

# AGENDA SUPPLEMENT (1)

**Meeting:** Cabinet

**Place:** Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

**Date:** Tuesday 19 November 2019

**Time:** 9.30 am

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**The Agenda for the above meeting was published on 11 November 2019. Additional documents are now available and are attached to this Agenda Supplement.**

Please direct any enquiries on this Agenda to Stuart Figini, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718221 or email [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

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This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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5 **Public participation and Questions from Councillors (Pages 3 - 10)**

- Colin Gale – Statement and Questions about the Public Consultation Task Group
- Ian Scott – Statement about Preshute School

11 **Proposals to amend the Council Tax Reduction Scheme (Post Consultation) 2020 (Pages 11 - 14)**

Appendix 3

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**Wiltshire Council**

**Cabinet**

**19 November 2019**

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**Questions from Colin Gale – on behalf of Pewsey Community Area Partnership (PCAP), Pewsey Parish Council (PPC), Campaign to Protect Rural England (CPRE) about the Final Report of the Public Consultations Task Group**

**Hereafter referred to as the “Report” and the “PCTG” respectively**

## **Agenda Item 5 – Public Participation**

**To Councillor Allison Bucknell – Cabinet Member for Communications, Communities, Leisure and Libraries**

### **Statement:**

The Group notes that the above Report was submitted to the Overview and Scrutiny Management Committee on 24<sup>th</sup> September 2019. Subsequently, the Group has carried out a Review (the Review) of the Report and wishes to make the following comments.

While there are some aspects of the Report with which the Group are content, overall it has come to the regretful conclusion that the Report was generally demonstrably superficial, and that the PCTG failed in the task that was set before it. The Group believes that the Report gives rise to numerous questions. The most important of these, in the view of the Group, are listed below, and we request that they be answered, after taking into account the text of any comment in the Review, that text being specifically identified where appropriate.

### **Question 1**

How can the Report be considered a “Final” Report, when the PCTG has failed significantly to comply, partly and/ or wholly, with both the scope on which it was required to focus and its terms of reference, as endorsed by the Overview & Scrutiny Management Committee? (c.f. Review 02)

## **Response**

The Public Consultations Task Group (PCTG) has worked through their Terms of Reference (ToR) and has produced a set of conclusions and recommendations in relation to these. These conclusions and recommendations are all focussed on improving the way the Council's public consultations are carried out in the future to ensure that those decisions which the Council needs to consult on are carried out in an effective way according to the law.

The Overview and Scrutiny Management Committee (OSMC) has endorsed the work of the Task Group and has not suggested that there is a need for any further lines of enquiry to be investigated. It is worth noting that the [Localism Act](#) (2011) sets out that overview and scrutiny in local government is designed to be conducted by "lay" members (i.e. not technical specialists) and part of its purpose is to raise concerns with the Executive for potential further exploration on behalf of the public.

The Executive will now determine how to respond to the issues raised and whether these need to be addressed operationally by council officers.

Having said this, Overview and Scrutiny welcomes all public engagement with its work and will carefully consider the Group's feedback on this report for the purposes of continually improving its processes.

## **Question 2**

Why was there complete absence of any engagement by the PCTG with the public? (c.f. Review 03)

## **Response**

The Task Group's members used their experience of council public consultations and responses, as well as the significant correspondence that they have received from residents on the matter over a number of years. The Task Group also had evidence from experienced officers, versed in both the legal and practical requirements of effective consultation, as well as using lessons learned from cases involving other authorities and failures in their consultations.

This was considered to be sufficient evidence of the public's perception and experience on this matter. It is concluded that engagement with Wiltshire residents as a whole on the specific matter of consultations would, unlike issues of particular local concern, be unlikely to attract enough response to provide reliable evidence.

## **Question 3**

Why was the Memorandum dated 10<sup>th</sup> February 2019 and sent to the Chairman of the PCTG on 13<sup>th</sup> February 2019 by PCAP/PPC/CPRE seemingly never taken into account? (c.f.Review 04)

## **Response**

Unfortunately, the Task Group did not receive the Memorandum sent to the Chairman. However, if this could be circulated again and to officers, this will be circulated to all Task Group members.

#### **Question 4**

How did the PCTG come to the conclusion that between July 2017 and January 2019, 86% of all public consultations carried out by Wiltshire Council were examples of canvassing or engagement and only 14% were examples of either statutory consultations or recommended by Legal Services? (c.f. Review 07)

The Group requests that it be supplied with a complete list of all the cases reviewed by the PCTG, identifying in each case into which category it fell, and an explanation of the reasoning behind that decision.

#### **Response**

As referenced in the question, the 14% has been calculated using the general legal principles surrounding consultation. Essentially, this covers all consultations that were either statutory, i.e. required by law and it would be unlawful not to consult, or common law obligation to consult, and where Legal Services therefore recommended a consultation take place.

In the latter instances, Legal Services recommended a consultation because either an earlier commitment had been given to the public that a consultation would be undertaken, or to enable the ultimate decision-maker (Cabinet) to be fully informed on both the public's view and/or potential impact on any group with protected characteristics.

