

# AGENDA SUPPLEMENT (1)

**Meeting:** Overview and Scrutiny Management Committee  
**Place:** The Kennet Room - County Hall, Trowbridge BA14 8JN  
**Date:** Tuesday 3 December 2019  
**Time:** 10.30 am

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The Agenda for the above meeting was published on 25 November 2019. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line (01225) 718504 or email [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@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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6 **Executive Response to the Final Report of the Public Consultations Task Group** (Pages 3 - 26)

A statement from Mr Colin Gale in respect of the Final Report of the Public Consultations Task Group and its Executive Response is attached, along with statements from Mr Gale and responses made to Cabinet on 19 November 2019.

8 **Joint Swindon and Wiltshire Local Enterprise Partnership (SWLEP) Task Group Report on the Chippenham Station Hub Project**

This item has been deferred to a following meeting.

DATE OF PUBLICATION: xxx xxx xxx

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**STATEMENT, QUESTIONS AND INVITATION TO COMMENT FROM THE PEWSEY COMMUNITY AREA PARTNERSHIP (PCAP), PEWSEY PARISH COUNCIL (PPC) AND THE CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE) referred to as THE GROUP**

**to**

**THE OVERVIEW & SCRUTINY MANAGEMENT COMMITTEE (OSMC) MEETING on 3<sup>RD</sup> DEC 2019**

**RE: THE PUBLIC CONSULTATIONS TASK GROUP (PCGT) FINAL REPORT (THE REPORT)**

The Group notes the Responses to the Statement and Request that was put to the Cabinet Meeting on 19<sup>th</sup> November 2019 and which formed part of the Agenda at Item 5, and the Responses sent on 26<sup>th</sup> November 2019 to four further points raised by Mr Colin Gale (PCAP) on behalf of the Group, as Supplementary Questions during the Cabinet Meeting itself.

It is with regret that the Group are unable to accept that either set of Responses is satisfactory, as it seems that the Council has largely failed to adequately address most of the issues involved. The Group was pleased, however, to receive Appendix 1 to the PCTG Report.

In the meantime, given that Cabinet, on 19<sup>th</sup> November, effectively delegated further consideration of the PCTG Report to the OSMC, and that this Committee is meeting to discuss the same on 3<sup>rd</sup> December, there are a number of observations that the Group would like to bring to the attention of that meeting.

In respect of Agenda Item 5 for the Cabinet meeting on 19<sup>th</sup> November:

**01.** The Response to Question 1 advises that the PCTG has worked through their Terms of Reference (ToR), but this is not evident from the Report. The Response claims that this is evident from the Conclusions and Recommendations, but it is not possible to map the Conclusions and the Recommendations to the main body of the Report. An example is ToR 1a), which requires the PCGT to look at the level of response to Council consultations, but this has not been satisfied. How are the public expected to gain confidence in how the PCTG has addressed its ToR, when its Final Report is incomplete?

**02.** The Response to Question 2 perfectly legitimately states that the Task Group members drew on their own experience, but the Response implies, in terms that could be considered derogatory and even arrogant, that the public had nothing to offer. The Group considers this is yet a further example of the Council's disengagement with its public.

**03.** The Response to Question 2 also refers to "evidence being taken from experienced officers versed in both the legal and practical requirements of effective consultation". This Response seems incompatible with Para 12 of the Report (the lack of replacement of the officer previously responsible), Para 13 (the challenges faced, pending the establishment of the Business Hub), Para 14 (the disturbing confusion as to the distinction between

consultations and engagement exercises) and Para 12 (the risk of legal challenge) which are but some of the indicators that the Council's consultation management is simply not up to standard at the present time, one of the major problems seemingly being the lack of experienced staff. The OSMC are invited to comment on just how much expertise was actually available to the PCTG, having conceded that the members thereof are not to be considered as technical experts.

**04.** The Response to Question 3 is disappointing, in that the Group's Memorandum of 10<sup>th</sup> February to the Chairman of the PCTG was not originally circulated to the other members. It has now been passed to the OSMC for inclusion on the Agenda for the Meeting on 3<sup>rd</sup> December. However, it is not evident from the Agenda or the Agenda Pack that the Memorandum has been included.

