

SUMMONS TO ATTEND A MEETING OF THE
NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Time/Date 6.30 pm on TUESDAY, 11 SEPTEMBER 2018
Location Council Chamber, Council Offices, Coalville
Officer to contact Democratic Services (01530 454512)



.....
Chief Executive

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item **Pages**

PRAYERS

1. APOLOGIES FOR ABSENCE

2. DECLARATION OF INTERESTS

Members are reminded that any declaration of interest should be made having regard to the code of conduct. In particular, members must make clear the nature of the interest and whether it is 'pecuniary' or 'non pecuniary'.

3. CHAIRMAN'S ANNOUNCEMENTS

4. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS

Members are reminded that under paragraph 11.1 of part 4 of the Constitution, questions can be asked of the Leader and Cabinet Members without notice about any matter contained in any address. Questions shall be limited to five

minutes in total for each announcement.

5. QUESTION AND ANSWER SESSION

To receive questions from members of the public under procedure rule no.10. The procedure rule provides that members of the public may ask members of the Cabinet any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

6. QUESTIONS FROM COUNCILLORS

To receive members' questions under procedure rule no.11. The procedure rule provides that any member may ask the chairman of a board or group any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

7. MOTIONS

To consider the following motion submitted by Councillor S Sheahan:

“This council notes that:

1. Last year, 90 young people in Leicestershire (aged 16 or over) left the care of the County Council and began the difficult transition out of care and into adulthood. A proportion of these young people came to live in North West Leicestershire.

2. A 2016 report by The Children's Society found that when care leavers move into independent accommodation they begin to manage their own budget fully for the first time. The report showed that care leavers can find this extremely challenging and with no family to support them and insufficient financial education, are falling into debt and financial difficulty.

3. Research from The Centre for Social Justice found that over half (57%) of young people leaving care have difficulty managing their money and avoiding debt when leaving care.

4. Whilst the County Council has statutory corporate parenting responsibilities towards young people who have left care up until the age of 25, the Children and Social Work Act 2017 placed corporate parenting responsibilities on district councils for the first time, requiring them to have regard to children in care and care leavers when carrying out their functions.

This council believes that:

1. To ensure that the transition from care to adult life is as smooth as possible, and to mitigate the chances of care leavers falling into debt as they begin to manage their own finances, they should be exempt from paying council tax until they are 25.

2. Care leavers are a particularly vulnerable group for council tax debt.

Item	Pages
This council, therefore, resolves:	
1. To recommend to Cabinet that the Council Tax Support Scheme be amended so that care leavers in North West Leicestershire be exempted from council tax.	
2. To work with Leicestershire County Council and all council tax collecting authorities within the county area to exempt all care leavers in the county from council tax up to the age of 25.	
8. PETITIONS	
To receive petitions in accordance with the Council's Petition Scheme.	
9. MINUTES	
To confirm the minutes of the meeting of the Council held on 15 May 2018	5 - 16
10. LEISURE VAT IMPLICATIONS	
Report of the Strategic Director of Housing and Customer Services Presented by the Corporate Portfolio Holder	17 - 32
11. REVIEW OF PENSIONS DISCRETIONS	
Report of the Chief Executive Presented by the Leader	33 - 52
12. UPDATE ON COUNTY COUNCIL'S INTENTION TO CONSIDER UNITARY PROPOSALS AND A STRATEGIC ALLIANCE FOR THE EAST MIDLANDS	
Report of the Chief Executive	53 - 84
13. INTERIM REVIEW OF POLLING DISTRICTS AND POLLING PLACES	
Report of the Chief Executive Presented by the Corporate Portfolio Holder	85 - 92

This page is intentionally left blank

MINUTES of a meeting of the COUNCIL held in the Council Chamber, Council Offices, Coalville on TUESDAY, 15 MAY 2018

Present: Councillor V Richichi (Chairman)

Councillors G A Allman, R Ashman, R D Bayliss, R Blunt, R Boam, J Bridges, R Canny, J Clarke, N Clarke, J Cotterill, J G Coxon, D Everitt, F Fenning, J Geary, S Gillard, T Gillard, L Goacher, D Harrison, G Houlton, J Houlton, R Johnson, G Jones, S McKendrick, K Merrie MBE, T J Pendleton, P Purver, N J Rushton, A C Saffell, S Sheahan, N Smith, A V Smith MBE, M Specht and M B Wyatt

Officers: Mr J Arnold, Mrs T Bingham, Mr G Jones, Mrs M Long, Mrs M Meredith, Mrs B Smith and Miss E Warhurst

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Adams, T Eynon, J Legrys and D J Stevenson.

2. DECLARATION OF INTERESTS

Councillor S Sheahan declared a non-pecuniary interest in item 16, Appointment of representatives on community bodies, having been appointed to the New Albion Revised Liaison Committee and Redbank Manufacturing Liaison Committee as a member of Leicestershire County Council.

Councillor J Bridges sought advice and subsequently declared a pecuniary interest in item 14 – Recommendations of the Independent Remuneration Panel, being nominated for the position of Chairman of the Local Plan Committee.

3. APPOINTMENT OF CHAIRMAN

Councillor V Richichi said a few words regarding his year as Chairman, expressing his pride to have served the Council over the past year. He hoped he had not let anyone down in his attempts to promote the Council. He thanked members for their gracious attitude towards him as Chairman and the officers who had guided him during the past year, in particular the Chairman's Support Officer. He stated that he believed the Council had moved forward over the past year and commented on the importance of working as a team.

Councillor V Richichi presented his Consort with a bouquet of flowers as a small token of his thanks for her support and assistance over the past year.

Councillor R Blunt stated that Councillor V Richichi had set an example and had been a credit to himself and the Council during his year as Chairman

Councillor S Sheahan commented that Councillor V Richichi had always had something of an independent outlook as a Councillor and had never been afraid to speak his mind. He thanked him for his service in the past year.

Councillor A C Saffell reiterated the comments made and added that he regarded Councillor V Richichi as a personal friend.

Nominations were then sought for the Chairman for the ensuing municipal year.

It was moved by Councillor R Blunt that Councillor J Clarke be appointed as Chairman of the Council for 2018/19.

The motion was seconded by Councillor A V Smith.

Upon being put to the vote it was

RESOLVED THAT:

Councillor J Clarke be appointed Chairman of the Council for 2018/19.

Councillor J Clarke then took the Chair and the retiring Chairman invested him with the Chain of Office. The Chairman signed the Declaration of Acceptance of Office.

The Chairman invested his Consort with her Chain of Office.

The Chairman presented Councillor V Richichi with his past Chairman's badge and proposed a vote of thanks to the retiring Chairman.

4. APPOINTMENT OF DEPUTY CHAIRMAN

It was moved by Councillor R Blunt, seconded by Councillor A V Smith and

RESOLVED THAT:

Councillor M Specht be appointed as Deputy Chairman of the Council for 2018/19.

Councillor M Specht stated that he was very pleased and honoured to be appointed as Deputy Chairman of the Council for a second time and he hoped to serve to the best of his capabilities.

5. APPOINTMENT OF LEADER

It was moved by Councillor T Gillard, seconded by Councillor K Merrie and

RESOLVED THAT:

Councillor R Blunt be appointed as the Leader of the Council for 2018/19.

Councillor R Blunt thanked members for electing him as Leader of the Council and added that he considered this to be an incredible honour. He highlighted that there was a huge amount of growth in the area and a huge amount of challenges.

6. CHAIRMAN'S ANNOUNCEMENTS

The Chairman recounted an event from his childhood involving the Chairman of the Council. He made reference to the three centenary celebrations this year, namely the end of the First World War, women being given the right to vote and the creation of the Royal Air Force. He hoped that there would be an end to war and inequality before the passing of another 100 years. He stated that it was important as Chairman of the Council to be seen as apolitical and to act apolitically and he would endeavour to do so.

The Chairman announced that his chosen charities for the coming year were the Alzheimer's Society and Hospice Hope.

7. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS

The Leader of the Council, Councillor R Blunt announced the appointments and delegations of executive functions for the forthcoming municipal year as follows:

Deputy Leader and Community Services Portfolio Holder - Councillor Alison Smith

Housing Portfolio Holder - Councillor Roger Bayliss

Regeneration and Planning Portfolio Holder - Councillor Trevor Pendleton

Corporate Portfolio Holder - Councillor Nick Rushton

Business Portfolio Holder - Councillor Tony Gillard

As in previous years the Executive responsibilities were to be delegated to the Cabinet to take decisions collectively.

Councillor R Blunt wished to put on record his thanks to the Cabinet for their work.

Councillor R Blunt announced that work was progressing well on the Ashby Cultural Quarter and initial interviews were about to be held for the public art installation. The Council was also working closely with prospective operators for the new leisure facilities.

Councillor R Blunt provided an update on the former bus depot and reported that following a meeting last week a licence had been granted to enable building contractors to access the site and all parties were now in agreement regarding the access and repair works. The contractor was now aiming to commence on site in late June with an estimated completion date of late 2018. Councillor R Blunt stated that the Council would watch progress closely as the site could not be allowed to remain in its current state.

Councillor R Blunt was pleased to announce that the planning application at the Snibston site was approved last week. The proposals would improve the whole area and provide 144 new homes which would bring more people to live in the town centre. He highlighted the importance of the relationship with Leicestershire County Council on this project.

Councillor S Sheahan congratulated the Leader on his appointment and announced the Shadow Cabinet as follows:

Leader – Councillor S Sheahan

Deputy Leader – Councillor N Clarke

Housing – Councillor R Adams

Regeneration and Planning – Councillor J Legrys

Corporate – Councillor F Fenning

Business and Coalville Project lead – Councillor J Geary

Councillor S Sheahan stated that the situation regarding the bus depot was disappointing and he would be keenly watching progress.

Councillor A V Smith announced that the outdoor pool in Ashby de la Zouch would be opening on 26 May. She explained that unfortunately this date could not be brought forward any earlier due to the works needed as a result of the winter weather and due to the need to recruit additional staff. She advised that the pool would open at 9am for a public swim and admission on the opening day cost £1. A new speaker had also been installed to enhance the music around the pool area.

Councillor A V Smith provided an update on the North Street car park. She reported that contractors were still on site and as such, the opening date could not be confirmed, but was imminent.

8. QUESTION AND ANSWER SESSION

There were no questions received.

9. QUESTIONS FROM COUNCILLORS

Councillor R Johnson put the following question to Councillor T J Pendleton on behalf of Councillor T Eynon:

“How does this Council manage its relationship with community heritage societies to inform effective, appropriate, acceptable conservation and urban design?

How could this relationship be improved?”

Councillor T J Pendleton gave the following response:

“The Council manages its relationship with community heritage societies in a number of ways to ensure effective and appropriate conservation and urban design. I have set out the current arrangements for our engagement below which illustrates the breadth of the Council’s joint working with community heritage societies.

Statement of Community Involvement

North West Leicestershire District Council has a Statement of Community Involvement (SCI) which sets out how we involve and engage with the local community, businesses and key organisations in preparing Local Plan documents, other planning policy document and processing planning applications.

The SCI is a requirement on Local Planning Authorities to ensure that in making decisions as part of plan making and the planning application process the outcome of engagement will be taken into account alongside all other material considerations. Examples of engagement with our community heritage societies:

- **Planning applications – Snibston Colliery Site**

The permission for the former colliery site and Scheduled Ancient Monument was approved last week at our Planning Committee. The process for engaging with community heritage societies including Coalville Heritage Society followed our Statement of Community involvement and the Heritage Society had been consulted and supported the application.

- **List of Local Heritage Assets**

We have invited nine local history societies and museums to submit nominations for our ‘list of local heritage assets’:

- Charley Heritage Group;
- Coalville Heritage Society;
- Coleorton Heritage Group;
- Diseworth LHS;
- Friends of Thringstone;
- Ibstock Historical Society;
- Long Whatton LHS;
- Newbold Heritage Group;
- Whitwick Historical Group.

The proposed list will be considered by the Council’s Local Plan Committee before further consultation and engagement with our heritage societies.

- **Review of Conservation Areas**

The Council has consulted and engaged with three local history societies and museums through our recent review of conservation areas and positive contributions have been received from Ibstock Historical Society; Kegworth Museum and Measham Museum.

- **Local Plan**

Consultation is undertaken at various stages throughout the preparation of the Local Plan in accordance with the SCI. A database of contacts is maintained, including community groups.

Engagement in Council Projects

The Council has set out within its Delivery Plan the priority to build confidence in Coalville and a number of projects are underway. Two projects illustrate the active engagement with community heritage societies:

- a. Heritage Strategy - the production of a heritage strategy for the Coalville area is in progress working with consultants Stuart Warburton and Professor Graham Black. Council funding has been allocated to support this and engagement with the Heritage Lottery Fund which is currently refreshing its funding framework and the Council will be working to support community bids as it moves forward.
- b. Memorial Clock Tower – work will commence in May on the repair to the tower. Coalville Heritage Society have been working with the Council on the delivery and recognition of external heritage funding and developing a programme of community engagement and learning activities.

Cultural Services – “Heritage Network”

Our Cultural Services team organises regular “heritage network” meetings at Ashby Museum and Diseworth Heritage Centre. The Network is supported by over 20 districtwide heritage and museum groups.

Hello Heritage – 1 to 16 September 2018

Hello Heritage is a celebration of heritage venues and activities across North West Leicestershire for a fortnight from Saturday 1 September to 16 September. The event will engage with heritage and historical organisations who will offer free heritage experiences to local people and visitors. The 2018 event is building on the successful pilot scheme in 2017 seeing partnership working with South Derbyshire District Council.

“How could this relationship be improved?”

I consider the relationships with our community heritage societies are strong as illustrated above and the Council has continued to put resources into engagement and building relationships, for example the work of our Cultural Services goes much further than many Councils are able to support. However, there will always be opportunities to improve. In this respect our SCI is to be the subject of a review, which will include not only looking at how it can be amended to improve engagement, but also who needs to be included as consultees in the future. I would welcome comments from any of our community groups on how this could be achieved”.

As a supplementary question, Councillor R Johnson commented that Hugglescote Heritage Society had been omitted from the list as well as the heritage assets within Hugglescote. He requested that they be included in the list.

Councillor T J Pendleton responded that he believed all the heritage assets referred to had been included, however he apologised for the omission of the heritage society from the list.

