To: City Executive Board - 9th February 2011

Item No: 10

Report of: Head of Law and Governance

Title of Report: DEMOCRATIC ARRANGEMENTS - PROPOSED CHANGES

Summary and Recommendations

Purpose of report: This report provides the detail to support the Administration’s proposals for changes in the Council’s democratic arrangements as set out in the Council’s consultation budget. The Administration’s proposals form Annex 1 to this report. The report recommends that consultation takes place upon the detail of those arrangements.

Key decision? No

Executive lead member: Councillor Price

Policy Framework:

Recommendation(s):

The City Executive Board is RECOMMENDED to agree the proposed changes to democratic arrangements as described in this report for the purpose of consultation.

Appendices to Report:

Annex 1 – Extract from the Council’s consultation budget
Annex 2 – Area Planning Committees
Annex 3 – Area Community Forums and Ward Member budgets
Annex 4 – City Executive Board, Scrutiny and Council meetings
Annex 5 – Single executive member decision-making
Annex 6 – Timetable of meetings and member training / development
Format of report

1. This report is written in the form of a series of annexes as listed above.

Introduction

2. The Council’s consultation budget contained a paper from the Administration on democratic services changes. That paper forms Annex 1 to this report.

3. The Authority presently operates a Leader and Cabinet form of Executive arrangements. Within that form, arrangements differ from Authority to Authority. The main characteristics of the Authority’s present arrangements are collective Executive decision making, an absence of individual Executive and Ward member decisions and a number of area committees (discharging both Executive functions on behalf of the Executive and planning functions on behalf of Council). The Council’s Constitution reflects those arrangements.

4. Section 33B of the Local Government Act 2000 (‘the Act’) permits the Authority to vary its Executive arrangements “so that they differ from the existing arrangements in any respect, but still provide for the same form of Executive.”

Section 33E of the Act applies to the proposed changes to the Council’s governance arrangements. In summary the Authority must –

i) before drawing up proposals consult the local government electors for, and other interested persons in, the authority’s area;

ii) draw up proposals and, in doing so, consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness;

iii) publish the proposals and a notice of their publication in one or more newspapers circulating in its area.

Timetable, consultation and implementation

5. This report constitutes the first step in drawing up proposals to change the governance arrangements of the Authority. The annexes which follow describe the present arrangements and suggest how they might be changed. The overall timetable for the drawing up and consideration of proposals is as follows –

- CEB – 9th Feb – agree draft proposals for consultation.
• Communities and Partnership Scrutiny Committee – Feb and/or March meeting – consider and comment upon the proposals

• CEB – 13th April – considers consultation and scrutiny responses and draws up proposals for recommendations to Council.

• Council – 18th April – adopts proposals

6. On consultation, we will conduct an on-line consultation exercise. On behalf of Scrutiny, officers have already commenced consultation with members in order to inform consideration of the proposals by the Communities and Partnership Scrutiny Committee. And we will, as required by the Act, publish the proposals in the local paper.

7. The draft proposal in respect of the implementation date is that the new governance arrangements should take effect from the Annual Meeting of Council which is to be held on the 19th May. The present arrangements are proposed to be retained until then. That has the advantage of Council appointing Members to the new governance structures at the start of the Council Year and would minimise any organisational confusion which an in-year change might otherwise cause. The gap between Council adopting proposals on the 18th April and Council appointing members to the adopted proposals on the 19th May will also enable the proposals and the amended Constitution to be published.

8. The draft proposals do not include any changes to the Scrutiny Committees, Standards Committee, Audit and Governance Committee or the licensing committees. Finally, it is not proposed that the change in governance arrangements will be subject to approval in a referendum.

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List of background papers: None
Version number: 5
Council democratic services changes

The Council’s political administration propose:

- To create two area planning committees of eight members each, with a final call-in, if signed by eight members, to a “Planning Appeals Committee”; the chair of the former two to have an SRA of 0.5 basic allowance (no SRA for chair of planning appeals committee)

- To make regular area committee arrangements quarterly, renaming these committees “area forums”, and withdraw SRAs from chairs;

- To remove area committee revenue budgets;

- To assign each member a budget of £1,500 per annum to be spent in conjunction with the area’s community development worker, and note that this can be pooled between members, and also used to convene Neighbourhood meetings in smaller areas. Other ward members should be kept informed about Neighbourhood meetings, and appropriate rules would be drawn up to cover appropriate use of councillors’ budgets;

- To retain the Standards Committee until the government announces its plans to reform the local standards regime;

- Introduce single-member decision-making and minimise the number of programmed CEB meetings.