**05.** The Response to Question 4 would seem to reveal some small inaccuracies in the light of the information provided in Appendix 1, which identifies 138 surveys, but it appears that only 136 are listed, after taking into account one "double counting" of one survey in Section A, while in Section J, although all entries are deemed to be surveys, the seventh item (waste and recycling) was clearly a consultation and indeed is marked as such. Otherwise, the Group's view is that the methodology used to distinguish between public consultations that need to be carried out under the Public Law Duty to Consult or for statutory reasons, and those exercises that should be regarded as surveys, canvassing or engagement exercises, may have been somewhat simplistic, inasmuch as almost total reliance has been placed on the entry title. This may have been appropriate in some cases, but there is no evidence that any entry has been examined in any depth or detail. Furthermore, some confusion has arisen as a result of the reference by the PCGT in Para 14 of the Report to '86% of all public consultations carried out by Wiltshire Council were examples of canvassing or engagement'. This gave rise to the impression that all the 86% cases referred to had been carried out as public consultations under the Law, with an attendant unnecessary waste of resources. Can the OSMC advise whether any of these cases were examined in any depth, and whether any were handled as public consultations under the Law, and if so, identify them?

**06.** The Response to Question 5 concerning the use of the words "public consultation" and the public's expectation thereof, appears to shelter behind a statement that the Task Group's final report "outlines an overview of the review and its findings". In other words, a tacit admission that this very relevant issue was not treated with any of the depth that the subject warranted, the Group coming to this conclusion for the same reasons as it identified in its original Review. It is not clear that the public's expectations have been either fully considered or addressed.

**07.** The Response to Question 6 does not demonstrate that the full information behind the question has been considered. When the Response identifies that the 'Executive will now determine how to respond to the issues raised in the Task Group's report' it is believed that this simply means consideration being given to the Recommendations. It is not believed that the Executive is actually looking at the totality of the issues raised in the Report, to see if the Report is complete.

**08.** The Response to Question 7 is a very superficial statement, with no supporting evidence, other than a list of three documents and no other comment. It is apparent from the Recommendations in the Report that two of the documents require updating and are therefore clearly not sound.

**09.** The Response to Question 8, with regard to the implications of the term “beneficial” is a fair one, in terms of expressing a principle that is for the benefit of both the public and the Council. It is also in line with the opinion expressed in the Group’s Review that there should be a partnership between the public and the Council over public consultations. Past experience, however, shows that principle and practice are not necessarily the same. The Group has provided ample evidence thereof to the Council over the last three years, Everleigh being the case in point. But the Group is not alone, and at this juncture, believes it appropriate to quote Wiltshire Cllr John Walsh, as reported in the Gazette & Herald on 26<sup>th</sup> September 2019, shortly after the PCTG Report was released, when he was quoted as saying “Filling out consultations, I have been left with this feeling Wiltshire Council was trying to fix it so the public were not properly involved”.

Para 20 of the PCTG Report stated that the aim is to design consultations that would be beneficial to the Council. This statement is incompatible with providing a mutually beneficial result for the public and the Council. Despite the subsequent Response, the Group requests that the OSMC reconsiders this statement and formally amends it, given that it is in a public document, and would like to remind the OSMC of the danger to public confidence of not providing properly neutral questions.

**10.** The Response to Question 9 seems to brush Cabinet Forward Plans aside as just something the Council has to do to satisfy the regulations, and has not considered the Cabinet Forward Plans as part of the overall consultation process. The Group notes that the Council is endeavouring to provide better identification in the ‘Consultation’ column of Cabinet Forward Plans as to whether an entry, where appropriate, is a public consultation required by Law or by Statute, or simply a survey or canvassing exercise, but a certain lack of clarity remains. It might be helpful to specifically identify those consultations that warrant it as “Public consultation required by Law”. It is noted that the column headed “ Supporting Documents” generally remains blank. For example, the Cabinet Forward Plan December 2019 – March 2020 published on 11<sup>th</sup> November contained 12 items, but supporting documentation was provided in only one instance. There may be reasons for this, but there were a number of Key decisions in the Forward Plan and the Group considers it is appropriate to remind the Council of its obligation to provide documentation that is relied upon by Cabinet in taking a Key decision. By not looking into the detail of Forward Plans, if only broadly, it could be argued that the PCGT missed an opportunity to improve the public consultation process.