10. MOTIONS

Councillor S Sheahan moved the following motion:

“That this Council adopts the following Construction Charter:

As a Local Authority we are responsible for the procurement of a multitude of construction projects. It is therefore appropriate that we as a responsible client enter into this agreement and commit to working with the appropriate trade unions, in order to achieve the highest standards in respect of; direct employment status, health & Safety, standard of work, apprenticeship training and the implementation of appropriate nationally agreed terms and conditions of employment. The following shall be a requirement for all contractors and their supply chain engaged by this Authority: -

1. All parties recognise that the highest level of compliance with current HMRC regulations must be achieved where public funds are utilised. It is therefore a contractual requirement that all operatives are directly employed on a PA YE basis under a contract of employment. Furthermore the use of intermediary pay roll company will be prohibited on all contracts.
2. Health and Safety of workers on all of our construction projects is paramount. It is therefore a requirement that all contractors rigorously implement and adhere to our minimum standards for health and safety, as set out in our procurement documents. In addition we require all contractors to provide quality welfare facilities fit for purpose in accordance with the Construction Design and Management Regulation of 2015.
3. It is a recognised fact that the presence of trade union safety representatives significantly improves safety in the workplace. Contractors and their supply chain are required to work collaboratively with the appropriate trade unions to identify and implement reasonable real-world initiatives.
4. The Authority requires all projects to be completed to the highest standard, so as to meet the aspirations of the residents of this Authority. In order to achieve this it is recognised that it is necessary that all workers are competent and have the appropriate level of skill to carry out the work they are employed to do. To assist in the achievement of this goal the Authority's contractors and their supply chain will ensure they retain documented evidence that all workers are competent to carry out the work they have been employed to do. They will ensure that such evidence is retained in a way as to allow the Authority or its nominee's to audit the documentation. Possession of the recognised industry skills / grade card such as JIB or CSCS will be considered acceptable evidence
5. The Authority is mindful of the industry skills shortage and the need to address this through appropriate apprenticeships, including adult training in up skilling. The Authority's contractors and supply chain will in consultation with the Authority and other interested parties develop and implement a programme that addresses the skills shortage and provides training opportunities to local residents.
6. The Authority recognises the right of all construction workers to be employed under and to be protected by the appropriate national industry collective agreement. The Authority requires full compliance with all appropriate national agreements applicable to the construction industry.
7. All contractors and their supply chain will accept the right of any trade union that is a signatory to an appropriate national agreement, to appoint shop stewards, workplace health& safety representatives and Union Learning Reps. All trade

union accredited representatives will be granted appropriate time and facilities to carry out their responsibilities.

8. The Authority, its contractors and their supply chain are committed to a fair and transparent recruitment policy. All contractors and their supply chain will actively ensure that the engagement of labour is based on the individual's ability to meet the needs of the project and the specific tasks for which they are recruited to undertake.
9. The Authority its contractors and their supply chain agree it's not acceptable for anyone to use or make reference to any form of blacklist.
10. The Authority recognises the benefit trade unions bring to the workplace and the rights of workers to hear from trade union representative. The Authority's contractors and their supply chain are required to allow access to nominated trade union officer from trade unions that are signatories to the appropriate national agreements. Access shall mean access to welfare facilities during working times so as to allow them to consult with their members and potential members.
11. The Authority supports the Get Britain Building campaign, which is aimed at supporting and sustaining the British construction industry. Consequently, all relevant construction contracts will be required to comply with our Authority's Sustainable Buying Standard for Highways and Construction Materials, which requires structural steel and other relevant materials to be covered by BES 6001 Responsible Sourcing of Construction Product certification, or equivalent".

Councillor S Sheahan spoke to the motion and referred to the proposed amendment which had now been withdrawn. He requested an explanation for this and commented that it was regrettable that the administration would not support the motion.

Councillor N Clarke seconded the motion and reserved his comments.

Councillor K Merrie thanked Councillor S Sheahan for raising this issue. He spoke about his passion for health and safety and his own working experience. He commented that although the charter had good intentions, it placed an absolute duty on the Council and took a scattergun approach to trade union political issues. He added that the proposals would place a heavy financial burden upon the Council, there was no cost benefit analysis and no self-regulation.

Councillor R D Bayliss acknowledged that an amendment to the motion had been under discussion, however the spirit of the motion seemed to be implying some shortcoming in the council's attitude and approach to the workforce. He stated that the council already abided by the regulations and a resolution was not needed to continue doing so. He advised that operatives were being cross-trained and the council currently employed four trade apprentices, fulfilling its obligations. He added that the administration depended upon co-operation from the Trade Unions and the removal of the 9-day fortnight had been negotiated and replaced with flexible working for the benefit of operatives and tenants. He invited members to turn down the motion for the reasons described.

Councillor N Clarke expressed disappointment that the administration would not be supporting the motion. He added that the role of Trade Unionists was to improve conditions for staff.

Councillor S Sheahan exercised his right of reply and commented that the administration was too much on the side of the businessman rather than the worker. He expressed disappointment that the motion was not supported.

The Chairman then put the motion to the vote and it was declared LOST.

11. PETITIONS

No petitions were received.

12. MINUTES

Consideration was given to the minutes of the meeting held on 20 March 2018.

It was moved by Councillor J Clarke, seconded by Councillor V Richichi and

RESOLVED THAT:

The minutes of the meeting held on 20 March 2018 be approved and signed by the Chairman as a correct record.

13. OUTCOME OF PLANNING PEER CHALLENGE - UPDATE AND CONSTITUTIONAL CHANGES

Councillor T J Pendleton presented the report to members, providing an update on the progress made to implement the recommendations of the peer review. He referred to the constitutional changes, the establishment of the Local Plan Committee, the changes to the call-in arrangements and planning committee procedures, all of which had been discussed and agreed through the cross-party working group which was chaired and supported by the Planning Advisory Service. He added that discussions at the working group had been positive and fruitful and the recommendations in the report represented cross-party consensus. He commended the working party for the progress made so far. He highlighted the proposed constitutional and other changes set out in the report and referred members to the amendments in the update sheet which reflected the views of the Independent Remuneration Panel that the Chairman of the Local Plan Committee and the Planning Committee should not be the same person to avoid a conflict of interest. He stated that the Local Plan Committee was likely to evolve and Council would receive a progress report in 12 months. He moved the recommendations set out in the report.

The motion was seconded by Councillor J Bridges who reserved his comments.

Councillor N Smith emphasised the importance of providing the best possible planning service to the district and of being seen to be completely transparent. He thanked the members of the working group and the Chief Executive and Leader for instigating the review.

Councillor J Geary felt it was fair to say that over the last few months, planning had failed to deliver the excellent service members hoped for. He added that behaviour and relationships required urgent attention and the general consensus of members of the public was that the Planning Committee was not fit for purpose. He felt however that the peer challenge would go a long way towards addressing these problems. He added that he was fortunate enough to have been offered a seat on the working group and with the positive input and from the Planning Advisory Service and the good will of officers, rapid progress was being made. He expressed concerns regarding the proposals to prevent affected ward members from sitting on the committee and questioned how he could champion a case on behalf of residents being unable to enter into the debate and vote on the matter. However he thanked members and officers for their joint working on these issues.

Councillor S Sheahan stated that he was pleased the planning system was being reformed. He welcomed the proposals to extend the call-in process and the progress made so far.

Councillor D Everitt expressed his opposition to the proposals, in particular the prevention of ward members from participating in the debate. He stated that he had noticed the law becoming more controlling and the will of the people becoming more diminished. He felt that the planning system worked for the establishment and not for the people, and the peer review would not make much difference to this.

Councillor A C Saffell commented on the excellent co-operation at the working group meetings. He reminded members that the intention was that ward members would have a much bigger involvement throughout the planning process and at a very early stage.

Councillor R Ashman echoed the comments made as a member of the working group and thanked Jack Hopkins for his time and good guidance. He advised that the working group had agreed that the changes made would be under constant review.

Councillor J Bridges stated that he agreed with most of the comments made and emphasised the importance of working together and taking action early on in the process.

Councillor T J Pendleton referred to the issue of public perception relating to the involvement of ward members in the planning process. He advised members that they would be notified at an early stage that there was an application in their ward and would be given an opportunity to discuss the proposals. He added that the time period for calling in applications was being extended to 28 days and ward members would be able to address the meeting for up to 5 minutes. He explained that advice had been sought from the Planning Advisory Service on best practice drawing on their experience across the country.

It was moved by Councillor T J Pendleton, seconded by Councillor and

RESOLVED THAT:

- a) The Local Plan Committee be established on the terms set out in paragraph 3 and Appendix 3.
- b) The working group's proposals in respect of call-in to Planning Committee as set out in paragraph 4 be approved.
- c) The working group's proposals in respect of Planning Committee procedures as set out in paragraph 5 be approved.
- d) The proposals to reform the Planning Committee procedures as set out in paragraph 2 be noted.
- e) The progress made against the action plan be noted.

The Monitoring Officer be authorised to make any consequential changes to the Constitution arising from this report.

14. RECOMMENDATIONS OF THE INDEPENDENT REMUNERATION PANEL - LOCAL PLAN COMMITTEE CHAIR ALLOWANCE

Having declared a pecuniary interest, Councillor J Bridges left the meeting during consideration of this item and took no part in the discussion or voting thereon.

Councillor N J Rushton presented the report to members, acknowledging the ongoing work of the Independent Remuneration Panel.

It was moved by Councillor N J Rushton, seconded by Councillor T Gillard and

RESOLVED THAT:

- a) The ongoing work of the Independent Remuneration Panel be acknowledged;
- b) An allowance be paid to the Chair of the Local Plan Committee at the same rate as the Chair's allowance for other committees;
- c) The Chair of the Local Plan Committee and the Chair of the Planning Committee should not be the same person;
- d) The allowance be payable from the commencement of the 2018/19 civic year.

Councillor J Bridges returned to the meeting.

15. APPOINTMENT OF COMMITTEES AND GROUPS, ELECTION OF CHAIRMEN AND DEPUTY CHAIRMEN

The Chairman referred members to the nominations as set out in the additional papers.

It was moved by Councillor T Gillard, seconded by Councillor N J Rushton and

RESOLVED THAT:

- a) The appointments to the Committees and Groups as set out in the additional papers be agreed.
- b) The Chairmen and Deputy Chairmen of the Committees and Groups as set out in the additional papers be agreed.

16. APPOINTMENT OF REPRESENTATIVES ON COMMUNITY BODIES

The Chairman referred members to the nominations as set out in the additional papers.

It was moved by Councillor T Gillard, seconded by Councillor N J Rushton and

RESOLVED THAT:

Representatives be appointed to serve on the community bodies as set out in the additional papers.

17. SCHEDULE OF MEETINGS 2018/19

It was moved by Councillor J Clarke, seconded by Councillor N J Rushton and

RESOLVED THAT:

The schedule of meetings for 2018/19 as set out in the additional papers be approved.

18. MEMBER CONDUCT ANNUAL REPORT 2017-18

Councillor N J Rushton presented the report to members, thanking the Committee for their good work.

Councillor J Cotterill spoke to the report as Chairman of the Audit and Governance Committee, highlighting the low number of complaints in the previous year and the number which had been informally resolved by the Monitoring Officer.

It was moved by Councillor N J Rushton, seconded by Councillor J Cotterill and

RESOLVED THAT:

The member conduct annual report 2017-18 be received and endorsed.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.54 pm

This page is intentionally left blank

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 11 SEPTEMBER 2018

Report Title	LEISURE VAT IMPLICATIONS
Contacts	<p>Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Strategic Director of Housing and Customer Services 01530 454819 glyn.jones@nwleicestershire.gov.uk</p> <p>Head of Finance and S151 Officer 01530 454707 tracy.bingham@nwleicestershire.gov.uk</p>
Purpose of report	To seek Council approval to proceed with an application to HMRC to seek exemption from charging VAT on sporting services
Council priorities	Value for Money
Implications:	
Financial/Staff	There is a financial benefit to the council in making a claim, as detailed within the report.
Link to relevant CAT	No direct implications.
Risk Management	If exemption status is claimed, but the council's leisure centres are not outsourced, payments to HMRC will be required and further significant sums payable should the council undertake any capital improvement works to its centres. Full details regarding this risk are included in the report.
Equalities Impact Screening	No direct implications.
Human Rights	No direct implications.
Transformational Government	No direct implications.
Comments of Head of Paid Service	Report is satisfactory
Comments of Section 151 Officer	As report author, the report is satisfactory
Comments of Deputy Monitoring Officer	Report is satisfactory

Consultees	Policy Development Group Cabinet
Background papers	Policy Development Group Report – 27 June 2018 Cabinet Report – 24 July 2018
Recommendations	<p>THAT COUNCIL:</p> <ol style="list-style-type: none"> 1. NOTE THE CONTENTS OF THE REPORT AND THE COMMENTS OF THE POLICY DEVELOPMENT GROUP AND CABINET; AND 2. APPROVE THE RECCOMENDATION TO PROCEED WITH AN APPLICATION TO HMRC FOR VAT EXEMPTION IN RESPECT OF SPORTING SERVICES PROVIDED BY THE COUNCIL

1.0 BACKGROUND

- 1.1 Members will be aware that the financial modelling work in respect of the decision to outsource the council's leisure centres has to date has considered the implications of VAT in terms of the likely saving that an operator can achieve which in turn flow back to the council. This VAT saving is based on the different VAT status of non-profit making organisations providing sporting services. Local Authorities have in the past been required to charge VAT, resulting in a lower amount retained in respect of the provision of those services when compared to non-profit making organisations for whom there is no requirement to charge VAT, meaning that prices can be maintained and the difference between what the market will pay and what would otherwise be transferred as VAT withheld.
- 1.2 In July 2017, a Court of Justice for the European Union ruling introduced doubt in respect of this element of the future outsourcing saving, when considering a case between London Borough of Ealing and HMRC. The ruling determined that Local Authorities should not be treated differently from non-profit making organisations in respect of the charging of VAT on sporting services.
- 1.3 HM Revenue and Customs (HMRC) have since accepted that certain supplies of sporting services made by local authorities can be treated as exempt from VAT. On 29 December 2017, HMRC issued guidance detailing how Local Authorities may make a claim for exemption relating to VAT incorrectly charged on supplies of sporting services.
- 1.4 HMRC has acknowledged that councils may continue to rely on the UK law and account for VAT on income received from supplies of leisure services, until that law is changed. This does mean that the council could continue as it has done, accounting for VAT on leisure income, recovering all VAT incurred on related costs. If the council chose to maintain the status quo, it could not make a claim for overpaid VAT in prior years.

2.0 VAT EXEMPTION

- 2.1 A claim in respect of the past 4 years can be made to reclaim VAT paid under the existing VAT treatment method. Where a council opts to make a claim for exemption in respect of past periods, they'll be expected to continue to exempt supplies in subsequent periods.

2.2 However, VAT on related costs must then also be treated as attributable to the council's VAT exempt supplies and considered in the "test of insignificance".

2.3 This test of insignificance considers that the level of VAT incurred in relation to all VAT exempt business supplies is no more than 5% of the total level of VAT incurred on all goods and services. Where a "one-off" breach of the 5% test arises, it is possible to look at over a 7 year average. If the partial exemption test is breached, the local authority must repay all the VAT it has recovered in relation to all of its exempt supplies during the financial year.