A list of the complete consultations is provided at Appendix 1.

#### **Question 5**

The Report, having commented on the use of the words "public consultation" and the public's expectations thereof, does not elaborate on the terms "expectation" or "influence" as far as public consultations are concerned, while in relation to the misuse of "public consultation" when referring to canvassing or engagement matters, does not attempt to define "the purpose of their (the public's) role" or elaborate on "their power of influence" in such matters. Why did it omit to do so? (c.f.Review 08)

#### **Response**

A task group's final report outlines an overview of the review and its findings, with more detailed information supplied, as necessary, to committee during the debate. The PCTG and OSMC considered that the terms referred to in the question were sufficiently clear and that the Task Group's review had considered 'd) The public's perception and experience of council consultations' (as outlined under

question b)). Recommendations five, six and eight provide further detail on this area of focus.

Paragraphs 14 to 16 are highlighting that there are different purposes, likely to be different methodologies and very likely to be differing outcomes, for three areas of communications with the public (canvassing, engagement and public consultation). If one term “consultation is used for three distinct areas, then there is likely to be confusion for members of the public as to purpose and outcome.

### **Question 6**

The basis of any lawful and properly conducted public consultation has to be the Law itself. Although the Report touches on this, why were its references thereto incomplete, and conveyed an overall impression that the PCGT were not as familiar with the Law as they should have been, especially given the nature of their remit? (c.f. Review 12)

### **Response**

The report was based on evidence and advice from experienced officers versed in both the legal and practical requirements of effective consultation, as well as using lessons learned from cases involving other authorities and failures in their consultations.

On considering the PCTG’s report, OSMC was satisfied that the Task Group had considered the topic in appropriate depth (in the context of Overview and Scrutiny’s specific role and its wider forward work programme). The Executive will now determine how to respond to the issues raised in the Task Group’s report and, if and how they need to be addressed operationally by officers.

### **Question 7**

On what basis did the PCGT conclude that the underlying principles and foundations of the Council’s documents relating to public consultations were sound? (c.f. Review 13)

### **Response**

This conclusion was reached after the Task Group considered and discussed the following with the Executive and senior officers:

- Wiltshire Council’s Business Plan 2017-2027
- Wiltshire Council’s Constitution
- Wiltshire Council’s Consultation Strategy

### **Question 8**

The ambiguity of the word “beneficial” in the Report at Para 20 requires clarification. Is this terminology for the benefit of the Council, or the public? (c.f. Review 14)

### **Response**

The word ‘beneficial’ refers here to the fact that consultations should elicit responses which are relevant to the final decision being made, so that there is maximum opportunity for the ultimate decision-maker to be fully informed of both the public’s view and the potential impact on any group with protected characteristics. The word therefore refers to both the council and the public.

### **Question 9**

Why has the PCTG not recognised the importance of Cabinet Forward Plans within the list of documents considered, given that these are the documents that are required to satisfy a lawful consultation process and an important part of the interface with the public?

### **Response**

The Cabinet Forward Plans form an important part of the Council’s Overview and Scrutiny function, with Select Committees taking a proactive interest in these plans and bringing items forward for discussion at committee. As a result, the Task Group did not consider it necessary to delve into the detail of these plans and instead decided to focus on case studies and more strategic documents, such as ‘The Council’s Consultation Strategy’.

The Cabinet Forward Plans are required by law on the basis of openness and transparency, as well as the public right to make public statements/ask questions, rather than under a specific duty to consult on every decision taken.

### **Question 10**

The Report has failed completely to address one of the most important questions relating to public consultations, namely the matter of “When to consult”. Why was this not addressed? (c.f. Review 17)

### **Response**

The Task Group concluded that this has been addressed through their consideration of the following:

- Case Studies: Flawed Local Government and Central Government Consultations (those successfully challenged in Court)
- Legal Services’ Internal Advice to Service Areas: The Duty to Consult
- The Market Research Society’s Code of Conduct

- Public Sector Equality Duty
- The Wiltshire Compact
- Wiltshire Council's Business Plan 2017-2027
- Wiltshire Council's Constitution
- Wiltshire Council's Consultation Strategy
- Wiltshire Council's Public Consultations from July 2017 to January 2019

### **Question 11**

When will the Report be submitted to the Executive in accordance with Recommendation 9?

### **Response**

The report has already been submitted to the Executive and the Cabinet Member for Communications, Communities, Leisure and Libraries, Cllr Allison Bucknell, responded informally to the conclusions and recommendations at OSMC's [24 September 2019](#) meeting. A formal response will be considered by OSMC on [3 December 2019](#).

The above list does not represent the totality of the Group's questions, comments and concerns. The Group therefore invites the Council to respond to, or comment on, Review items 05, (internal documents) - 06 (interim arrangements pending the establishment of the Business Intelligence Hub) - 09 (canvassing and engagement matters) - 15 (Hub expertise and legal challenges) and 16 (comment on Recommendations). The full text of the Group's Review is attached to this Statement.