**11.** The Response to Question 10 is a repeat statement of the list of documents considered in the Report, again with no supporting evidence. The issue of “When to Consult” remains, two examples are to be found as recently as the Cabinet Forward Plan for October 2019 published on 11<sup>th</sup> September 2018. The first relates to the Community Funding Review, which has a meaningless “Tbc” in the consultation column of the Forward Plan, this matter being dealt with at Agenda Item 9 for the Cabinet Meeting on 8<sup>th</sup> October. Despite this matter being listed as a Key decision, the Minutes make no reference to any form of consultation taking place. The second relates to the Council’s £ 75M bid to the Housing Infrastructure Fund in respect of Chippenham, another Key decision, where quite an extensive list of consultees is shown in the Cabinet’s Forward Plan., but the Group submits that the Council’s apparent failure to consult with any of the local parish councils that would be affected by such a major project before the bid was put in, and before statutory public consultation on the roll forward of the Local Plan, may well lead to future repercussions. It is conceded that the

Minutes reflect that the Leader of the Council confirmed that consultation with parishes would take place in the future, but with the Council recording that this will be a major project over the long term, it appears to the Group that, with agreement to the funding having already been forthcoming, there is considerable risk that a significant number of rural residents, many potentially seriously affected, will simply be presented with a 'done deal' and that it will be very hard for them to get their views taken into account.

## **12. Summary**

From the Group's comments above, it is unable to gain any confidence that the Council has addressed adequately the public's concerns over how Council public consultations are conducted, and how the public's views are taken into account when making Key decisions – the latter being the invariable result of such consultations, and trusts that the Executive will provide a full response to all the questions and issues raised in this Statement.

The Group has had time to look only briefly at the Executive's responses to the PCTG Report's Recommendations, as approved by the OSMC, but has noted that the Executive has not attached time lines to any of those responses. The Executive's responses do not appear to have captured fully all of the individual Recommendations, and with regard to time lines, Recommendation 9 has been omitted from those responses. For the avoidance of doubt, the Group wishes to retain the right to provide further comment in due course on the Executive's responses, should it consider it necessary to do so.

The Group is concerned that the PCTG is being shut down, without formally addressing any of the material submitted by the Group, and as a consequence, any input from the public has been excluded, whether from the Group, or indeed, anybody else. The unfortunate, but clear impression has been given that the Council had no interest in any form of engagement with the public as to how consultations might be improved, and an opportunity that might have indicated some willingness on the part of the Council to start re-building some public confidence in the consultation process, has been lost.

Colin Gale  
Vice Chairman  
PCAP

**Wiltshire Council**

**Cabinet**

**19 November 2019**

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**Supplementary 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**

**Question 3 – Response from Mr Gale:** It is disappointing to note that the Task Group did not receive the Memorandum sent to the Chairman. The Memorandum has been provided again for circulation to the officers.

**Response**

Q3 – this has now been received, thank you. It will also be included in the agenda papers for OS Management Committee for its meeting on 3 December 2019.

**Question 4 – Response from Mr Gale:** The final sentence of the response states “A list of the complete consultations is provided at Appendix 1” however, there does not appear to be an Appendix 1?

**Response**

Q4 – apologies that this was omitted in the original response, please see below.

**Question 11 – Response from Mr gale:**

There appears to be some confusion with respect to the use of the term ‘Executive’. The Groups understanding of ‘Executive’ is that it is the ‘Councils Key Decision Making Body ie Cabinet’, which is wholly appropriate especially considering the task

originated from Cabinet on 9<sup>th</sup> October 2018. The PCTG in its Final Report are using the OSMC as the 'Executive' and the response to the Groups questions is using the OSMC as the 'Executive'. Please clarify.

## **Response**

Q11 – 'The Executive' refers to Cabinet members (which have Executive day-to-day decision making powers) and Portfolio Holders (which support the Cabinet Members in their role). Overview and Scrutiny (OS) can only be undertaken by non-executive members. OS Management Committee is the council's lead OS committee and coordinates the OS forward work programme. More information regarding Overview and Scrutiny's role can be found on the council's website:  
<http://www.wiltshire.gov.uk/council-democracy-overview-scrutiny>

A specific response has not been provided to the final part of the question:

“ 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.

Q11A – Members of OS Management Committee and the Cabinet Member may wish to make further comment on the Group's submission at OS Management Committee on [Tuesday 3 December](#). A written Executive response to the recommendations of the Task Group will also be received and discussed.