- To task the newly re-structured and strengthened Community Development team to work with local Councillors to enhance ward level involvement from the public and residents groups.

Subject to the outcome of consultation, these measures will be the subject of constitutional amendments to be discussed at the Budget Council meetings, to align the constitution with budget decisions.
We the administration believe these arrangements will improve democracy, decision-making and involvement in Oxford City Council.

Specifically, the structures of area involvement can be more flexible, and we will encourage councillors, where they consider it appropriate, to pull together community meetings in areas smaller than those of current area committees. There remains an area-based element to planning, while at the same time freeing committee structures from lengthy discussion of development control decisions to the detriment of other issues, and reducing the risk of costly planning appeals.

In spite of the acute budget pressures the council faces, we want to give individual councillors the ability to support smaller groups, projects and events, and this is achieved through the new “member budgets”. In particular, we hope that councillors will use the new arrangements to bring more residents from their areas together, through informal meetings across smaller areas. The new arrangements for Executive Decisions will be more flexible than at present.

We believe it is right that, at a time when council funding is being cut so dramatically, we look to achieve some reductions in the cost of council committees and unfortunately there is a need to reduce the amount of money spent on small projects (not least so we can protect funding for voluntary groups through the grants process). These arrangements still represent an improvement on the current situation, and will enable councillors to provide stronger community leadership and be more responsive to the needs of their areas.
ANNEX 2

AREA PLANNING COMMITTEES

1. Present arrangements

1.1 For those planning applications not delegated to officers, we have a somewhat complex and potentially long drawn out determination process. Area committees deal with lower level planning applications and they comment on applications that are for the Strategic Development Control Committee (SDCC) in its own right to determine. They can also call in officer delegated applications for determination at the committee. Call-in of area committee planning decisions, on planning grounds, is to the SDCC. The SDCC deals with both area committee called-in applications and, in its own right, the higher level or “strategic” applications. Its decisions on strategic applications can be called in on planning grounds to the full Council and Council then considers and determines them. Local Development Framework documents are approved by Council. Supplementary planning guidance is approved by the City Executive Board.

2. Proposed arrangements

2.1 Area planning committees – to establish two area planning committees, each consisting of eight members with a quorum of five. The committees need to be politically balanced (currently 4 Labour members, 3 Liberal Democrat members and 1 Green member). The Independent Remuneration Panel on members’ allowances is recommending that the chairs of the two area planning committees are paid a special responsibility allowance.

2.2 The two area planning committees would meet on a monthly basis. The meetings would generally take place in the Town Hall - the centre of town is accessible by public transport from all parts of the City. However, the committees may decide, for a particular application, to meet at a venue outside the Town Hall. There is also a cost saving to be derived from meeting generally in the Town Hall. The hiring of venues for area committees costs an average of £100 per meeting and this would work out, for area planning committees, at £2,400 per year for twelve meetings (one a month) of each of the two committees.

2.3 The two area planning committees are to be composed as follows:-

- West Area Planning Committee to consist of the North, Central South and West and East Area Committee Wards (11 Wards). These three area committees together with the SDCC dealt with 69 planning applications between December 2009 and November 2010.
• East Area Planning Committee to consist of the North-East, South-East and Cowley Area Committee Wards (13 Wards). These three area committees together with the SDCC dealt with 59 planning applications between December 2009 and November 2010.

2.4. The proposals described above have the support of the Head of City Development. The arrangements follow area committee boundaries, provide a balance in terms of Wards and planning applications dealt with, and the geographical distribution is appropriate. Planning applications in respect of the east area Wards often involve similar planning issues to those that relate to the City centre.

2.5. Planning Call In Committee – to establish a committee that would reconsider applications called in from an area planning committee. Strategic applications at present dealt with by the SDCC would be dealt with by the appropriate area planning committee. The call in committee would meet as and when required on the date in the month shown in the draft timetable of meetings (Annex 6 refers). The call in committee will be called the Planning Review Committee.