**Wiltshire Council**

**Cabinet**

**19 November 2019**

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**Statement from Ian Scott - National Education Union on Preshute School**

**Agenda Item 5 – Public Participation**

**To Councillor Pauline Church – Cabinet Member for Children, Education and Skills**

**Statement**

I am asking the Cabinet in its budget deliberations to consider additional funding for Preshute School to support the new leadership who have had to deal with some unique one off expenditure this year.

I would be happy to meet with the Cabinet Member for Children, Education and Skills to provide more information.

Thank you for your time and consideration.

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**Wiltshire**

# Agenda Item 11

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[citizensadvicewiltshire.org.uk](http://citizensadvicewiltshire.org.uk)  
[citizensadvice.org.uk](http://citizensadvice.org.uk)

Wednesday 23rd October 2019

Mr Ian Brown  
Wiltshire Revenues and Benefits Service  
County Hall  
Bythesea Road  
Trowbridge  
BA14 8JN

Dear Ian

**Re: Wiltshire Council Tax Reduction Scheme Consultation 2020/2021**

Citizens Advice Wiltshire appreciate being asked to participate in the consultation process and comment on the proposed Council Tax Reduction Scheme. In the past year we have helped clients 413 times with CTR claims, and 1,301 issues of Council Tax arrears, and it is the largest debt issues that clients in Wiltshire seek advice about. A lot of this is driven by the frequent reassessment of Council Tax bills, triggered by small changes in income.

We understand that the intention of the new Scheme is to reduce the number of bill recalculations necessitated by small income changes. We agree wholeheartedly with this aim; it would be of considerable benefit to many of our clients, reducing confusing paperwork and better enabling them to budget for Council Tax expenditure.

The specific advantages of the scheme which we support are:

- The introduction of income bands to make the scheme simpler and have less changes.
- The £50 earned income disregard will be simpler to implement than the various current disregards.



**Chief Executive: Suzanne Wigmore**

Citizens Advice Wiltshire is an operating name of Wiltshire Citizens Advice. Registered address: 3 Avon Reach, Monkton Hill, Chippenham, Wiltshire SN15 1EE. Company limited by guarantee in England & Wales 03204218. Charity Registration Number: 1062219. Authorised and regulated by the Financial Conduct Authority. FRN: 617798. Wiltshire Citizens Advice has a complaints handling procedure. Please write to us at the above address to request a copy of the complaints leaflet to be sent to you.

- The proposed scheme does not disadvantage a claimant who receives housing element rather than it being paid direct to the landlord. Similarly the scheme treats other deductions in the same way. This ensures that one claimant with variety of deductions is not treated more favourably (a higher reduction) in comparison to another claimant with no deductions.

We do however have some concerns about which we have explained below.

- The proposed Scheme does not treat people solely on Universal Credit equally, as they are not automatically in Band 1. A couple with no children who are receiving only the standard allowance of UC are already over the income amount for band 1, as their income would be £115.13 per week.
- If the housing costs in UC are included in the definition of “income” then the only type of claimant who can ever be in band 1 (so receive 80% reduction) is one whose UC comprises of no housing costs. The figures in band 1 of the proposal equate roughly to the relevant standard allowance plus, where applicable, the child responsibility element. The addition of housing costs will push every claimant into higher bands.
- Claimants in receipt of housing costs will have to pay a higher percentage of the annual charge for their property than they do under the present scheme.
- It will discriminate against those people who receive the disability element in UC if they do not also receive PIP/DLA (which would take them out of the scope of the proposed Scheme). A single person claiming UC with the limited capability for work and work related activity (LCWRA) element without the inclusion of housing costs would be in band 3 and subject to a 50% reduction. If housing costs were included at £75 per week, the claimant would be in band 5 and if housing costs were £100 per week, they would be in band 6. Under the current Scheme this claimant would be eligible for an 80% reduction.
- Carer’s Allowance 50% disregard: A claimant whose UC contains the Carer Element, but does not claim Carer’s Allowance (there is no requirement to actually claim Carer’s Allowance to be awarded the Carer Element in UC) will have a higher income for Council Tax purposes than a UC claimant who has the Carer Element and does claim Carer’s Allowance.

Considering the above we would have significant concerns for our clients’ welfare and the success of the scheme to deliver its stated aims if the proposed scheme is implemented in its current form.

We also accept that the situation is further complicated by the fact that the current working age caseload is a mixture of those who have income with no other welfare benefits apart from Council Tax Reduction, those in receipt of other legacy benefit, and those in receipt of Universal Credit with or without additional income.

For at least one interim year for 2020/2021 we would welcome the alternative proposal to apply a de-minimis change exemption for those in receipt of Universal Credit for changes in income. We believe that this would support the aim to minimise the impact of changes to Wiltshire Council, clients, and those who give advice.

We would welcome the opportunity to be further involved in the design of a new system and would like to thank you for demonstrating ways that we can work in true partnership.

Yours sincerely

Suzanne Wigmore

CEO - Wiltshire Citizens Advice

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