3.0 REVIEW OF NWLDC OUTSOURCING BUSINESS CASE

3.1 The council has a potential claim for the past 4 years of historically overpaid VAT of approximately £1m and the ability to retain all income raised moving forward. This approach may have been taken irrespective of whether the outsource option had been pursued by the council.

3.2 However, as in 2.2 above, VAT incurred on costs would also need to be treated as attributable to VAT exempt supplies under the test of insignificance. This would include capital expenditure under the business as usual case (but not under the outsourced case, since the expenditure would be incurred in relation a "non-business activity of the council – see Table 1 below).

3.3 As a result, the most economically advantageous option to the council remains outsourcing, but with the claim for historic VAT and VAT exemption for the remaining period of time that the council delivers leisure services pursued. The table below summarises the financial position of the council, assuming exemption status is obtained.

Table 1 – Conclusion of review of outsourcing business case and business as usual position under VAT exemption

Business as usual case	<p>Assuming no significant capital expenditure, the business as usual case would breach the test of insignificance in the 4 years from 2016/17 to 2019/20, taking the 7 year average above 5% and a payment required to HMRC.</p> <p>Any additional capital expenditure would further exaggerate this breach and the resultant financial payment to HMRC. If the council were to continue with the build of the new facility at a cost of £20m between 2019/20 and 2020/21, this breach would reach a significant level.</p> <p>Despite the ability to then retain all income, a reduction in income can be assumed as customers would favour modernised facilities elsewhere in/outside of the district.</p> <p>If lower levels of capital investment are considered in the form of redevelopment of the Hermitage site, consideration would need to be given to the relationship between investment and the ability of the council to generate income growth.</p>
Outsourced case	<p>Under the outsourcing option, and assuming the claim for historic VAT and VAT exemption before transfer is pursued, the 7 year average test of insignificance should not be breached and there is no resultant payment to HMRC.</p>

	<p>Despite the significant £20m capital investment in the new facility, for the purposes of VAT, the council no longer makes the supply of leisure services. Typically an operator would occupy the new facility under a “peppercorn lease” arrangement, which would allow the council to recover VAT incurred on the capital investment.</p> <p>This “peppercorn lease” arrangement is common in similar circumstances and has HMRC’s approval (subject to conditions). In practice, this arrangement will mean that the council will need to grant a peppercorn lease in the new facility, once it has been constructed. Care will need to be taken to ensure that the council does not receive any consideration by way of rent. Typically the council would receive any “surplus share” in the increased use of the facilities through a payment from the operator for the right to operate the leisure facilities. This charge made by the council to the operator would be subject to VAT, and that VAT may not be recoverable in full by the operator. It is expected that during the procurement of the operator, operating models such as this will be proposed.</p> <p>Due to the committed capital investment, the outsourced option will deliver a more advantageous position in respect of income growth which will flow back to the council in the form of a committed annual “management fee and surplus share”, which will be a payment by the operator for the right to operate the facility.</p>
--	--

3.4 In summary, the business as usual case remains non-financially viable compared to outsourcing and this position is exaggerated further when significant capital expenditure is considered. This is because, compared to business as usual the outsourced option delivers the following:

- Ability to generate income growth through sector experience,
- Ability to deliver cost efficiencies
- Ability to deliver savings through reduced NNDR costs
- Modernised (£20m +) facilities with a substantially lower risk of a detrimental VAT impact to the council and the ability to generate further growth as a result of this

3.5 Additional, detailed calculations undertaken in response to questions raised by the Labour Group following PDG on 27 June, are outlined in the confidential Appendix A.

4.0 CURRENT PROGRESS OF THE SPORTS AND LEISURE PROJECT

4.1 Four compliant bids from potential operators were received by the outline bid deadline of 20 July 2018. At the time of writing this report, the evaluation team are currently in the stages of finalising the evaluation scoring of each bid.

4.2 All of the bidders are experienced operators who have delivered a number of Design, Build, Operate and Maintain (DBOM) schemes and operate locally as well as nationally.

4.3 A comprehensive update in respect of the progress of the evaluation of bids will be delivered to Policy Development Group on 19 September ahead of Cabinet on 6 October 2018. Member briefing sessions are due to be held on Tuesday 11 September.

5.0 RISK MANAGEMENT

- 5.1 Once the alternative treatment has been adopted it cannot be reversed. There is therefore the risk that if for any reason the outsourcing does not go ahead and a successful exemption claim is made, the council is locked in to this decision which will put the council in a unfavourable position in respect of undertaking any required capital investment under an in-house service (as illustrated in Table 1 above). This is because, under in-house services and the alternative VAT treatment, the partial exemption limit is triggered and sums are payable to HMRC when significant capital investment is undertaken.
- 5.2 In mitigation of this risk, it is acknowledged that four compliant bids from experienced operators have been received and are currently in the final stages of evaluation, and there are no indications at this stage in the process that a contract will not be awarded.
- 5.3 Additionally, the application to HMRC will take between 4 to 6 weeks s to prepare. This means that should there be the need to withdraw from the application process, there is still time for the decision to be reversed before the final application to HMRC is submitted.

6.0 COMMENTS OF THE POLICY DEVELOPMENT GROUP AND CABINET

- 6.1 Policy Development Group considered this issue on 27 June 2018. The draft minutes of this meeting are included in Appendix B.
- 6.2 Cabinet considered this issue at its meeting on 24 July 2018. The draft minutes of the meeting are included in Appendix C.

7.0 NEXT STEPS

- 7.1 The application process to make an exemption claim to HMRC requires a number of steps to be undertaken and evidence prepared. As a result, VAT specialists from Ernst and Young, who are engaged to support the council in respect of the leisure project, will continue to assist the Head of Finance and her team in preparing a claim. The anticipated cost of preparing the claim and associated evidence is approximately £15,000 and will be absorbed within existing budgetary provision and off-set against the VAT reclaimed. Should there be additional support required in the event HMRC wish to further interrogate the claim, this will be called off on a day rate basis.
- 7.2 Proposals regarding use of the £1m reclaimed VAT will be subject to a future Cabinet decision, noting the intention to offset the costs of support required to make a successful claim as outlined in 7.1 above.

This page is intentionally left blank

Likely to contain exempt information under paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

EXTRACT MINUTES of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 27 JUNE 2018

Present: Councillor M Specht (Chairman)

Councillors R Ashman, T Eynon, G Hault, V Richichi, A C Saffell, S Sheahan and N Smith

In Attendance: Councillors J Legrys

Officers: Mrs T Bingham, Mr J Knight, Mrs M Long, Mr M Murphy, Mr P Sanders, Mrs B Smith and Mrs R Wallace

7. LEISURE VAT IMPLICATIONS

The Head of Finance presented the report to Members.

Councillor S Sheahan felt that the subject matter was hard to understand as there were no figures included for comparison. The Head of Finance stated that it would take approximately one to two weeks to collate the information requested and agreed to provide the figures for each case as detailed in table 1 of the report. Councillor S Sheahan felt that it was important for Cabinet to also have the information before making its decision.

As several Members sought clarification on the subject matter, the Head of Finance provided further explanation on the review of the outsourcing business case, the “test of significance” relating to the VAT level and the “peppercorn lease” arrangement as detailed within the report.

Members had a brief discussion on the possible disadvantages of the outsourcing business case and were concerned that the Council could incur more costs if that option was taken. The Head of Finance assured Members that a lot of work had been undertaken on the matter and due to the total number of advantages, on balance, outsourcing was more favourable.

In response to a question from Councillor T Eynon, the Head of Finance confirmed that the peppercorn lease arrangement was a necessary part of the outsourcing agreement.

Councillor T Eynon stated that she was uncomfortable with the proposed arrangements, especially as she would have to explain to constituents that a huge amount of money was being spent on a new leisure centre that we would lease to another service provider in the proposed way.

The Chairman asked if the service providers currently involved in the procurement process were happy with the proposal and open to the peppercorn lease arrangement.

The Head of Community Services confirmed that they were and it would be covered in a report to Cabinet in due course.

It was moved by Councillor R Ashman, seconded by Councillor A C Saffell and

RESOLVED THAT:

Comments made by the Committee regarding the issue of VAT exemption on sporting services be provided to Cabinet and Council when considering the report.

EXTRACT MINUTES of a meeting of the CABINET held in the Board Room, Council Offices, Coalville on TUESDAY, 24 JULY 2018

Present: Councillor R Blunt (Chairman)

Councillors R D Bayliss, T Gillard, T J Pendleton and A V Smith MBE

In Attendance: Councillors R Adams, J Bridges, J Clarke, N Clarke, J G Coxon, D Everitt, T Eynon, J Geary, G Houlst, J Legrys, S Sheahan and M Specht

Officers: Mr J Arnold, Mrs T Bingham, Mrs C Hammond, Mr G Jones, Mrs B Smith and Miss E Warhurst

21. LEISURE VAT IMPLICATIONS

The Head of Finance presented the report to Members.

She advised Members that the report requested that Cabinet recommended to Council that VAT exemption status in respect of the leisure centres was sought and provided the comments of the Policy Development Group in considering the issue. She stated that following a European Court of Justice ruling last year, HMRC had now accepted that sporting services delivered by Local Authorities should be exempt from VAT as was the case already for non-profit making bodies delivering the same supplies and services, and would allow Councils to choose to apply for the exemption status.

She informed Members that if the Council proceeded to apply for exemption status, savings in the region of £250K per annum would be achieved until such time that services were switched to the new leisure provider, following contract award later in the financial year, and adding that in addition, the Council would also be able to reclaim the VAT that had been paid over to HMRC for the past 4 years, equating to approx. £1m. She advised that the original outsourcing business case had been reviewed in light of the new treatment being available and that additional calculations had also been undertaken in response to questions raised by the Labour Group following PDG on 27 June, which had been outlined in the additional confidential paper that had been circulated prior to the meeting to members. She highlighted that exemption status was only favourable if the Council outsourced the leisure centres and that was because, under the exemption in a business-as-usual scenario, significant capital expenditure would breach the HMRC 'test of insignificance' and substantial VAT liabilities would then arise that would outweigh the benefits of exemption. She informed Members that 4 bids had been received from potential operators by close of play on Friday, 20 July and so there was no reason to believe a contract would not be awarded. She advised that the work required to make an application to HMRC would cost approximately £15k.

The Leader invited Councillor S Sheahan to ask his question.

Councillor S Sheahan thanked the Leader for allowing him to ask the question. He asked:-

"Given that the option of keeping Hood Park Leisure Centre in house, with VAT exemption is only £148,000 more expensive on the 25 year NPV position (£6k pa) would the Administration accept that it is worth exploring further the possibility of keeping Hood Park in house?"

Councillor A V Smith provided the following response to the question:-

“I need to make it absolutely clear to Members that the decision to outsource Hood Park and Hermitage Leisure Centres has already been made. This report is in consideration of a change in VAT treatment alone that will bring financial benefits to the council. We have already engaged the market and we are not unravelling this decision. We have 4 strong bidders from a very well established leisure market place who all operate on behalf of Local Authorities in Leicestershire and will all deliver far better outcomes in terms of facilities and community benefit. To separate out Hood Park is completely unfeasible as the business operation in terms of staffing, operational practices, and marketing are intrinsically linked. As stated in the additional paper circulated this evening, the in-house position has declined further since 2016/17 due to the need for future capital expenditure, and reduced revenue in the face of increased competition, and this pattern continues.”

Councillor R Blunt stated that the administration was committed to the route that had been set within the Leisure project and that the reclaimed VAT would be a windfall for the Council to use to its advantage. He stated that had there been no bids received then it would be a different story, however to change the outcomes at such a late stage would make a mockery of the process.

It was moved by Councillor A V Smith, seconded by Councillor R Blunt and

RESOLVED THAT:

1. The contents of the report and the comments of the Policy Development Group be noted and;
2. It be recommended to Council that the application to HMRC be made for exemption on VAT in respect of sporting services provided by the Council.

Reason for decision: To recommend to Council that an application is made to HMRC to seek exemption from charging VAT on sporting services.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – TUESDAY, 11 SEPTEMBER 2018

Title of report	REVIEW OF PENSIONS DISCRETIONS
Contacts	<p>Councillor Richard Blunt 01530 454510 richard.blunt@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 bev.smith@nwleicestershire.gov.uk</p> <p>Head of Human Resources and Organisation Development 01530 454518 mike.murphy@nwleicestershire.gov.uk</p>
Purpose of report	To review the Council discretions in relation to the Local Government Pensions Scheme- (LGPS) to ensure they are fit for purpose.
Implications:	<p>The Council is required to determine its approach to the exercise of various discretionary functions as prescribed in the LGPS.</p> <p>In formulating its policy on Pension provisions, the Council is required by the Regulations to (1) “have regard to the extent to which the exercise of the discretionary powers (in accordance with the policy), unless properly limited, could lead to a serious loss of confidence in the public service; and (2) “be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.”</p>
Financial/Staff	<p>(Regulation 60 LGPS Regulations 2013 and Regulation 14 Local Government (Discretionary Payments)(Injury Allowances) Regulations 2011 and Regulation 7 Local Government (Early Termination of Employment) (Discretionary Compensation)(England and Wales) Regulations 2006</p> <p>The decision made by Cabinet will impact on the future financial retirement arrangements of employees and former employees who are, or have previously been, members of the Leicestershire LGPS</p>
Risk Management	No risks.
Equalities Impact Screening	N/A
Human Rights	N/A
Transformational Government	N/A

Comments of the Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Deputy Monitoring Officer	The report is satisfactory
Consultees	All of the Council's recognised Trade Unions have been given the opportunity to respond to a consultation on the proposals. A supportive response has been received from UNISON, this is attached at Appendix 3.
Background papers	Papers are held in the office of the Head of Human Resources and Organisation Development. (Room 132 Council Offices, Coalville)
Recommendations	THAT COUNCIL ADOPTS THE PROPOSED REVISIONS TO THE PENSIONS DISCRETIONS AS DETAILED IN APPENDIX 1 WITH EFFECT FROM 19 SEPTEMBER 2018.