2.6. The Planning Review Committee will consist of eight members (with a quorum of five) on a politically proportionate basis (currently 4 Labour members, 3 Liberal Democrat members and 1 Green member). The Independent Remuneration Panel on members’ allowances is recommending that the chair of the Planning Review Committee should not receive a special responsibility allowance on the basis that the committee is unlikely to meet on a regular basis.

2.7. Call-in – There will be no call-in of Planning Review Committee decisions. The area planning committees will continue to consider applications that were scheduled to be determined by officers under the scheme of delegation but which are called in for member determination. (These are not in fact call-ins but, rather, represent an ad-hoc withdrawal of delegated powers.) No planning reasons will be required. Call in to the Planning Review Committee will require the support of twelve members (the caller in and eleven others). Planning reasons will be required.

2.8. Powers and duties of planning committees - The responsibilities of the area planning committees (and, for called in applications, the Planning Review Committee) are set out in the Appendix to this annex. The responsibilities are presently contained in paragraph 5.3(b) of the Constitution.

2.9. Membership of planning committees – there will be different members on each committee. In other words a member may not sit on more than one of the three planning committees. Where a substitute is needed, the substitute may be a member of another planning
committee. Membership of the area planning committees will not be restricted to the area covered by the committee.

2.10. **Applications that straddle area committee boundaries** – occasionally the Council will have before it planning applications that straddle area planning committee boundaries. On those rare occasions the area planning committee with the majority of the application site will determine the application.

2.11. **Planning policy documents** – It is proposed that planning policy documents will be considered in draft form by both area planning committees before being considered by the City Executive Board. Local Development Framework documents and other documents which form part of the Policy Framework of the Council, will be recommended (for adoption or submission to Government) to Council from the City Executive Board. The Annual Monitoring Report and the Local Development Scheme will approved by the City Executive Board.
RESPONSIBILITIES OF PLANNING COMMITTEES

(b) Who carries out the responsibility?

The following responsibilities are carried out by area planning committees:

- deciding planning applications for more than five residential units or for residential developments on sites with a site area of over 0.25 hectares
- deciding planning applications for non-residential developments on sites over 0.5 hectares
- deciding planning applications for non-residential developments with new or increased floor space of more than 500 m²
- deciding planning applications by the council or by councillors or officers
- deciding planning applications where a councillor is the agent
- agreeing significant amendments to approved plans subsequent to the grant of planning permission or listed building consent
- deciding planning applications that have been called in during the 21-day consultation period (see 17.3)
- recommending how S106 contributions should be allocated
- deciding listed building consent applications for total or substantial demolition of listed buildings
- deciding planning applications for phone masts where there are objections (except applications that can go ahead unless the council refuses them within 56 days)
- confirming and revoking tree preservation orders when there are objections
• dealing with complaints about high hedges when the hedge is on the council’s land or land occupied by a councillor or officer or when the complaint has come from a councillor or officer

• Commenting on drafts of planning policy documents being considered for adoption or submission to Government

The **Planning Review Committee** is responsible for deciding planning applications that are called in during the call in period (see section 17).

The **Head of City Development** determines all other applications.
AREA COMMUNITY FORUMS AND WARD MEMBER BUDGETS

1. Present arrangements

1.1 The current six area committees deal with a combination of Council functions (determination of planning applications) and Executive functions (aspects that are delegated to area committees by the Executive in the Constitution, and which can be withdrawn at any time). Appendix A to this Annex sets out the current Executive functions of area committees.

2. Proposed arrangements

2.1 Planning applications will be dealt with by the area planning committees.

2.2 When the Council introduced modernised decision-making arrangements in 2000 – 2001 it considered area committees as a potentially effective method of engaging the general public in council work. The area committees were structured so as to allow direct public involvement in meetings and arrangements for community groups to participate on appropriate topics. The agenda were organised so as to require the Council’s major plans, policies and budgets to be considered by the committees where it was assumed a wide cross-section of the community would be able to express a view and contribute to the final outcome. It was also hoped that the committees would provide a forum through which the County Council and the City Council could collaborate on the provision of services.