## Appendix 1

### The Consultations

#### Section A

138 surveys			
Move	Name ▲	Title	Last used
<input type="checkbox"/>	<a href="#">achieving_excellence_award</a>	Survey of winners	29 October 2018 10:23:17
<input type="checkbox"/>	<a href="#">achieving_excellence_award_surv</a>	A survey of staff nominated winners	17 December 2018 16:50:08
<input type="checkbox"/>	<a href="#">alcohol_awareness_week_survey</a>	A survey about alcohol	08 November 2018 12:26:34
<input type="checkbox"/>	<a href="#">anti-social_behaviour_survey</a>	ASB Survey reporting form	22 November 2018 21:26:57
<input type="checkbox"/>	<a href="#">armed_forces_staff_survey</a>	A survey of staff relationship to the armed forces community in Wilts	08 February 2018 16:18:34
<input type="checkbox"/>	<a href="#">army_basing_relocation_of_5_rifk</a>	Survey of military spouses and partners and lessons learned	13 November 2017 08:55:46
<input type="checkbox"/>	<a href="#">asbrac_training_survey</a>	A survey of those who have undertaken ASBRAC training	19 March 2018 10:24:27
<input type="checkbox"/>	<a href="#">asset_management_strategy_1</a>	Survey of Council House tenants	13 October 2017 15:43:17
<input type="checkbox"/>	<a href="#">baby_steps_evaluation_survey_fo</a>	Evaluation of Baby Steps	15 March 2017 11:49:32
<input type="checkbox"/>	<a href="#">baby_steps_evaluation_survey_fo</a>	Evaluation of Baby Steps	15 March 2017 11:49:46
<input type="checkbox"/>	<a href="#">boating_survey_2017</a>	A survey of Wiltshire inland boat owners	11 December 2017 14:41:45
<input type="checkbox"/>	<a href="#">breast_feeding_dad_pad_follow_u</a>	Dad Pad involving fathers survey	15 March 2017 11:47:22
<input type="checkbox"/>	<a href="#">building_control_service_questior</a>	Satisfaction with the Building Control Service	10 January 2019 13:35:55

12 entries. ('Baby Steps Evaluation Survey' submitted twice).

#### Legal Comment

12 = examples of canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries are surveys (canvassing), to either seek the views of residents on various issues that may need to be considered in the future, or to assess satisfaction of the users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section B

<input type="checkbox"/>	<a href="#">calne_community_hub</a>	Satisfaction Survey	16 February 2017 10:46:39
<input type="checkbox"/>	<a href="#">camhs</a>	Youth survey 2017	16 July 2018 14:52:11
<input type="checkbox"/>	<a href="#">camp_activate_parental_survey</a>	A survey of parents of children who have attended camp activate	17 December 2018 16:50:29
<input type="checkbox"/>	<a href="#">cannons_house_parental_survey</a>	Satisfaction with services at Cannons House	19 March 2018 14:55:23
<input type="checkbox"/>	<a href="#">car_parking_charges_final</a>	Public consultation on proposed changes 2017	01 October 2018 16:11:11
<input type="checkbox"/>	<a href="#">care_and_support_services_infor</a>	A review of information advice and guidance services	23 January 2018 11:14:42
<input type="checkbox"/>	<a href="#">charging_policy_financial_assess</a>	Users experiences of FAB assessments under the new Charging Policy	28 September 2017 09:24:11
<input type="checkbox"/>	<a href="#">childcare_training_course_evaluat</a>	User feedback on training courses	18 July 2018 13:41:17
<input type="checkbox"/>	<a href="#">childrens_centre_consultation_2</a>	A survey on changes to childrens centres and their locations	24 January 2019 09:28:42
<input type="checkbox"/>	<a href="#">community_area_jsa_programm</a>	A survey of contributors	07 August 2017 09:39:56

10 entries.

### Legal Comment

8 = canvassing/satisfaction surveys/general communications

2 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries, bar two, were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders. These eight titles were not needed or recommended by legal to ensure legal compliance, nor were they needed to ensure such compliance.

The one that we can identify as recommended by legal to ensure legal compliance is the fifth entry relating to car parking charges.

The ninth entry relating to changes to Children's Centres may also have been initiated to ensure legal compliance with consultation. Legal Services is aware that a formal legal consultation was carried out in respect of this issue at around this time. However, it is difficult to confirm whether this was the case by use of the word "survey".

## Section C

<input type="checkbox"/>	<a href="#">community_governance_review</a>	Scheme 104	11 May 2017 15:54:23
<input type="checkbox"/>	<a href="#">community_pharmacy_services</a>	Pharmaceutical needs assessment	28 September 2017 09:28:11
<input type="checkbox"/>	<a href="#">community_policing_councillor_s</a>	A survey of councillors	17 April 2018 11:55:50
<input type="checkbox"/>	<a href="#">connect_2_wiltshire_bus_services</a>	Consultation on proposed timetable changes	13 October 2017 15:45:16
<input type="checkbox"/>	<a href="#">corporate_category_team</a>	Team survey	10 December 2018 09:37:15
<input type="checkbox"/>	<a href="#">corporate_category_team_2</a>	Team survey	07 January 2019 10:49:52
<input type="checkbox"/>	<a href="#">corporate_category_team_2_1</a>	Team survey	23 January 2019 11:57:11
<input type="checkbox"/>	<a href="#">council_tax_reduction_scheme_cl</a>	Survey of Wiltshire residents	06 July 2017 16:23:40
<input type="checkbox"/>	<a href="#">county_lines</a>	A survey of professionals and awareness of county lines	22 November 2018 11:35:15
<input type="checkbox"/>	<a href="#">dementia_friends</a>	Staff Survey	15 March 2017 11:52:12
<input type="checkbox"/>	<a href="#">disability_sport_consultation</a>	A survey of parents, guardians, carers and organisations	08 May 2017 11:03:44
<input type="checkbox"/>	<a href="#">disability_sports_consultation_-_j</a>	Top activities	23 June 2017 10:18:21