1.0 BACKGROUND

- 1.1 The Council is required to determine its approach to a number of defined pension provisions in the Local Government Pensions scheme. Some of the pension's discretions can assist both the Council and employees in a variety of situations in redundancy / efficiency situations or as a lead-in to retirement. In formulating its policies on Pension provisions, the Council is required to determine its policy position on a number of defined pensions provisions in the local government pension scheme.
- 1.2 A number of the discretions, if adopted, could lead to significant pension capital costs being incurred by the Council (depending on the age and service of the employee). The proposed discretions have been written to minimise the possibility of the Council facing substantial pension capital costs in the future, but to allow those discretions where there may be a "win-win" situation for the employee and the Council.
- 1.3 There is requirement for the Council to consider each request on a case by case basis, not just in the implementation of a blanket policy. So, whilst the Council has determined its overall policy steer, each case requires the exercise of a general discretion which will also be linked to demonstrable financial or operational benefit. This means that there will be cases where the Council grants an application under one of the policies and cases where the Council declines an application. The relevant decision maker under the Councils constitution is the Chief Executive in her role as Head of Paid Service.
- 1.4 Significant changes were made to the Local Government Pension Scheme in April 2014 which meant the Scheme ceased to be a final salary pension scheme and is now a "Career Average Revalued Earnings" scheme.
- 1.5 A number of changes are proposed to the discretions to allow the Council to have more flexibility to manage partial (flexible) or other retirement situations in circumstances where the Council may seek to manage workforce reductions. Broadening the discretions will

potentially lead to more pension capitalisation costs for the Council, but these will be managed and assessed on a case-by-case basis.

- 1.6 A suggested change detailed below under Regulation 6 would involve an amendment to the Council's Employment Stability Policy. The proposals provide for an enhanced payment to the employee in a voluntary redundancy situation. The proposed change will provide important flexibility to manage future workforce reductions where the employee is not in the pension scheme or has limited service. This will not apply in every redundancy situation as there will be a balanced consideration of pension enhancement possibilities (if applicable) to each individual's circumstances.
- 1.7 We have been advised of a change to the Pensions regulations by the County Council Pensions office on 14 August 2018, after this Pensions discretions report had been considered by the Policy Development Group. This report has been accordingly updated to take account of the further changes, and these are detailed in 4 (a) of Appendix 1.
- 1.8 The new regulations have expanded the period in which many deferred members can claim their pension without the need for employer consent. Since 2014, members who leave and are over age 55 may claim an actuarially reduced pension benefit if they wish *without* the consent of their employer. However this ease of access *was not* extended to those who had already left the pension scheme before 1 April 2014 – until now. It has now been extended to all deferred leavers between 1.4.1998 and 31.3.2014. This new discretion could lead to capital costs being payable by this Council to the pension fund, so each case would be considered on its financial and any other relevant merits.

2.0 COUNCIL PAY POLICY CONSIDERATIONS

- 2.1 Members may recall that the Council was required to produce, under the Localism Act, a Pay Policy Statement. The latest version of this was considered and agreed by Council 20 March 2018. The Pay Policy statement will be updated if the proposals are agreed by Council. If adopted, these discretions will apply to all employees (and in some cases former employees) irrespective of their seniority within the workforce.
- 2.2 It is suggested that the delegation arrangements for decisions in relation to the pensions discretions in this report should remain as previously noted by Cabinet in January 2012, namely that:-

"In line with the current constitutional authority the process of dealing with an application under one of the pension discretions rests with the Head of Paid Service. This function may be delegated by the Head of Paid Service to another officer. Where the Head of Paid Service considers that she is unable to deal with a particular application, for example due to a previous involvement in the case or absence/unavailability, she has decided that she will delegate responsibility for determining the application to a Director or one of the statutory officers. All applications will be considered with appropriate approval from the Head of Human Resources and Organisation Development."
- 2.3 The Pension Discretions outlined in this report replace any previous discretionary policies agreed by the Council. The current policy discretions are attached at Appendix 2 for purposes of comparison.

APPENDIX 1

PROPOSED PENSION DISCRETIONS

1. LGPS Benefits Regulations - Regulation 31: Power of employer to award additional Pension.

Explanation	Proposed Council Policy	Explanation of changes
An employer may resolve to award a member additional pension of not more than £6,822 (figure as at 1 April 2018) a year within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	The Council is prepared to consider the award of additional pension under this regulation if there is a clear financial or operational benefit to the Council.	The wording of this discretion has been broadened to allow greater flexibility to potentially provide for a situation where a retiring employee may benefit from the award of additional pension and there is a clear payback, salary saving or other benefit to the Council.

2 LGPS Benefits Regulations - Regulation 16 (2) (e) and 16 (4) (d): Funding of additional Pension's contributions (shared cost)

Explanation	Proposed Council Policy	Explanation of changes
<p>An active member in the main section of the scheme may enter into an arrangement to pay additional pension contributions (APC's) by regular contributions or a lump sum.</p> <p>Such costs may be funded in whole or in part by the member's scheme employer.</p> <p>The Employer will need to determine a policy on whether it will make a contribution towards the purchase of extra pension.</p> <p>This does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a shared cost APC to cover the amount of pension "lost" during that period of absence. In these cases the employer must contribute 2/3 rds of the cost (Regulation 15 (5) of the LGPS Regulations 2013.</p>	<p>The Council will not fund additional pension unless there is a clear financial or operational benefit to the Council.</p>	<p>No proposed changes</p>

3. LGPS Regulations – Regulation 30 (6) Flexible Retirement

Explanation	Proposed Council Policy	Explanation of changes
<p>An active member who has attained the age of 55 or over who reduces working hours or grade of employment may, with the Scheme Employers consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in Local Government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>As an employer there is a requirement to determine the conditions under which a flexible retirement might be approved.</p>	<p>The Council will take all reasonable steps to accommodate an employees' request for flexible retirement. The Council has agreed to release pension where there is a clear financial or operational benefit to the Council. Under these circumstances the Council may use its discretion to waive any reduction in benefits.</p> <p>Employees will normally reduce their hours by a minimum of 40% and/or reduce their grade.</p>	<p>This discretion has been broadened to allow greater flexibility to potentially provide for situations where employees are not at the point of wanting full retirement but may wish to work part-time to ease themselves into retirement. This can lead to on-going salary savings for the Council if a previously full-time role can be undertaken on a part-time basis. Broadening the discretion may mean there are costs to the Council in paying capital costs associated with the release of the pension, so each case would need to be looked at on its merits.</p>

4. LGPS Regulations 2013 - Regulation (paragraph 1 (1) (c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014: Switching on rule of 85.

Explanation	Proposed Council Policy	Explanation of changes
<p>A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before 60.</p> <p>The employer has the discretion to “switch on” the 85 year rule for such member. (paragraph 1(1) (c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014</p> <p>If the employer does agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before age 60 would have to be met by the employer.</p>	<p>The Council may exercise these discretions if there is a justifiable business case. (E.g. as an alternative to a redundancy situation).</p>	<p>No proposed change</p>

4. (a) Additional new decision required to cover former members who left after 1 April 1998 but before 31 March 2014 regarding Switching on ‘Rule of 85’

Explanation	Proposed Council Policy	Explanation of changes
<p>A former member who has not attained normal pension age (NPA) but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before NPA.</p> <p>The employer has the discretion to “switch on” the 85 year rule for such a member on compassionate grounds.</p> <p>If the employer does agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before NPA would have to be met by the employer.</p> <p>Note: - “compassionate grounds” is not defined in the regulations.</p>	<p>The Council will not normally apply this discretion unless there is a clear financial or operational benefit to the Council.</p>	<p>New discretion –The most recent amendments to the LGPS regulations have expanded the period in which many deferred members can claim their pension without the need for employer consent. Since 2014, members who leave and are over age 55 may claim an actuarially reduced pension benefits if they wish <i>without</i> the consent of their employer. However this ease of access <i>was not</i> extended to those who had already left the pension scheme before 1 April 2014 – until now. It has now been extended to all deferred leavers between 1.4.1998 and 31.3.2014. This new discretion could lead to a capital cost being payable by this Council to the pension fund, so each case would be considered on its merits.</p>

5. LGPS Regulations 2013 – Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

Explanation	Proposed Council Policy	Explanation of changes
<p>An employer has the discretion, under a number of retirement scenarios, to waive actuarial reductions on compassionate grounds.</p> <p>The cost of the pension capitalisation will fall on the Council in such situations.</p> <p>This may be on “compassionate grounds” as an example, which is not defined in the regulations.</p>	<p>In relation to waiving any reduction which may apply on compassionate grounds, the Council may exercise this discretion on a case by case basis if there are exceptional circumstances and there is a clear financial or operational benefit to the Council.</p>	<p>This discretion has been broadened to allow greater flexibility to potentially provide for situations where employees are seeking to take early retirement while maximising their pension benefits.</p>

There are a number of other discretions which Scheme Employers may exercise under the LGPS Regulations 2013 where there is no requirement to have a written policy. However, in the interests of transparency and equal treatment, members approved a consistent approach to the discretions as detailed below:-

1. LGPS Regulations 2013 – Regulation 17 - Shared Cost Additional Voluntary Contribution Facility

Explanation	Proposed Council Policy	Explanation of changes
<p>This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.</p>	<p>The Council has not adopted this discretion.</p> <p>This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.</p>	<p>No change</p>

2. LGPS Regulations 2013 - Regulation 100 (6) – election to transfer within 12 months

Explanation	Proposed Council Policy	Explanation of changes
<p>This discretion allows the Employer to extend the 12 month limit a member has in which to elect to transfer other pension rights into the LGPS. This has to be with the agreement of the Administering Authority</p>	<p>The Council will not normally allow an extension of the 12 month limit</p> <p>Extenuating circumstances may apply and this would include</p> <p>Where evidence exists that an election was made within 12 months but his was not received by the administering authority.</p> <p>Where evidence exists that the member was not aware of the 12 month limit due to maladministration</p>	<p>No changes proposed</p>

3. LGPS Regulations 2013 - Regulation 22 (7) and (8) – election to aggregate within 12 months of commencement

Explanation	Proposed Council Policy	Explanation of changes
<p>This discretion allows the Employer to extend the 12 month time limit a member has within which they must elect not to have deferred benefits aggregated with their new LGPS employment</p>	<p>The Council will not normally extend this 12 month time limit</p> <p>Extenuating circumstances may apply and this would include</p> <p>Where evidence exists that an election was made within 12 months but this was not received by the administering authority</p> <p>Where evidence exists that the member was not aware of the 12 month limit due to maladministration.</p>	<p>No changes proposed</p>

4. LGPS Regulations 2013 - Regulation 21 – assumed pensionable pay.

Explanation	Proposed Council Policy	Explanation of Changes
<p>This discretion allows the Employer to determine whether to include in the calculation of assumed pensionable pay the amount of any “regular lump sum payment”.</p> <p>This is in cases where an employee’s pay needs to be calculated where their pay has been reduced due to certain absences in order that they are not unduly advantaged or disadvantaged.</p>	<p>To determine in individual cases where necessary to establish in a fair, equitable and justifiable way what the members likely pay would have been but for the absence, and in cases where this pay is to be used for future enhancements whether that level of pay would have been received every year to normal retirement age.</p>	<p>No changes proposed.</p>

5. The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Provisions provide local government employers with the powers to consider making a one off lump sum payment to an employee which must not exceed 104 week's pay.

Regulation 5: Power to increase statutory redundancy payments

Explanation	Proposed Council Policy	Explanation of changes
The Employer may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of a week's pay used in the calculation.	The Council uses the actual weekly pay of the employee when calculating redundancy pay and there is no limit.	No change proposed.

6. The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Regulation 6: Discretionary Compensation.

Explanation	Proposed Council Policy	Explanation of changes
A "one off" lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks' pay, inclusive of any redundancy payment made.	<p>Compulsory redundancy The weeks payable determined according to statutory redundancy scheme multiplied by a factor of X 1.5.</p> <p>Voluntary redundancy</p> <p>On a case by case basis, taking into account the potential capital pension costs associated with an individuals' departure, an additional payment of up to 3 months contractual pay in addition to the enhanced redundancy payment.</p> <p>If the total value of pension capital costs and redundancy etc. payments is in excess of £100,000, the decision will be referred to Council for decision.</p>	<p>No change proposed.</p> <p>This is a suggested new provision to help incentivise and progress voluntary redundancies where appropriate for the Council.</p>

APPENDIX 2 - CURRENT PENSIONS DISCRETIONS

PENSION POLICY DISCRETIONS – JUNE 2014

These are the pension policy discretions of North West Leicestershire District Council as confirmed by the Cabinet on 24th June 2014.

1. LGPS Benefits Regulations - Regulation 31: Power of employer to award additional Pension.

Explanation	Council Policy
An employer may resolve to award a member additional pension of not more than £6,500 (figure as at 1 April 2014) a year within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency.	The Council is not prepared to grant any discretionary enhancement under this regulation unless there is a clear financial or operational benefit to the Council.

- 2 LGPS Benefits Regulations - Regulation 16 (2) (e) and 16 (4) (d): Funding of additional Pensions contributions (shared cost)

Explanation	Council Policy
<p>An active member in the main section of the scheme may enter into an arrangement to pay additional pension contributions (APC's) by regular contributions or a lump sum.</p> <p>Such costs may be funded in whole or in part by the member's scheme employer.</p> <p>The Employer will need to determine a policy on whether it will make a contribution towards the purchase of extra pension.</p> <p>This does not relate to cases where a member has a period of authorised unpaid leave of absence and elects within 30 days of return to work to pay a shared cost APC to cover the amount of pension "lost" during that period of absence. In these cases the employer must contribute 2/3 rds of the cost (Regulation 15 (5) of the LGPS Regulations 2013.</p>	The Council will not fund additional pension unless there is a clear financial or operational benefit to the Council.

3. LGPS Regulations – Regulation 30 (b) Flexible Retirement

Explanation	Council Policy
<p>An active member who has attained the age of 55 or over who reduces working hours or grade of employment may, with the Scheme Employers consent, elect to receive immediate payment of all or part of the retirement pension to which that member would be entitled in respect of that employment if that member were not an employee in Local Government service on the date of the reduction in hours or grade, adjusted by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>As an employer there is a requirement to determine the conditions under which a flexible retirement might be approved.</p>	<p>The Council has agreed to release pension where there is no cost and there is a clear financial or operational benefit to the Council. The Council will not waive any reduction in benefits. Employees will normally reduce their hours by a minimum of 40% and/or reduce their grade.</p>

4. LGPS Regulations 2013 - Regulation (paragraph 1 (1) (c) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) regulations 2014:Switching on rule of 85.

