Cost Per Vote @ Polling Station
<b>Cost per Elector going to Polling Station (PV not included)</b>	<b>Average Cost</b>	<b>£0.59</b>	<b>£4.02</b>
	<b>Median Cost</b>	<b>£0.46</b>	<b>£2.95</b>

Station No	Polling Place	District(s)	Eligible Electorate Total	No. Of Votes Cast	Expressed as % :	Polling Station Costs	Staff Costs	Cost per Elector	Cost Per Vote @ Polling Station
1	Kidderminster Harriers Social Club	AG-A	1280	273	21.33%	£50.00	£480.00	£0.41	£1.94
2	Salvation Army	BR-A	1193	171	14.33%	£160.00	£480.00	£0.54	£3.74
3	Kidderminster Youth House	GR-B	143	4	2.80%	£480.00	£360.00	£5.87	£210.00
4	Kidderminster Harriers Social Club	GR-E	713	84	11.78%	£50.00	£360.00	£0.58	£4.88
5	The Y Centre	OL-A1	1178	73	6.20%	£375.00	£360.00	£0.62	£10.07
6	Holy Innocents' Community Hall	OL-A2, SP-C2	961	187	19.46%	£364.50	£360.00	£0.75	£3.87
7	St. Peter`s Church Hall	OL-B	1436	232	16.16%	£250.00	£480.00	£0.51	£3.15
8	Evangelical Church	SP-A2, SP-B2	763	58	7.60%	£250.00	£360.00	£0.80	£10.52
<b>TOTAL</b>			7667	1082	14.11%	£1,979.50	£3,240.00		

		Cost per Elector	Cost Per Vote @ Polling Station
<b>Cost per Elector going to Polling Station (PV not included)</b>	<b>Average Cost</b>	<b>£1.26</b>	<b>£31.02</b>
	<b>Median Cost</b>	<b>£0.60</b>	<b>£4.38</b>