12 entries

### Legal Comment

10 = canvassing/satisfaction surveys/general communications

2 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries, bar two, were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders. These ten titles were not needed or recommended by legal to ensure legal compliance, nor were they needed to ensure such compliance.

In respect of the two identified as having different considerations, the first entry relates to a Community Governance Review and was required as part of a statutory (set by legislation) consultation.

The second is the fourth entry (Bus Services Timetable), which was a legal consultation recommended by Legal Services, since the proposed changes may have had an adverse effect on users – particularly those with protected characteristics (equalities duties). This consultation was recommended to ensure that the ultimate decision maker was fully informed on the impacts, and particularly impacts, on persons with protected characteristics.

## Section D

<input type="checkbox"/>	<a href="#">dog_transport_survey</a>	A survey of dog business owners and how they transport their animals	03 January 2019 13:22:39
<input type="checkbox"/>	<a href="#">draft_pharmaceutical_needs_assessment(pna)</a>	A survey to test the suitability of the draft assessment	11 January 2018 15:50:21
<input type="checkbox"/>	<a href="#">dry_january_survey_2018</a>	A survey of staff	19 February 2018 11:37:22
<input type="checkbox"/>	<a href="#">ech_my_plan</a>	A survey of young people and awareness of their ECH My Plan	18 January 2019 09:22:13
<input type="checkbox"/>	<a href="#">education_health_and_care_plan_for_parents_with_I.D.</a>	Education Health and Care Plan for parents with I.D.	18 January 2019 20:51:55
<input type="checkbox"/>	<a href="#">electoral_registration</a>	Canvassers feedback form	14 June 2018 11:23:33
<input type="checkbox"/>	<a href="#">electoral_registration2</a>	Canvassers feedback form	17 December 2018 14:32:14
<input type="checkbox"/>	<a href="#">families_and_children's_transform(fact)</a>	A survey of parents and young people	04 October 2018 09:54:21
<input type="checkbox"/>	<a href="#">families_and_childrens_transform</a>	Self Assessment Framework	02 October 2018 15:14:47
<input type="checkbox"/>	<a href="#">families_and_childrens_transform</a>	A survey of Child Protection users	20 December 2018 09:10:30
<input type="checkbox"/>	<a href="#">five_rivers_health_and_wellbeing</a>	A survey of customers	11 September 2018 14:12:05
<input type="checkbox"/>	<a href="#">fostering_support_group_survey</a>	User survey	15 March 2017 11:57:35

12 entries above.

## Legal Comment

12 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section E

<input type="checkbox"/>	<a href="#">general_community_pharmacy_s</a>	Pharmaceutical needs assessment	28 September 2017 09:27:55
<input type="checkbox"/>	<a href="#">get_active_summer_survey_final</a>	User satisfaction	11 October 2016 09:56:44
<input type="checkbox"/>	<a href="#">get_active_summer_survey_final_</a>	User satisfaction	25 September 2017 15:04:26
<input type="checkbox"/>	<a href="#">get_active_summer_survey_final_</a>	User satisfaction	17 December 2018 16:51:31
<input type="checkbox"/>	<a href="#">health_course_training_evaluatio</a>	Satisfaction with training	20 November 2018 15:20:54
<input type="checkbox"/>	<a href="#">health_services_sustainability_an</a>	Planning for the future	17 December 2018 16:52:09
<input type="checkbox"/>	<a href="#">health_watch_wiltshire</a>	Web services survey	25 September 2018 16:37:03
<input type="checkbox"/>	<a href="#">hospital_discharge_survey_1</a>	Experiences of leaving hospital or care	15 March 2017 11:53:39
<input type="checkbox"/>	<a href="#">household_recycling_centres</a>	Proposed closure of Everleigh Recycling Centre	03 September 2018 15:36:47
<input type="checkbox"/>	<a href="#">housing_allocations_policy_2017</a>	Views on new Housing Allocations Policies	30 November 2017 09:43:19
<input type="checkbox"/>	<a href="#">housing_lettings_survey_2018_ve</a>	Satisfaction with the lettings service	17 January 2019 16:20:32
<input type="checkbox"/>	<a href="#">housing_repairs_satisfaction_sun</a>	A survey of housing tenants	24 January 2019 00:35:25
<input type="checkbox"/>	<a href="#">housing_services_anti-social_behaviour_investigation_s1</a>	Satisfaction with the service	10 January 2019 14:19:43

13 entries above.