Explanation	Council Policy
<p>A member who has not attained normal pension age but who has attained the age of 55 or over, may elect to receive immediate payment of a retirement pension in relation to an employment if that member is not an employee in local government service in that employment, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State.</p> <p>In these circumstances (other than flexible retirement) the 85 year rule does not automatically apply to members who would otherwise be subject to it who choose to voluntarily draw their benefits on or after age 55 and before 60.</p> <p>The employer has the discretion to “switch on” the 85 year rule for such member.</p> <p>If the employer does agree to switch back on the rule of 85, the cost of any strain on the fund resulting from the payment of benefits before age 60 would have to be met by the employer.</p>	<p>The Council will not apply either discretion unless there is a clear financial or operational benefit to the Council (e.g. as an alternative to a redundancy situation).</p>

5 LGPS Regulations 2013 – Regulation (paragraph 2(1) of Schedule 2 to the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

Explanation	Council Policy
<p>An employer has the discretion, under a number of retirement scenarios, to waive actuarial reductions on compassionate grounds.</p> <p>The cost of the pension capitalisation will fall on the Council in such situations.</p> <p>This may be on “compassionate grounds” as an example, which is not defined in the regulations.</p>	<p>The Council will not apply either discretion unless there are exceptional circumstances and there is a clear financial or operational benefit to the Council.</p>

There are a number of other discretions which Scheme Employers may exercise under the LGPS Regulations 2013 where there is no requirement to have a written policy. However, in the interests of transparency and equal treatment, members approved a consistent approach to the discretions as detailed below:-

1. LGPS Regulations 2013 – Regulation 17 - Shared Cost Additional Voluntary Contribution Facility

Explanation	Council Policy
<p>This discretion allows the Employer to maintain and contribute to an employee's Additional Voluntary Contribution Scheme.</p>	<p>The Council has not adopted this discretion.</p> <p>This will not have any effect on the existing AVC facility available where the employee only is able to make such contributions.</p>

2. LGPS Regulations 2013 - Regulation 100 (6) – election to transfer within 12 months

Explanation	Council Policy
<p>This discretion allows the Employer extend the 12 month limit a member has in which to elect to transfer other pension rights into the LGPS. This has to be with the agreement of the Administering Authority</p>	<p>The Council will not normally allow an extension of the 12 month limit</p> <p>Extenuating circumstances may apply and this would include</p> <ul style="list-style-type: none"> • Where evidence exists that an election was made within 12 months but his was not received by the administering authority. • Where evidence exists that the member was not aware of the 12 month limit due to maladministration

3. LGPS Regulations 2013 - Regulation 22 (7) and (8) – election to aggregate within 12 months of commencement

Explanation	Council Policy
<p>This discretion allows the Employer to extend the 12 month time limit a member has within which they must elect not to have deferred benefits aggregated with their new LGPS employment</p>	<p>The Council will not normally extend this 12 month time limit</p> <p>Extenuating circumstances may apply and this would include</p> <ul style="list-style-type: none"> • Where evidence exists that an election was made within 12 months but this was not received by the administering authority • Where evidence exists that the member was not aware of the 12 month limit due to maladministration

LGPS Regulations 2013 - Regulation 21 – assumed pensionable pay.

Explanation	Council Policy
<p>This discretion allows the Employer to determine whether to include in the calculation of assumed pensionable pay the amount of any “regular lump sum payment”.</p> <p>This is in cases where an employee’s pay needs to be calculated where their pay has been reduced due to certain absences in order that they are not unduly advantaged or disadvantaged.</p>	<p>To determine in individual cases where necessary to establish in a fair, equitable and justifiable way what the members likely pay would have been but for the absence, and in cases where this pay is to be used for future enhancements whether that level of pay would have been received every year to normal retirement age.</p>

4. The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Provisions provide local government employers with the powers to consider making a one off lump sum payment to an employee which must not exceed 104 week's pay.

Regulation 5: Power to increase statutory redundancy payments

Explanation	Council Policy
The Employer may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of a week's pay used in the calculation.	The Council uses the actual weekly pay of the employee when calculating redundancy pay and there is no limit.

5. The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Regulation 6: Discretionary Compensation.

Explanation	Council Policy
A "one off" lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks' pay, inclusive of any redundancy payment made.	Redundancy weeks payable determined according to statutory redundancy scheme multiplied by a factor of X 1.5.

APPENDIX 3. RESPONSE TO THE CONSULTATION FROM THE UNION UNISON



North West Leicestershire Branch
Council Offices
Coalville
Leicestershire
LE67 3FJ

16 July 2017

FAO Mike Murphy
Head of Human Resources & Organisation Development
North West Leicestershire District Council
Council Offices
Coalville
Leicestershire
LE67 3FJ

Dear Mike

Review of Pension Discretions

Further to the consultation documents received by myself on 27 June 2018. We have consulted with our members and with branch officers and we wish to make the following comments and observations.

Regarding item 3 of the Proposed Pension Discretions the branch already identifies that we have a changing workforce where there is a requirement for employees work longer before being able to retire. Not only does this put a strain on the employee but families as a whole. Ageing employees now have the added responsibilities and care commitments from not only grandchildren but caring for elderly parents and in some cases spouses. We have seen this across the council where staff are struggling to cope with the demands and balancing family and work life.

The branch would encourage the authority to offer flexibility in pension arrangements for its members and the workforce as a whole. Providing the option for reducing the number of hours the employee works but also being able to draw upon their pension not only enables the employee to enjoy their semi-retirement but it also opens up employment opportunities internally and externally.

Regarding item 7 and Regulation 6, Discretionary Compensation, the branch is pleased that the employer proposes that there is more flexibility around voluntary redundancy in a time where staffing reductions may have to take place over coming years, introducing an incentive where staff entering their final stages of employment are provided with viable options to take voluntary redundancy without this having an detrimental impact on their final pension scheme plan.

UNISON would ask that we be consulted on any proposed workforce reductions in the future.

Thank you for giving the branch the opportunity to consult on these papers and the branch commits to working with you in the future on policy review and restructures.

Yours sincerely

Catherine Ridgway
UNISON Branch Secretary

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**COUNCIL – TUESDAY, 11 SEPTEMBER 2018**

Title of report	UPDATE ON COUNTY COUNCIL'S INTENTION TO CONSIDER UNITARY PROPOSALS AND A STRATEGIC ALLIANCE FOR THE EAST MIDLANDS
Contacts	Chief Executive 01530 454500 Bev.smith@nwleicestershire.gov.uk
Purpose of report	To note and consider the County Council's intentions to consider unitary proposals and a strategic alliance for the East Midlands.
Council priorities	Value for Money
Implications:	
Financial/Staff	Work on the financial and staffing implications will form part of the wider discussions and negotiations. Initial work will be funded through existing budget provision. There will be resource and capacity issues associated with both the assessment of any proposal and/or the development of alternative proposals and these will be presented to Cabinet for approval in due course.
Link to relevant CAT	None.
Risk Management	Risks and mitigations are identified and addressed in the Communications Plan.
Equalities Impact Screening	Not required at this stage however a full Equality Impact Assessment would be completed for any detailed proposals.
Human Rights	None discernible.
Transformational Government	Not applicable.
Comments of Head of Paid Service	As author, report is satisfactory
Comments of Section 151 Officer	Report is satisfactory

Comments of Monitoring Officer	Report is satisfactory
Consultees	None.
Background papers	None
Recommendations	TO NOTE THE COUNTY COUNCIL'S INTENTION TO DEVELOP PROPOSALS FOR UNITARY GOVERNMENT AND EAST MIDLANDS STRATEGIC ALLIANCE

1.0 CONTEXT AND BACKGROUND

1.1 On 6 July 2018 Leicestershire County Council Cabinet met to consider a report on local government reform in Leicestershire. This followed a decision of the Conservative Group to agree in principle that the County Council should develop proposals for a unitary structure for Leicestershire. The report is attached as Appendix A and provides a framework and timetable for the consideration of the proposals.

1.2 This report seeks to:

- Set out the proposed actions and governance timetable to facilitate North West Leicestershire's response to the County Council proposals;
- Set out the council's approach to communication and consultation with North West Leicestershire's communities, stakeholders and partners;
- Identify the initial actions that will need to be taken to ensure that any future proposals either by the County Council or by District Councils are robustly assessed to inform members in their future decision making.

1.3 Government finances continue to reduce year on year with particular pressures on health and social care budgets and local authorities face future uncertainty with the outcome of the fair funding review and business rate changes. Public sector reform is a live debate in many areas of the country and can provide an opportunity to look at new collaborative proposals to improve how local government works within our localities. District Councils are closely connected to their communities and can contribute to improving the sustainability of health and social care provisions through close effective partnerships. However with funding forecasts for all tiers of local government post 2020/2021 being particularly challenging there is a clear driver for reviewing the current arrangements to ensure local government is sustainable and can continue to deliver quality services for our communities.

The Council will need to robustly assess any future proposals for change considering not only the potential financial benefits, but also

- Place – community
- Scale – impact on customer service and accessibility
- Geography
- Democratic accountability
- The need and consensus of the community
- Economic Functioning areas - Impact on economic growth within Leicestershire
- Linkages to wider strategic economic partnerships/alliances

2.0 PUBLIC SECTOR REFORM MODELS AND UNITARY PROPOSALS

2.1 There are a number of different models operating within the UK from the traditional County/Unitary two tier model to more collaborative district and unitary models. There are also a number of areas that have taken the decision to review local government structures, led by both County Council and District Council. These examples will provide useful case studies for North West Leicestershire in its considerations and assessment of proposals. Previous guidance from Government back in 2016 was that:

‘where an area has plans for its governance arrangements to be changed and proposes this to the Secretary of State, it must provide evidence as to how its proposals are likely to result in the provision of better local public services, significant cost savings, greater value for money, stronger and more accountable local leadership, and sustainability in the medium to long term. It is of course open to any body or person to make representations to the Secretary of State either in support of or in opposition to such proposals. As we have made clear during discussions with areas, whilst size is an important consideration for areas considering governance changes, there is no maximum or minimum permitted sizes.’

2.2 Despite the statement that there was no maximum or minimum size, DCLG had however indicated in response to the proposals from Dorset for reorganisation that they regarded the minimum size for a unitary to be around 300,000 population and a maximum of around 700,000.

2.3 Since then the government has produced statutory guidance under the Local Government and Public Involvement in Health Act 2007 by the then Secretary of State Savid Javeed, in relation to the Northamptonshire situation and the invitation on 27 March 2018 to the Northamptonshire councils to submit proposals for unitary government. Whilst this related to the situation in Northampton, it is likely that similar criteria would be applied to any other proposals which would come forward from areas.

In particular the guidance states:

A proposal should seek to achieve for the area concerned the establishment of a single tier of local government that is the establishment of unitary authorities;

- a. Which are likely to improve the local government and service delivery across the area of the proposal, giving greater value for money, generating savings, providing stronger strategic and local leadership, and which are more sustainable structures;*
- b. Which command a good deal of local support as assessed in the round overall across the whole area of the proposal; and*

- c. *Where the area of each unitary authority is a credible geography consisting of one or more existing local government areas and having a substantial population that as a minimum is substantially in excess of 300,000.*

2.4 In addition in a parliamentary question asked on 18 April about the unitary councils the Minister Rishi Sunak MP replied:

'the Secretary of state has issued this guidance including population size, having regard to past reorganisations, the Northamptonshire County Council Best Value Inspection Report of March 2018 and research, including that from the County Council's Network in 2016 into lessons from previous unitarisation which found that the scale of the unitary was key, with larger authorities able to deliver economies of scale while smaller unitary councils were more likely to be less reliant'

2.5 As we await the publication of the County Council's proposals, business case and details of the types of models that are proposed, North West Leicestershire members will need to consider the risks, costs, benefits and opportunities that public sector reorganisation affords and the direct impact on the communities of North West Leicestershire. It is likely that we will need to consider a number of different models

- Remaining as a multiple tier local government (Parish/Town, District and County)
- One County Unitary model
- A combination of a number of Unitary models across Leicestershire – taking account of the government guidance with regards to the preferred population size for any unitary it is likely that consideration would need to be given to a two unitary model either North/South or East/West.
- Greater collaborative models involving District Council mergers

3.0 STRATEGIC ALLIANCE

3.1 In consideration of any proposal the council will also need to take account of the wider partnership framework that exists within the East Midlands. There is a clear reference within the County Council report to the ongoing work investigating the opportunities that a Strategic Alliance would have for Leicestershire, Lincolnshire, Nottinghamshire and Derbyshire. Enhanced collaboration at this level could provide a unified strong voice promoting and delivering economic growth across our region.

3.2 The Leader of the County Council is on the record as saying that he feels it is important for a Strategic Alliance to be formed in the East Midlands to counter the influence which the West Midlands has through its Combined Authority and Elected Mayor, such influence being evident in Government funding allocations and devolved responsibilities. The Leader of the County Council has said that he has met with Leaders of the other Upper Tier Councils in the East Midlands with a view to progressing an Alliance, first through discussion with the Secretary of State for Housing, Communities and Local Government.

3.3 It is not yet known how a Strategic Alliance would operate and what would be the most effective and efficient way to deliver the aspirations, and how this would influence future public sector reform proposals. This would need to be a consideration of the Council when the final proposals are shared.

4.0 PROPOSED INITIAL ACTIONS

4.1 To support the Council in its response officers have undertaken the following work:

- Initiated a communication strategy for internal and external use
- Set up an in house project team led by the Chief Executive to oversee the possibility of local government reorganisation and all that arises from it. This project team will consist of officers with legal, financial, communication, community and organisational development specialisms
- Taken external legal advice in order to inform the Council on the statutory stages for any local government reform and relevant statutory instruments
- Commenced discussions with Leicestershire's District Council Leaders and Chief Executives on the current proposals

4.2 The intention is to engage with the County Council Leader and Chief Executive as soon as the proposals are published.

4.3 There is likely to be a need to commission further work, either to consider the County Council proposal or to consider alternative proposals to ensure that members have a robust analysis of all options. Initial work will be funded through existing resources and budgetary provision with the approval to find further expenditure for 2018/2019 sought from Cabinet as necessary. There will be resource and capacity issues associated with both the assessment of any proposal and/or the development of alternative proposals.

5.0 COMMUNICATION AND ENGAGEMENT

5.1 It is important that, as the proposal progresses through the various decision-making stages, we keep our stakeholders – including staff, members and partners - well informed of the current NWLDC position and decisions made by other authorities, including Leicestershire County Council.

5.2 A communications and engagement plan has been drafted to ensure good communication throughout the process. This is attached as Appendix B. This is an evolving document that will be used to guide our communication as the process develops.

5.3 The Key Communication Messages are as follows:

- The idea of unitary authorities is not new – other authorities have investigated the possibility and some have gone through the process
- The proposal for Leicestershire is in its very early days
- NWLDC would like more evidence and investigation into the options before it decides which option it will support
- NWLDC will not dismiss any model until we assess the evidence showing benefits and risks for North West Leicestershire communities
- Any decision made by NWLDC on this will be in the best interests of people living and working in North West Leicestershire
- Our focus will be to continue to provide quality services to our community

- We will engage and communicate with our community, key stakeholders and partners in an open and transparent way to help explain and demystify any proposals to change the way local government works in Leicestershire

5.4 It will be necessary to review the schedule of meetings to ensure that there is robust scrutiny of any proposals and timely decision making to respond to the initial consultation on the proposals. NWLDC staff will receive regular updates via the intranet, staff emails, staff roadshows and communication with managers. This is imperative to reassure staff and ensure adequate engagement opportunities during a potentially unsettling period of time.