## Legal Comment

11 = canvassing/satisfaction surveys/general communications

2 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries, bar two, were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders. These eleven titles were not needed or recommended by legal to ensure legal compliance, nor were they needed to ensure such compliance.

Of the two identified as having different considerations, the ninth entry related to the potential closure of the Everleigh Recycling Centre and was a consultation recommended by Legal Services, based on a promise by an elected member that the Council would consult with users (legitimate expectation) and ensured legal compliance in decision making.

The tenth entry relates to the Housing Allocations Policy and was a statutory consultation, required as part of the Town and Country Planning Act requirements.

## Section F

<input type="checkbox"/>	<a href="#">housing_services_cyclical_mainte</a>	Satisfaction with cyclical maintenance	10 January 2019 14:22:33
<input type="checkbox"/>	<a href="#">housing_services_planned_maintb</a>	Satisfaction with planned maintenance	10 January 2019 14:22:47
<input type="checkbox"/>	<a href="#">housing_services_tenancy_sustai</a>	Satisfaction with the service	10 January 2019 14:25:52
<input type="checkbox"/>	<a href="#">housing_strategy_2017-22</a>	Survey of Strategic priorities	14 August 2017 13:37:15
<input type="checkbox"/>	<a href="#">housing_tenant_garages_survey</a>	A survey of Wiltshire Housing Tennants	11 September 2018 14:12:57
<input type="checkbox"/>	<a href="#">junior_fitness</a>	Membership package survey	23 November 2016 09:54:51
<input type="checkbox"/>	<a href="#">just_play_football_survey</a>	Staff football	14 August 2017 14:30:48
<input type="checkbox"/>	<a href="#">leaving_care_exit__survey_2017</a>	A survey of carer leavers	11 July 2017 15:54:52
<input type="checkbox"/>	<a href="#">leaving_care_exit__survey_2017_</a>	A survey of carer leavers	16 July 2018 14:50:19
<input type="checkbox"/>	<a href="#">leisure_centre_satisfaction_surve</a>	Satisfaction with Leisure centres	12 November 2018 10:55:52
<input type="checkbox"/>	<a href="#">leisure_services_membership_car</a>	Membership cancellation survey	14 August 2018 11:27:04
<input type="checkbox"/>	<a href="#">leisure_services_staff_uniforms_s</a>	A survey of staff	27 April 2017 09:15:55
<input type="checkbox"/>	<a href="#">market_town_forum_-_event_eva</a>	A survey of Market Town delegates	08 November 2018 12:36:58

13 entries above.

## Legal Comment

13 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section G

<input type="checkbox"/>	<a href="#">maternity_services_-_place_of_bir</a>	A survey of mothers and their experiences relating to their choices	23 October 2017 14:21:24
<input type="checkbox"/>	<a href="#">mecc_evaluation</a>	Follow up survey	03 July 2018 09:37:08
<input type="checkbox"/>	<a href="#">occupational_health_survey_2017</a>	A survey of staff	09 November 2017 10:07:15
<input type="checkbox"/>	<a href="#">october_alcohol_awareness_chall</a>	A survey about alcohol	15 November 2018 14:27:36
<input type="checkbox"/>	<a href="#">passenger_transport_unit_-_parer</a>	Applying for passenger transport - user experiences	08 September 2017 16:02:51
<input type="checkbox"/>	<a href="#">pest_control_survey</a>	Satisfaction survey 2016	04 January 2017 16:09:19
<input type="checkbox"/>	<a href="#">pest_control_survey_2017</a>	satisfaction with pest control services	13 December 2018 14:55:50
<input type="checkbox"/>	<a href="#">planning_service_-_feedback_survi</a>	A survey of professional users of the planning application service	26 March 2018 10:26:25
<input type="checkbox"/>	<a href="#">planning_service_-_feedback_sur</a>	A survey of users of the planning service	19 March 2018 13:31:55
<input type="checkbox"/>	<a href="#">polling_station_survey</a>	A survey of polling station professional staff users	23 January 2019 17:11:55
<input type="checkbox"/>	<a href="#">pregnancy_to_parenthood</a>	Pre project survey of staff and practitioners	09 January 2019 01:38:27
<input type="checkbox"/>	<a href="#">private_fostering_carer</a>	Feedback Survey 2018	15 July 2018 19:50:04

12 entries above.