5.5 North West Leicestershire residents will also be a priority; we will use all the communication tools and networks available to us to ensure they are well informed and have the opportunity to engage with the process and inform our decision making. For example, any consultation held by Leicestershire County Council will be promoted throughout all our internal and external networks, as well as on the NWLDC website and social media channels.

Our Key principles applied to all communication on this matter will apply:

- We will communicate with the right people at the right time in the right way.
- We will make members and staff know of upcoming progress and decision points ahead of time.
- Following decisions or progress, we will update staff and members at the earliest opportunity with an overview and the NWLDC position.
- We will liaise with the media in an open and transparent way to ensure NWLDC's position is clear and residents are made aware.
- We will share information from ourselves and other authorities on the matter using all our communication tools, including social media and our website.

5.6 In consultation with the Leader of the Council we have issued an initial press statement which confirms the current position and the need to have an 'open mind' to all proposals for reorganisation with the primary aim being that any move away from the current structures would need to be for the benefit of the communities in North West Leicestershire. The relationship with our District Council and City and County Council partners is vital in delivering effective and co-ordinated services to our residents. We recognise the importance of maintaining regular communication with the joint leaders throughout the coming months.

5.7 Following a meeting of District Council leaders on the 30th August a communication strategy covering all seven districts will be developed ensuring consistent and co-ordinated communication of key messages to the community, stakeholders and partners setting out the collaborative work that will be undertaken by District Councils in reviewing all options for public sector reform. This strategy will recognise the sovereignty of each District and link into our own communication plans.

6.0 PROCESS FOR PUBLIC SECTOR REFORM

6.1 The power to enact a 'Merger' of either Districts or District/County is derived from the Local Government and Public Involvement in Health Act 2007 as amended by the Cities and Local Government Devolution Act 2016 and the process would in outline involve:

- The Councils internally setting out their proposals for the merger (e.g. its benefits, reasoning, impact assessments, new constitutional structure, boundaries, business case and so on) and developing proposals which would be the subject of consultation.
- The Councils engaging and consulting with the public, stakeholders, bodies and organisations within their area in respect of the proposed Merger, ensuring that proposals are effectively communicated. Discussions with government would also be recommended.
- The proposals being developed following the consultation by the Councils which includes how through the merger the criteria would be satisfied and so outlines the benefits which would accrue
- An agreement to proceed with the proposals through simultaneous Cabinet meetings would need to be made. Whilst it is an Executive function the Leader has indicated that full member engagement would be essential through Full Council prior to the final decision made by Cabinet.
- The councils securing delegated authority for the necessary officers (usually the Chief Executive) to act and enable the Secretary of State to make regulations under the 2016 Act enabling re-organisation to take place
- The submission of the merger proposals to the Secretary of State
- A consultation and representation period by the Secretary of State
- A decision by the Secretary of State to accept or decline the proposed merger
- If accepted, proceeding with Modification of Boundary Change Enactments Regulation and Local Government Changes Order (which relates to the governance, member appointment, electoral matters, transitional duties and so on)

6.2 Whether the proposal was to create new district councils by the merger of two or more councils, or to create a unitary between a county and districts the process outlined above would apply. Reorganisations tend to also put transitional duties on the councils involved requiring them to take necessary steps for the further transfer of functions, property, rights and liabilities and to co-operate with each other to further the purposes of the reorganisation Order.

7.0 LEICESTERSHIRE DISTRICT COUNCILS CONSIDERATIONS

7.1 The District Leaders have met and considered the County Council report and issued a press release which confirms their intention to look at all options of public sector reform in addition to the one County Unitary option. At a meeting of District Leaders which took place on 30 August all Districts agreed to work collaboratively to investigate fully the options available for public sector reform in Leicestershire.

7.2 Lessons from other areas where public sector reform is being considered, or has been implemented, show that in order for change of this nature to be effective, change should start with greater collaboration where there is an effective and trusting relationship between all sectors of public sector delivering services to our communities. Its is important that all partners are fully engaged and involved in the development of options where the proposals include significant change to the way local services will be delivered across Leicestershire.

A further update will be provided at the Council meeting on the work agreed by the District Councils

8.0 LEICESTERSHIRE COUNTY COUNCIL PROCESS

8.1 The details of the County Council proposals are currently unknown, however through press statements it is likely that the County are only considering one option in detail that of a single unitary county. The County Council cabinet on the 6 July approved the following recommendations:

- (a) The Chief Executive and Director of Corporate Resources be requested to work with counterparts in the region in the development of a Strategic Alliance for the East Midlands;
- (b) Work be undertaken on the development of a unitary structure for local government in Leicestershire;
- (c) The following timetable for consideration of the above be approved:-

Cabinet	16 October	to consider outline proposals and agree to engage with stakeholders on options
Scrutiny Commission	14 November	to comment on the outline proposals
Cabinet	23 November	to consider the outcome of stakeholder engagement and the way forward

Council	5 December	to debate the proposed way forward
---------	------------	------------------------------------

- 8.2** We are advised that any proposals would need, to be the subject of extensive consultation to satisfy the requirements set out by the Secretary of State. In order to evidence that the proposals commanded a ‘good deal of local support’ the local public and stakeholders would need to have been given the opportunity to consider the proposals and give their views.
- 8.3** Time must be allowed for full comprehensive and meaningful consultation; for example, during the Dorset reorganisation the period allowed for public consultation was from 30 August to 25 October 2016; with the proposals considered then by the councils in December and the decision as to which option to pursue made in January 2017.
- 8.4** In Dorset, the consultation was on a set of different options, which included 4 different options: one for a single unitary and then three permutations creating two unitary councils. All options had been developed by the councils working together. These were consulted upon together and in the Order made by the Secretary of State the process of consultation was referred to in some detail in accordance with the Cities and Local Government Devolution Act. This requires the Secretary of State to include in his report which makes the Order, a description of any consultation he has taken into account; together with any representations considered and other evidence of contextual information.
- 8.5** In the absence of any engagement or information sharing between the County Council and District Council to date it is clear that the timetable as published will make any meaningful consideration of the proposal challenging and will undermine the ability of the District Council to fully consider the implications and respond in a timely manner.
- 8.6** However, the schedule of meetings has been amended to ensure that there is an opportunity to scrutinize the County Council proposals after they are published on the 16 October and prior to the County Council Cabinet considering the outcome of stakeholder engagement on the 23 November.
The schedule of meetings is as follows:
- Policy Development Group 5 November
 - Council 13 November
 - Cabinet 14 November
- 8.7** A meeting has also been arranged with the Leader and Chief Executive of the County Council in early September to discuss the County’s proposals and timeframes.
- 9.0 LEGAL ISSUES**
- 9.1** As the process described above progresses, members will be asked to vote on various options for reorganisation. Given the subject matter, members are advised to carefully consider their eligibility to take part in such votes. Appendix B contains a legal briefing note on issues of interests, bias and predetermination that arise in this situation. This note sets out the overarching legal principles and has been prepared with the input of Monitoring Officers from all of the district councils in the county. That said, each individual council and

each individual member will need to apply the overarching principles to their own circumstances. Members who are also elected to the County Council have already had individual advice from the Monitoring Officer. If any member requires advice on the matter, please contact the Monitoring Officer.



CABINET – 6TH JULY 2018

REPORT OF THE CHIEF EXECUTIVE

EAST MIDLANDS STRATEGIC ALLIANCE AND UNITARY GOVERNMENT IN LEICESTERSHIRE – TIMETABLE FOR CONSIDERATION

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet, following the decision of the Conservative Group to agree in principle that the County Council should develop proposals for a unitary structure for Leicestershire, of the timetable for consideration of these matters.

Recommendation

2. It is recommended that -
 - (a) The Chief Executive and Director of Corporate Resources be requested to work with counterparts in the region in the development of a Strategic Alliance for the East Midlands;
 - (b) Work be undertaken on the development of a unitary structure for local government in Leicestershire;
 - (c) The following timetable for consideration of the above be approved:-

Cabinet	16 th October	to consider outline proposals and agree to engage with stakeholders on options
Scrutiny Commission	14 th November	to comment on the outline proposals
Cabinet	23 rd November	to consider the outcome of stakeholder engagement and the way forward
County Council	5 th December	to debate the proposed way forward recommended by the Cabinet.

Reasons for Recommendations

3. To provide a framework and timetable for consideration of proposals for a unitary structure for Leicestershire in the context of a Strategic Alliance for the East Midlands.

Timetable for Decision (including Scrutiny)

4. The Leader has discussed with the Leaders of the Opposition Groups the question of scrutiny consideration of the proposals and it has been agreed that they will be considered by the Scrutiny Commission and the scrutiny committees. As per the proposed timetable in paragraph 2(c) above, it is proposed that the Scrutiny Commission consider the proposals at its meeting on 14th November 2018 with the timetable of meetings for scrutiny committees to be considered further.

Policy Framework and Previous Decisions

5. In November 2015 the Cabinet considered a report on the proposed establishment of a Combined Authority for Leicester and Leicestershire, comprising the County Council, Leicester City Council and the seven district councils. The proposal was submitted to the Government in December 2015. Despite widespread local support, this proposal was considered ‘unambitious’ by the Government, which indicated that it was looking for an arrangement which would make a greater impact on regional economic growth as advocated by some MPs and representative bodies of commerce and industry.
6. A letter has been sent from the Leaders of Leicestershire, Nottinghamshire, Derbyshire and Lincolnshire to the Secretary of State, seeking a meeting to discuss the proposed East Midlands Strategic Alliance.

Resource Implications

7. In 2013 the Council commissioned Ernst and Young (EY) to report on unitary local government. All members of the County Council and the District Council Leaders were provided with a copy of that report. The cost of that work was reported to the Council in February 2014 as £45,000. The Leader asked officers to review the EY report and the consideration which has been given to unitary status by other County Councils. That work was undertaken within existing budgets. Further work will now be undertaken on this matter with a view to reporting the outcome to the Cabinet in October. It is anticipated that work will be undertaken within existing budgets.

Legal Implications

8. Matters now under consideration are deemed to be ‘Executive Functions’ and therefore for the Cabinet to determine. However, given the significance of the decision it is advised that the matter should be referred to the full Council for consideration and debate, as is the wish of the Leader of the County Council.

The Director of Law and Governance has been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

9. As this is a matter which will affect all areas of the County, a copy of this report is being circulated to all members of the County Council.

Officer to contact

Mo Seedat
Head of Democratic Services
Tel 0116 305 6037 Email – mo.seedat@leics.gov.uk

PART B

Background

10. The Leader of the Council has advised that at a meeting of the Conservative Group on Tuesday, 26th June 2018 a decision was taken to agree in principle that the County Council should develop proposals for a unitary structure for Leicestershire. This was in the context of developing a Strategic Alliance for the East Midlands to counterbalance the growing power and influence of the West Midlands Combined Authority.

Next Steps

11. At the request of the Leader, officers of the County Council will work with counterparts in Derbyshire, Nottinghamshire and Lincolnshire County Councils to develop a Strategic Alliance and the powers it would be seeking as part of a devolution agreement with the Government. The three unitary cities in the East Midlands will be consulted along with other stakeholders including MPs and the LEPs. With regard to proposals for a unitary structure officers will now build on the initial work undertaken and draw up proposals for consultation. The outcome of this work will be reported to the Cabinet in October.

Equality and Human Rights Implications

12. In developing the proposals for a Strategic Alliance and proposals for a unitary structure, officers will need to have regard equality issues and how the proposals might impact on those groups with protected characteristics.

Background Papers

Media release Friday, 29th June

<https://www.leicestershire.gov.uk/news/right-time-to-start-'new-council'-conversation>

Report to the Cabinet 18th November 2015 - "Combined Authority" and minutes of that meeting

<http://politics.leics.gov.uk/ieListDocuments.aspx?CIId=135&MID=4232>

CABINET

FRIDAY, 6 JULY 2018

DECISIONS

Published on: Monday 9 July 2018

Set out below is a summary of the decisions taken at the meeting of the Cabinet held on Friday, 6 July 2018. The wording used does not necessarily reflect the actual wording which will appear in the minutes.

The Constitution allows for the call-in of non-urgent Key Decisions. Action to implement these decisions will be taken on the expiration of 5 working days from the date of this decision sheet unless they have been called-in. This document will be amended as soon as a decision has been called in.

If you have any queries about any matters referred to in this decision sheet please contact Anna Poole (Tel. 0116 305 2583).

ITEM 20

URGENT ITEM - EAST MIDLANDS STRATEGIC ALLIANCE AND UNITARY GOVERNMENT IN LEICESTERSHIRE.

- (a) That the Chief Executive and Director of Corporate Resources be requested to work with counterparts in the region in the development of a Strategic Alliance for the East Midlands;
- (b) That work be undertaken on the development of a unitary structure for local government in Leicestershire;
- (c) That the following timetable for consideration of the above be approved:-

Cabinet 16th October	to consider outline proposals and agree to engage with stakeholders on options.
Scrutiny Commission 14th November	to comment on the outline proposals.
Cabinet 23rd November	to consider the outcome of stakeholder engagement and the way forward.
County Council 5th December	to debate the proposed way forward recommended by the Cabinet.

REASONS FOR DECISION:

To provide a framework and timetable for consideration of proposals for a unitary structure for Leicestershire in the context of a Strategic Alliance for the East Midlands.

Unitary authority proposal NWLDC communications plan

V1

Last updated: 20 July 2018

Background

- In June 2018, Leicestershire County Council's (LCC) Conservative Group agreed in principle that LCC should develop proposals for a unitary structure for Leicestershire
- The implications of public sector reform proposals are complex and there is a need to ensure regular, clear communication to our staff, members, community and stakeholders and partners from the outset of the proposal through to a decision
- A communications and engagement plan has been drafted to ensure good communication throughout the process. This is an evolving document that will be used to guide our communication as the process develops
- This version of the communications plan focusses on responding to the County Council proposals and will develop as the project progresses.

Key messages (as at July 2018)

1. The idea of unitary authorities is not new – other authorities have investigated the possibility and some have gone through the process
2. The proposal for Leicestershire is in its very early days
3. NWLDC would like more evidence and investigation into the options before it decides which option it will support
4. NWLDC will not dismiss any model until we assess the evidence showing benefits and risks for North West Leicestershire communities
5. Any decision made by NWLDC on this will be in the best interests of people living and working in North West Leicestershire
6. Our focus will be to continue to provide quality services to our community
7. We will engage and communicate with our communities, key stakeholders and partners in an open and transparent way to help explain and demystify any proposals to change the way local government works in Leicestershire

* **(All subject to change as NWLDC develops its position):**

Spokespeople

Councillor Richard Blunt – Leader of NWLDC

As the political lead, Councillor Blunt will be the main spokesperson and will carry out the majority of media interviews and other publicity opportunities

Councillor Alison Smith MBE, Deputy Leader of NWLDC

As Deputy Leader, Councillor Smith will be quoted and will carry out media interviews where Councillor Blunt is not available

Bev Smith – Chief Executive

As the project lead, Bev will also be available for media interviews and publicity opportunities where the councillor is unavailable, or where the nature of the interview requires particular technical knowledge. Bev will be the person responsible for communicating with staff and members.

Objectives

- To remain well briefed on the project and feed information to the right people at the right time
- To be clear internally and publically about NWLDC's position
- To ensure our key partners in the district councils and LCC / Leicester City Council understand NWLDC's position at any given time
- To keep all stakeholders well informed about the process and progress, with particular emphasis on staff communication – ensuring they are well informed and reassured throughout the process
- To share information from partners with all stakeholders in North West Leicestershire
- To ensure residents, staff, members and other stakeholders are well informed and have the opportunity to take part in consultations

Scope, tools and evaluation

Scope

- Proactive communication with staff and members
- Proactive communication with partners and stakeholders
- Proactive communication with the media
- Responsive communication to media and individual enquiries
- Sharing partner information (e.g. consultation details) using NWLDC communication tools (e.g. social media channels) and networks (e.g. parish liaison group)

Communication tools

- Internal i-Net articles
- i-Net blogs
- Staff Roadshows
- Staff FAQs
- Member bulletin
- Media statements
- News releases
- Website
- Social media

Evaluation

Outputs monitored

- Number of news releases
- Number of media statements
- Number of staff updates
- Number of member updates
- Amount of social media activity

Messages received

- Media coverage and social media activity is accurate and balanced / positive

Messages understood

- Misinformation is minimised
- People understand NWLDC's position

Communication principles

We will communicate with the right people at the right time in the right way.

We will make members and staff know of upcoming progress and decision points ahead of time.

Following decisions or progress, we will update staff and members at the earliest opportunity with an overview and the NWLDC position.

We will liaise with the media in an open and transparent way to ensure NWLDC's position is clear and residents are made aware.

We will share information from ourselves and other authorities on the matter using all our communication tools, including social media and our website.

Key dates

Tuesday 16 October: LCC Cabinet to consider outline proposals

Tuesday 16 October: NWLDC Cabinet to meet to consider outline proposals (later start time)

Tuesday 13 November: NWLDC Cabinet meeting (may be rearranged)

Tuesday 13 November: NWLDC Full Council meeting to consider outline proposals and LCC decision

Wednesday 14 November: LCC Scrutiny Commission to comment on outline proposals

Friday 23 November: LCC Cabinet to consider stakeholder engagement and agree way forward

Wednesday 5 December: LCC Full Council to agree way forward recommended by Cabinet

Tuesday 11 December: NWLDC Cabinet to meet to discuss decision made by LCC

Early 2019: LCC proposed full public consultation on more detailed proposals

May 2021: LCC suggested implementation date (when LCC elections are due to be held)

Risks

Risk

Staff morale, recruitment and retention is negatively impacted due to level of uncertainty.

Members do not understand the process and feel disengaged in consideration of any proposals.

Lack of information or two way communication between NWL officers / members and authorities proposing public sector reform leads to misrepresentation of information to members impacting on final decision making process.

Mitigation

Internal communication plan developed and implemented at all key decision points. Staff FAQs developed and publicised. 'Open door' policy for staff who have questions.

Senior management / politicians to stay close to the project to remain aware of progress.

Communication plan in place with key dates scheduled. Regular, consistent communication around decision making meetings (e.g. LCC Cabinet, Full Council).

Opportunities for scrutiny at key decision points through Policy Development Committee.

Open and transparent communication with the LCC and district councils through leaders meetings and 1-2-1 meetings.

Risks

Risk

Lack of understanding of NWL position leads to misunderstanding amongst partner organisations which in turn negatively impacts future relationships.

Partner organisations work independently and NWLDC is kept out of the loop on information

77

Leaked information leads to misunderstanding of NWLDC position

Members / staff hear about progress with the proposal before hearing NWLDC position

Mitigation

Open and transparent communication of NWL position and considerations at key points.

Regular communication with district leaders and LCC / City leaders as appropriate.

Senior management / politicians to stay close to the project to remain aware of progress.

Good links with Communications Team to ensure responsiveness to any issues.

Senior management / politicians to stay close to the project to remain aware of progress.

Good links with Communications Team to ensure responsiveness to any issues.

Latest position statement always in draft form ready to issue if necessary.

Senior management / politicians to stay close to the project to remain aware of progress.

Communication plan in place with key dates scheduled. Regular, consistent communication around decision making meetings (e.g. LCC Cabinet, Full Council)

This page is intentionally left blank

Dated 29 August 2018

Chief Executive

Legal Briefing Note

relating to Interests, Bias and Predetermination of Members when considering proposals for local government reorganisation in Leicestershire

1. Background

- 1.1 Leicestershire County Council (**County**) is in the process of drawing up proposals for the reorganisation of local government in Leicestershire. County's stated preference is for the county's district councils to join with County to form a Unitary Authority.
- 1.2 The process set out by County in its cabinet report dated 6 July 2018 indicates a number of meetings to be held by County (both at cabinet and full council level) at which proposals will be considered and decisions made. District Councils are planning their own series of meetings to run alongside County's timetable. In order to ensure that all decisions are properly made, so as to reduce the risk of challenge by way of Judicial Review, all elected members of the various districts will need to carefully consider their eligibility to take part in these decisions. In particular, members who are elected both to County and a district council (**Dual-Hatted Members**) will need to consider questions of interests, bias and predetermination.
- 1.3 The specific situation of each individual member will depend on a number of factors, including:
 - 1.3.1 The proposals set out by County;
 - 1.3.2 The decision that members are being asked to make at a particular meeting;
 - 1.3.3 Whether they are a Dual-Hatted Member;
 - 1.3.4 Any votes they have cast as member of another council;
 - 1.3.5 Any public statements that each member has made previously.
- 1.4 This note sets out the underlying law in relation to interests, bias and predetermination that all members will need to consider before taking part in any decision relating to local government reorganisation. The specific situation of any particular member is beyond the scope of this note but the Monitoring Officer is available to provide assistance to any member who requires help in applying these principles to their particular situation.

2. Members' Code of Conduct and Interests

- 2.1 Elected members are bound to comply with the [Code of Conduct of North West Leicestershire District Council](#). This contains provisions relating to members' interests.

2.2 Disclosable Pecuniary Interests

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 define a Disclosable Pecuniary Interest (**DPI**) as "*any employment, office, trade, profession or vocation carried on for profit or gain*". The Dual-Hatted Members hold an "office" within the terms of these regulations. The question is whether they undertake that office (when considering the various member allowances) for "profit or gain". Whilst "profit or gain" clearly links to financial benefit, the question of whether this extends to member allowances has not been decided by the courts and the Local Authorities (Members' Allowances) (England) Regulations 2003 are silent on the point.

- 2.3 The government guidance which accompanies the regulations says that they are taxable as employment for the purposes of HMRC. The enabling legislation; S18(1) Local Government and Housing Act 1989; allows the Secretary of State (**SoS**) to make regulations on members allowances and he has done so with the 2003 Regulations referred to above. S18(1) can be contrasted with S18(2) which says that the SoS can “also” make regulations which allow councils to include, within their scheme, an allowance for loss of earning and expenses. No such regulations have been made. This would tend to indicate that the 2003 regulations made under S18(1) are about offering members some recompense for their time and effort in being a member and not intended to put them in the position that they would have been in had they been working – i.e. profiting or gaining from their role. This principle is likely to apply to both Basic Allowances and Special Responsibility Allowances (**SRA**) but, as stated above, there is no judicial or ministerial guidance on the point so it cannot be said for certain.
- 2.4 In addition to the question of whether a DPI exists, members must consider whether a DPI relates to the matter in question. A member with an SRA could possibly have a DPI depending on the matter being decided and the link between the SRA and the matter. For example, observer could wonder whether a Dual-Hatted Member making a decision at district level could be influenced to make a decision on the basis of a desire to preserve an SRA at County. This is something which members should think about but in general it is unlikely that the link is strong enough to constitute a DPI in this matter. Given the uncertainty over whether allowances even constitute a DPI, members would be taking a very precautionary approach if they recused themselves on the basis of “what does it look like”.
- 2.5 The risk of failing to declare a DPI is on the member and, it is potentially a criminal matter. Declaring a DPI would mean that they could not participate in the debate, stay in the room or vote. Members should think about their position in light of the above but on balance it is unlikely that even Dual-Hatted Members would have a DPI.
- 2.6 **Disclosable Non-Pecuniary Interests**
- Members who are Dual-Hatted Members will have a Disclosable Non-Pecuniary Interest, under paragraph 9(2)(iv)a) of the Members’ Code of Conduct, in items regarding the unitary status proposals. This is because as well as being a district member, they are also a member of a body exercising functions of a public nature; namely County. Members with a Disclosable Non-Pecuniary Interest can remain in a meeting, take part in a debate and vote unless to do so would compromise their impartiality or any other obligations set out in the Code. Therefore those members will need to think about the broader obligations under the Code such as:
- 2.6.1 The need to have regard to relevant advice (para 6.1);
- 2.6.2 The need to give reasons for their decision (para 6.2 and 6.4)
- 2.6.3 The requirement to make choices based on merit (para 6.3)
- 2.6.4 Bringing the authority into disrepute (para 5.1)
- 2.6.5 “Nolan” principles at the beginning of the code re integrity, openness etc.
- 2.7 The risk of failing to declare a disclosable non-pecuniary interest or taking part in a decision when any other element of the code of conduct has potentially been

compromised is to the member him/herself as it could lead to a complaint being made to the Monitoring Officer under the Member's Code of Conduct.

3. Bias and Predetermination

3.1 The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly. In short, decision makers are entitled to be **predisposed** to a particular view. However, **predetermination** occurs when someone closes their mind to any other possibility beyond that predisposition with the effect that they are unable to apply their judgement properly and fully to an issue requiring a decision.

3.2 S25 of the Localism Act 2011 clarified the common law position on predetermination. It said that, in the event of a challenge to the validity of a decision (i.e. a Judicial Review) then:

A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.

3.3 The mere fact that a member has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it. Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made could still give rise to accusations of predetermination.

3.4 The courts recognise two types of predetermination – actual and apparent.

3.4.1 **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.

3.4.2 **Apparent predetermination** is where a fair-minded and well-informed observer, looking objectively at all circumstances, considers that there is a real risk that one or more of the decision-makers has refused even to consider a relevant argument or would refuse to consider a new argument.

3.5 The risk of members taking part in a decision where there is actual or apparent bias is to the decision of their council and a Judicial Review action being brought by parties who wished to see an alternative decision being made. It is appropriate that members have clear, proactive advice on this point to give them the opportunity to consider their continued participation in meetings, recuse themselves if necessary and ensure that their council can make a robust decision, capable of withstanding legal challenge.

3.6 The courts have decided that the fair-minded and informed observer has access to all the facts, is neither complacent, unduly sensitive nor suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be

given to the facts, and is aware of the practicalities of local government. This person is clearly not the same as the “man in the Clapham omnibus”. The threshold, in the context of administrative decisions, of the test of apparent predetermination, is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision it is unlikely to be sufficient to establish predetermination. However, defending a Judicial Review claim is time consuming, costly, reputationally damaging and something which should be avoided.

- 3.7 It is important that members are mindful about making statements or sharing information on this topic before being asked to debate the topic or attend meetings at the Council. Members may wish to have initial views and be predisposed to a particular outcome, but they should be prepared to approach the matter with an open mind. They should be prepared to read the reports provided by the Council, have regard to the advice from officers and make decisions based on the interests of the communities of their district.
- 3.8 It is understood that this is an emotive matter in which there is likely to be significant interest locally with our parish councils and wider communities. However, it is important that members don't compromise their future ability to be able to take part in a full debate and decisions.
- 3.9 Dual-Hatted Members should also bear in mind that their position may change once they have voted for or against a particular decision at County. If for example, at the County meeting on 5 December, a Dual-Hatted Member voted in favour of pursuing a single unitary model then it is possible that they will be predetermined or have the appearance of being predetermined. This may affect their ability to participate at subsequent district level meetings. Dual-Hatted Members are also advised to seek advice from the County Council Monitoring Officer as to their position at County Council meetings and their dual-hatted status.

4. Conclusion

- 4.1 When considering taking part in council meetings to decide matters of local government reorganisation, all members should consider whether any of the above matters apply to them. Dual-Hatted Members will need to think particularly carefully – especially once they have voted in a particular way at County – but all members should be aware of the possible conduct issues.
- 4.2 The risk of taking part in a decision where there is a DPI, bias or predetermination is that the decision is challenged by way of Judicial Review. This would add disruption and cost to an already difficult and emotive reorganisation process. Members should consider the above issues and guidance on whether they should take part in meetings on this subject in order to ensure that sound decisions are made and reduce the likelihood of any challenges being brought.
- 4.3 The individual circumstances of each member will be unique. For example a member who is closely involved in proposals being put forward by one of their councils will be in a different situation to one who has no such close involvement. This note sets out the underlying legal principles to be taken into account but each member should

consult the Monitoring Officer if they have questions on their own particular circumstances.