## Legal Comment

12 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section H

<input type="checkbox"/>	<a href="#">registration_appointments_survey</a>	Satisfaction with the Ceremony service	17 December 2018 11:07:46
<input type="checkbox"/>	<a href="#">registration_appointments_survey</a>	Satisfaction with the Ceremony service	21 January 2019 11:05:37
<input type="checkbox"/>	<a href="#">registration_services_survey_201</a>	Customer satisfaction survey	19 January 2018 09:23:51
<input type="checkbox"/>	<a href="#">registration_services_survey_201</a>	Customer satisfaction survey	16 October 2018 09:16:45
<input type="checkbox"/>	<a href="#">registration_services_survey_201</a>	Customer satisfaction survey	24 January 2019 07:07:46
<input type="checkbox"/>	<a href="#">rural_housing_needs_survey</a>	A survey of parish residents	15 January 2019 11:59:35
<input type="checkbox"/>	<a href="#">salisbury_parkour_survey</a>	A survey of young people in the Salisbury area	11 May 2017 15:45:48
<input type="checkbox"/>	<a href="#">salisbury_public_spaces_protecti</a>	Public Consultation	18 July 2017 09:23:02
<input type="checkbox"/>	<a href="#">salisbury_public_spaces_protecti</a>	Public Consultation	06 February 2018 11:12:08
<input type="checkbox"/>	<a href="#">schools_naughty_bug_evaluation</a>	Survey of effectiveness	07 August 2017 09:41:30
<input type="checkbox"/>	<a href="#">second_hand_smoke_survey</a>	A survey of managers and staff in childrens centres	24 September 2018 12:38:20
<input type="checkbox"/>	<a href="#">sexual_health_needs_assessment</a>	A survey of users	15 March 2017 11:58:57
<input type="checkbox"/>	<a href="#">sexual_health_survey_stakeholde</a>	Stake holder questionnaire	15 March 2017 11:59:11

13 entries above.

## Legal Comment

11 = canvassing/satisfaction surveys/general communications

2 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries, bar two, were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders. These eleven titles were not needed or recommended by legal to ensure legal compliance, nor were they needed to ensure such compliance.

Of the two identified as having different considerations, entries 8 and 9 (Salisbury Public Spaces Protection) relate to statutory consultations, undertaken to give effect to Designated Public Open Spaces orders for Salisbury and were required by law and could not be avoided.



## Section I

<input type="checkbox"/>	<a href="#">smoking_and_mental_health_ever</a>	An evaluation of training	18 July 2018 13:46:50
<input type="checkbox"/>	<a href="#">special_schools_consultation</a>	A survey about future special school provision in Wiltshire	27 September 2018 11:43:35
<input type="checkbox"/>	<a href="#">special_schools_consultation_ph:</a>	A survey on the proposals for Special Schools in Wiltshire	23 January 2019 20:44:04
<input type="checkbox"/>	<a href="#">sports_club_data_base</a>	A register of sports clubs and organisations in Wiltshire	17 January 2019 21:58:11
<input type="checkbox"/>	<a href="#">staff_travel_survey__trowbridge_</a>	A survey of staff travel arrangements	10 July 2018 15:43:02
<input type="checkbox"/>	<a href="#">staff_travel_survey_bourne_hill_</a>	A survey of staff travel arrangements	10 July 2018 15:43:21
<input type="checkbox"/>	<a href="#">staff_travel_survey_monkton_pa</a>	A survey of staff travel arrangements	10 July 2018 15:43:50
<input type="checkbox"/>	<a href="#">stationery_contract</a>	change in stationery provider - details	08 February 2018 11:11:41
<input type="checkbox"/>	<a href="#">stop_smoking_practitioner_audit</a>	A survey of provider stop smoking services	19 February 2018 11:51:28
<input type="checkbox"/>	<a href="#">stop_smoking_practitioner_surve:</a>	A survey of practitioners before training	22 January 2019 21:05:04
<input type="checkbox"/>	<a href="#">stop_smoking_practitioner_surve:</a>	A survey of practitioners after F2F training	06 November 2018 16:18:02

11 entries above.

## Legal Comment

9 = canvassing/satisfaction surveys/general communications

2 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries, bar two, were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders. These nine titles were not needed or recommended by legal to ensure legal compliance, nor were they needed to ensure such compliance.