North West Leicestershire District Council
21 August 2018
Louis Sebastian
Legal Team Manager
louis.sebastian@nwleicestershire.gov.uk
+44 (0)1530 454 770

This note constitutes legal advice from the Legal Services team of North West Leicestershire District Council to that Council as client. Reliance by any third party on any part of the advice contained in this note is at that third party's own risk.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – TUESDAY, 11 SEPTEMBER 2018

Title of report	INTERIM REVIEW OF POLLING DISTRICTS AND POLLING PLACES
Contacts	Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk Chief Executive/Returning Officer 01530 454500 bev.smith@nwleicestershire.gov.uk
Purpose of report	To approve the final proposals for the interim review of polling districts and polling places.
Council Priorities	Homes and Communities
Implications:	
Financial/Staff	The average cost for hiring a building for use of a polling station is currently £164.30. The cost of providing a mobile polling station is significantly higher at approximately £1,920 which does not include the cost of the extensive time it takes in setting these up. The proposals see the removal of the two mobile polling stations thus creating a saving to the overall polling station budget and a saving in staff resource.
Link to relevant CAT	No direct implications.
Risk Management	Failure to undertake a compulsory review will see the Council failing in its duties under the Representation of the People Act 1983, as amended by the Electoral Registration and Administration Act 2013. There is no risk attached to undertaking an interim review save for the duplication of work within a short timeframe.
Equalities Impact Assessment	In determining where polling places should be located, the Council must seek to ensure that all electors have reasonable facilities for voting and that as far as is reasonable and practical, polling places which are accessible to all electors. These issues were considered when making the recommendations.
Human Rights	No direct implications.
Transformational Government	No direct implications.
Comments of Head of Paid Service	Report is satisfactory

Comments of Section 151 Officer	Report is satisfactory
Comments of Monitoring Officer	Report is satisfactory
Consultees	Consultations were carried out with the MP, all elected members of the Council, polling station staff, parish councils and the electorate of North West Leicestershire.
Background papers	<ul style="list-style-type: none"> • The Electoral Registration and Administration Act 2013 • Schedule of current polling districts and polling places • Draft recommendations for consultation
Recommendations	<p>IT IS RECOMMENDED THAT COUNCIL:</p> <ol style="list-style-type: none"> 1. NOTES THE CONSULTATION RESPONSES MADE IN RESPECT OF THE REVIEW OF POLLING DISTRICTS AND POLLING PLACES FOR NORTH WEST LEICESTERSHIRE; 2. APPROVES THE FINAL PROPOSALS IN RESPECT OF THE REVIEW, AS SET OUT IN APPENDIX A TO THE REPORT; 3. DELEGATES AUTHORITY TO THE RETURNING OFFICER TO MAKE, WHERE NECESSARY, ALTERATIONS TO THE DESIGNATION OF ANY POLLING PLACE PRIOR TO THE NEXT FULL REVIEW IN CONSULTATION WITH WARD MEMBERS AND GROUP LEADERS.

1. BACKGROUND

- 1.1 In accordance with the Electoral Registration and Administration Act 2013, every council in England and Wales must undertake and complete a review of all of the polling districts and polling places in its area every five years.
- 1.2 Between compulsory reviews, all polling places and polling stations used should be kept under consideration, and an evaluation of their suitability carried out after each election. If any changes are identified as being desirable, the same steps should be followed as for conducting the compulsory review.
- 1.3 The council can carry out an interim review and change some of their polling districts and polling places before the end of the 5-year cycle, but the same processes should be undertaken for the affected areas as for the compulsory review. Without going through these processes, the council will have difficulty evidencing their decision making and explaining how they took into consideration the reasonable requirements of electors.
- 1.4 The next compulsory review is not scheduled to commence until after 1 October 2018 to be completed by no later than 31 January 2020. This does not allow sufficient time to have it completed in time for the local elections in May 2019.

- 1.5 Therefore at its meeting on 12 September 2017, the Council agreed to undertake an interim review this year for completion by November 2018.

2.0 TERMINOLOGY

- 2.1 **Polling district:** the area created by the division of a constituency, ward or European Parliamentary electoral region into smaller parts, within which a polling place can be determined, which is convenient to electors. In North West Leicestershire, each ward is divided into a number of polling districts which each have a two or three letter code e.g. AC, ABA based on the ward in which they are located.
- 2.2 **Polling place:** the location (normally the building) in which polling stations will be sited by the Returning Officer.
- 2.3 **Polling station:** the room where the poll takes place (e.g. community room), which must be located within the polling place. The polling station is chosen by the Returning Officer. It is publicised in the Notice of Situation of Polling Stations and communicated to electors via their poll cards and is also published on the Council's website.
- 2.4 Where possible, every polling district should have its own dedicated polling place and all electors in that polling district are assigned to vote at the polling station located in that place.
- 2.5 It should be noted that the terms 'polling place' and 'polling station' are often used interchangeably and most people consider the polling place (such as a community centre) to be the polling station. However, it is possible to have more than one polling station per polling place (e.g. two sets of staff, two ballot boxes, two electoral registers) and these double stations are often provided in polling districts with a large number of electors or where there is a high turnout or a large number of people voting at certain times of the day.

3. THE DESIGNATION OF POLLING DISTRICTS, POLLING PLACES AND POLLING STATIONS

- 3.1 The designation of the district's polling districts and places is the responsibility of the Council.
- 3.2 The allocation of polling stations within polling places is not a Council function and is the responsibility of the Returning Officer for the election concerned. However, in practice, the location of likely polling stations is a key consideration when identifying polling places and the boundaries of polling districts, particularly in those areas of the district where there are no suitable premises e.g. community venues or schools.
- 3.3 Polling districts for local government elections are not automatically part of the statutory review. However, the Electoral Commission advises that the polling districts for UK parliamentary and local government elections should always be the same, and it therefore follows that any review of parliamentary polling arrangements should be conducted simultaneously with one of local government arrangements. Consequently, polling districts and polling places adopted by the Council for parliamentary elections will also be effective for local government elections.

4. AIMS OF THE REVIEW

- 4.1 In conducting a review the Council must:
- (a) seek to ensure that all the electors in the constituency have such reasonable facilities for voting as are practicable in the circumstances;

- (b) seek to ensure that so far as is reasonable and practicable, the polling places it is responsible for are accessible to all electors;
 - (c) have regard to the accessibility of disabled persons to potential polling stations in the polling place;
 - (d) other than in special circumstances, locate the polling place in the polling district it serves; and
 - (e) ensure the polling place is small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station.
- 4.2 The focus of the review was to identify wherever possible polling places/polling stations which met set criteria, relating to:
- Location
 - Facilities
 - Accessibility
 - Health and Safety

5. INTELLIGENCE AND DATA COLLECTION

- 5.1 Significant preparatory work was undertaken in advance of the review to gather intelligence provided by officers including presiding officers and poll clerks. In addition, statistical information was collated about parliamentary and local electorates, voters in person, postal voters and polling station turnout at previous elections. Figures from the 2017 parliamentary general election are of particular importance, as parliamentary general elections are generally when the turnout is highest. Information about developments in the district was also all taken into consideration.
- 5.2 Public consultation took place between 30 October 2017 and 2 January 2018 and views were invited on the existing and alternative polling arrangements. A number of representations were received and these were all taken into account when compiling the draft recommendations.

6. POLLING PLACE/STATION VISITS

- 6.1 Officers undertook visits to polling places/stations between April and June 2018. The purpose of these visits was to assess the suitability of existing arrangements and to evaluate alternative polling stations in light of comments and representations received throughout the consultation process.
- 6.2 When assessing the suitability of polling places/stations an assessment of the following issues were taken into account:
- Location and accessibility to electors within the polling district
 - Size – can it accommodate more than one polling station if required?
 - Accessibility – is the building accessible to all those entitled to vote at the polling station?
 - Availability – is the building readily available in the event of an unscheduled election?
 - Facilities available in the venue including parking, heating, lighting, toilet facilities and security
 - Public buildings – the election rules allow the Returning Officer the free use of buildings maintained by the council including schools maintained by the local authority and free schools.
 - Private buildings – in the absence of suitable public owned buildings, churches, clubs and other private sector buildings conveniently located and accessible to electors are considered for designation as the polling place

- Mobiles – in the absence of any suitable public or private building in or adjacent to the polling district a mobile station will be considered for designation as a polling place. Given the difficulties of heating, lighting, security, comfort of staff and electors, the negative reaction from residents living close to the site of a mobile and the significantly higher cost of locating a mobile polling station, these are considered only as a last resort.
- The potential impact on election turnout of moving the polling station to a different location.

7. USE OF SCHOOLS AS POLLING STATIONS.

- 7.1 Some of the reasons used for seeking alternative premises for polling stations involve the use of schools and the need for them to close. We do try not to use them where there is a suitable alternative but often this is not possible. The recommendations would see the use of only six schools from 68 polling stations. To assist members, the advice of the Department for Education is set out below:-

“Under current legislation, Returning Officers (ROs) have the right to select schools as venues for polling stations. If there is an area which can be used with a separate entrance and isolated from the rest of the school, the school can continue to operate. If not, the school must close on the day of the poll. Schools which need to close as a result of being used as polling stations can move to alternative accommodation or make up the lost day by other means. The lost day could be made up at the beginning or end of a term, or a training day could be arranged on the day of the poll if the head teacher or governors so wish. There are currently no plans to change or amend this legislation which is found in the Representation of the People Act, 1983, Chapter 2, Schedule 1, Part III, paragraph 22. This paragraph effectively renders all mainstream schools liable for use by the RO of the local authority irrespective of how they were procured.”

8. RESPONSES TO DRAFT RECOMMENDATIONS

- 8.1 On 24 July 2018, the draft recommendations were considered by the Electoral Review Working Party and requests were made for further visits in order that they be satisfied that every potential alternative had been explored, particularly regarding the use of schools. The final proposed schedule is attached at Appendix A.
- 8.2 The outcome of the consultation and the views of the Electoral Review Working Party have been used to inform the final recommendations.

9. FURTHER REVIEWS

- 9.1 A statutory review needs to be undertaken between 1 October 2018 and May 2020.
- 9.2 On occasion, it may be necessary to change the designation of a polling place outside of the statutory review process. This can arise as a result of premises being closed, or where better facilities are identified.
- 9.3 The Council is requested to authorise the Returning Officer, in consultation with group leaders and ward members to make changes to the designation of polling places which occur outside of the formal review process.

Proposed Polling Places Schedule 2018

Ward No.	Ward	Polling District	Polling Place/ Station
1	Appleby	ABA	Church Hall, Church Street, Appleby Magna
		ABB	Old Schoolroom, Chilcote
		ABC	Church Hall, Church Street, Appleby Magna
		ABD	Parish Church, Snarestone
		ABE	Church Hall, Newton Road, Swepstone
		ABF	Newton Burgoland Congregational Church
2	Ashby Castle	AC	Legion House, South Street, Ashby de la Zouch
3	Ashby Holywell	AHA	Beeches Public House, Burton Road, Ashby de la Zouch
		AHB	Beeches Public House, Burton Road, Ashby de la Zouch
4	Ashby Ivanhoe	AIA	Ashby Hill Top Primary School, Ashby de la Zouch
		AIB	Browns Court, Ashby de la Zouch
5	Ashby Money Hill	AM	Ashby Library, North Street, Ashby de la Zouch
6	Ashby Willesley	ASA	Willesley Recreation Ground Building, Ridgway Road, Ashby de la Zouch
		ASB	Ashby Hastings Scout HQ, Wilfred Gardens, Ashby de la Zouch
7	Ashby Woulds	AWA	Moira Replan Offices, Ashby Road, Moira
		AWB	County Primary School, Occupation Road, Albert Village
8	Bardon	BAA	Bardon Hill Sports Club, Bardon Close, Coalville
		BAB	
9	Blackfordby	BLA	Blackfordby Village Hall, Sandtop Lane, Blackfordby
		BLB	Moira Sure Start Centre, Moira Primary School, Blackfordby Lane, Moira
		BLC	Blackfordby Village Hall, Sandtop Lane, Blackfordby
10	Broom Leys	BRA	Hall Lane Methodist Church, Hall Lane, Whitwick
		BRB	Greenacres Community Centre, Linford Crescent, Coalville
		BRC	
11	Castle Donington Castle	CA	Sure Start Centre, Mount Pleasant, Castle Donington
12	Castle Donington Central	CE	Community Hub, Bondgate, Castle Donington
13	Castle Donington Park	CP	Community Hub, Bondgate, Castle Donington
14	Castle Rock	CRA	Oak Storer Hall, Oaks in Charnwood
		CRB	Agar Nook Community Centre, Belgrave Close, Coalville
15	Coalville East	CTA	Broom Leys School, Broom Leys Road, Coalville
		CTB	
16	Coalville West	CWA	Community Room, Central Court, Avenue Road, Coalville
		CWB	Christ Church Hall, London Road, Coalville
17	Daleacre Hill	DHA	Village Hall, Nottingham Road, Kegworth
		DHB	Lockington Village Hall, Hemington Lane, Lockington
		DHC	Function Room the Jolly Sailor PH, 21 Main Street, Hemington
18	Ellistown & Battleflat	EB	Community Centre, Whitehill Road, Ellistown

Ward No.	Ward	Polling District	Polling Place/ Station
19	Greenhill	GR	Greenhill Community Church, Charnborough Road, Coalville
20	Hermitage	HE	Hermitage Leisure Centre, Whitwick
21	Holly Hayes	HH	Whitwick Methodist Church, Nr. Market Place, Whitwick
22	Hugglescote St John's	HJ	Hugglescote Community Centre, Grange Road, Hugglescote
23	Hugglescote St Mary's	HMA	Hugglescote Community Centre, Grange Road, Hugglescote
		HMB	Community Room, Central Court, Avenue Road, Coalville
24	Ibstock East	IEA	Meeting Room, Baptist Chapel, Chapel Street, Ibstock
		IEB	Battram Access Centre, Battram Road, Ellistown
25	Ibstock West	IW	The Schoolroom, Wesleyan Reform Church, Melbourne Road, Ibstock
26	Kegworth	KE	Kegworth Library, High Street, Kegworth
27	Long Whatton & Diseworth	LDA	The Guide Friendship Centre, Main Street, Long Whatton
		LDB	Village Hall, Hall Gate, Diseworth
		LDC	Belton Village Hall, School Lane, Belton
28	Measham North	MN	St Laurence Measham Church Hall, High Street, Measham
29	Measham South	MS	Measham Leisure Centre, High Street, Measham
30	Oakthorpe & Donisthorpe	ODA	Donisthorpe Woodlands Centre, Church Street, Donisthorpe
		ODB	Methodist Schoolroom, Acresford
		ODC	Leisure Centre, Measham Road, Oakthorpe
31	Ravenstone & Packington	RPA	The Pavilion, Ravenslea, Ravenstone
		RPB	Memorial Hall, High Street, Packington
		RPC	
32	Sence Valley	SEA	Heather Village Hall, Sweptstone Road, Heather
		SEB	The Schoolroom, Wesleyan Reform Church, Melbourne Road, Ibstock
33	Snibston North	SNA	Ebenezer Baptist Church, Ashby Road, Coalville
		SNB	
34	Snibston South	SS	Full Gospel Mission Pentecostal Church, James Street, Coalville
35	Thornborough	TBA	Community Room, Howe Court, Howe Road, Whitwick
		TBB	Holy Cross Parish Rooms, Parsonwood Hill, Whitwick
36	Thringstone	TS	Thringstone Miners Social Centre, Homestead Road, Thringstone
37	Valley	VAA	Swannington Institute, Main Street, Swannington
		VAB	Viscount Beaumont Primary School, Ashby Road, Coleorton
		VAC	Village Hall, Church Lane, Osgathorpe
38	Worthington & Breedon	WBA	St Matthews Church, Church Street, Worthington
		WBB	C of E Primary School, School Lane, Newbold
		WBC	
		WBD	
	WBE	C of E Primary School, Main Street, Breedon on the Hill	
WBF			
	WBG	Beaumont Centre, Nottingham Road, Peggs Green.	

This page is intentionally left blank