Of the two identified as having different considerations, entries 2 and 3 (Special Schools Consultation) were recommended by Legal Services, to ensure legal compliance; following guidance put out by the Department for Education and also ensured that Cabinet - as the ultimate decision-maker - was fully informed as to the impact on and views of both the public and specific members of the public with protected characteristics (equalities duties).

## Section J

<input type="checkbox"/>	<a href="#">sugar_survey</a>	A survey of pledges to reduce sugar consumption	17 December 2018 16:52:53
<input type="checkbox"/>	<a href="#">syrian_vulnerable_persons_reloc</a>	Survey of volunteers	18 April 2017 10:06:12
<input type="checkbox"/>	<a href="#">systems_thinking</a>	Training survey	17 April 2018 11:59:06
<input type="checkbox"/>	<a href="#">trowbridge_carers_survey</a>	A survey of unpaid carers in Trowbridge	06 February 2018 11:12:42
<input type="checkbox"/>	<a href="#">user_and_carer_voice_consultatic</a>	A survey of Adult social care users and opportunities to give their views	15 August 2017 09:30:13
<input type="checkbox"/>	<a href="#">walking_sports_survey</a>	A survey of potential users	11 September 2018 14:14:17
<input type="checkbox"/>	<a href="#">waste_and_recycling_consultation</a>	Public attitudes to waste and recycling services	15 January 2018 15:40:11
<input type="checkbox"/>	<a href="#">wiltshire_autism_strategy</a>	Survey of users	11 May 2017 15:53:40
<input type="checkbox"/>	<a href="#">wiltshire_clubs_and_organisation</a>	Survey of website use	02 February 2017 09:48:05
<input type="checkbox"/>	<a href="#">wiltshire_council_commercial_wa</a>	A survey of trade professional and business users	21 September 2018 11:44:58
<input type="checkbox"/>	<a href="#">wiltshire_council_contact_survey</a>	Right first time every time	20 April 2017 09:34:39
<input type="checkbox"/>	<a href="#">wiltshire_council_customer_satisf</a>	Visitor customer satisfaction card	11 May 2017 15:49:22

12 entries above.

## Legal Comment

12 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section K

<input type="checkbox"/>	<a href="#">wiltshire_council_motiv8_service</a>	A survey of school age pupils in Wiltshire	22 August 2018 15:48:06
<input type="checkbox"/>	<a href="#">wiltshire_cytology_training</a>	Satisfaction with training course	08 February 2018 16:14:13
<input type="checkbox"/>	<a href="#">wiltshire_nhs_health_checks</a>	Patient satisfaction survey	05 November 2018 11:45:39
<input type="checkbox"/>	<a href="#">wiltshire_parent_carersa_council</a>	A survey of young people adults with LD/Autism	06 March 2018 13:06:17
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 1 Personal family and social factors	22 November 2018 14:57:21
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 2 Offending and anti-social behaviour	22 November 2018 15:01:48
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 3 Foundations for change	22 November 2018 15:16:33
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 4 Explanations and conclusions	22 November 2018 15:21:14
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 5 - Pathways and planning	23 November 2018 09:46:32
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 6 - Delivery of interventions	23 November 2018 09:52:02
<input type="checkbox"/>	<a href="#">yot_team_pearl_audit_survey_mo</a>	Module 7 - Review stage assessments	23 November 2018 09:55:47
<input type="checkbox"/>	<a href="#">you're_wiltshire_vision</a>	Wiltshire Health and Wellbeing Board strategy and vision consultation	16 July 2018 10:54:03

12 entries above.

### Legal Comment





12 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

## Section L

<input type="checkbox"/>	 <a href="#">young_children_and_complex_dis</a>	A survey of young children and complex disabilities	26 November 2018 11:10:54
<input type="checkbox"/>	 <a href="#">your_care_your_support_website</a>	Feedback form	17 December 2018 11:06:19
<input type="checkbox"/>	 <a href="#">your_voice_survey_2017_ages_7-</a>	A survey for children and those with a SEND	20 November 2018 10:51:07
<input type="checkbox"/>	 <a href="#">your_voice_survey_2018</a>	A survey of children in care	24 January 2019 09:09:06

4 entries above

## Legal Comment

4 = canvassing/satisfaction surveys/general communications

0 = statutory/discretionary consultations

On the basis of the titles, it would appear that all entries were surveys (canvassing) to either seek the views of residents/stakeholders on various issues that may need to be considered in the future, or to assess satisfaction of users/stakeholders.

None of the above are examples of either statutory or discretionary consultations.

**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.