2.3 Over the decade during which they have operated, the delegation of Executive functions to the area committees has not worked effectively and in practice the strategic management functions (eg on parks and street services) have reverted to the Executive in order to secure an appropriate degree of operational effectiveness and value for money. Area action planning within the Community Strategy has been sporadic and has not involved a wide spread of community representatives in any meaningful and continuous way.

2.4 The most successful element of the area committees in relation to community engagement has been the Open Forum sessions and discussion and implementation of Council initiatives and projects funded by committees’ delegated budgets. The proposal therefore is to build upon this experience by developing local area forums supported through the Communities and Neighbourhoods Team.

2.5 The Communities and Neighbourhoods Team is currently working to develop active neighbourhood management as a key element of the
Regeneration Framework action plan which focuses on the areas of greatest deprivation in the City. These will have local partnership boards with representation from local councillors, community and voluntary groups, other statutory partners and local businesses. It is proposed that this model be adopted across the City to provide a clear framework within which local priorities can be raised, discussed and actions to address them agreed. The area forums would have a local partnership arrangement similar to the neighbourhood management model involving key local stakeholders and community representatives but covering a wider area. The forums would be a partnership of key local stakeholders including community groups, schools, businesses and senior representatives from statutory agencies to focus on issues of local concern. They will be supported to develop local plans which will promote and facilitate community initiatives. This approach will help the City Council and its partners to have a greater understanding of local priorities and enhance working together to respond to local issues.

2.6 The establishment of the forums will reduce the administrative costs of area committee servicing and on venue hire. There will be a number of operational and organisational issues associated with setting up area forums which will need to be addressed and it is proposed that a cross-party working group be established to deal with those aspects of the new arrangements.

2.7 To support and develop their work at the local neighbourhood level, each Ward member will be assigned a budget of £1,500 to spend within their local area in conjunction with the Communities and Neighbourhoods Team. Officers have drafted tight and clear rules around use of Ward member’s budgets to ensure transparency and integrity and they are attached as Appendix B to this Annex.

2.8 The present Executive functions exercised by area committee would revert to the City Executive Board, individual Executive members and to officers under the Executive scheme of delegation.
AREA COMMITTEE RESPONSIBILITIES - CURRENT

Decisions that must be agreed by area committees

- strategic management and maintenance of parks, commons, sports grounds, playing fields, open spaces, burial grounds, allotments, moorings, public monuments and statues, community centres, public toilets, ditches, streams and car parks (except central car parks) – this will include agreeing a yearly programme of works
- strategic management of street cleaning, abandoned vehicles and the dog warden service
- agreeing the yearly programme of works to be done on behalf of the county council under Section 42 of the Highways Act 1980
- designating conservation areas
- responding to consultation by the county council on traffic management proposals and highway maintenance and improvement proposals (except ones that affect the whole city)
- setting area action plans within the community strategy
- agreeing and monitoring plans for community development and social inclusion
- appointing representatives to outside bodies (except bodies whose work affects the whole city)
- naming and numbering streets if there are unresolved objections following consultation
- setting fees and charges for responsibilities delegated to area committees – these must be consistent with any strategy agreed by the board
- approving projects
- agreeing capital or revenue spending from area committee funds (unless an area committee has delegated it)
- giving grants (except small and emergency grants) from area committee grants budgets
- giving permission for on-street activities or structures under the Highways Act 1980
WARD MEMBER BUDGETS

Present Arrangements

1. Section 236 of the Local Government and Public Involvement in Health Act 2007 provides for the discharge of functions by individual Ward members. The position pre-2000 was that single members were not permitted, in law, to make decisions. The Local Government Act 2000 made provision, for the first time, for individual Executive members to be able to make Executive decisions and the 2007 Act extended the capacity for individual decision making to all members (whether a member of the Executive or not). At present, the Authority does not operate single member decision making arrangements.

Proposed Arrangements

2. The proposal is that each member of Council will (subject to the budget being approved annually by Council) be allocated the sum of £1,500. Each member may decide how to spend the money in relation to her or his Ward. The only function which is proposed to be delegated to members is the authorisation of spend of up to £1,500. No other functions are proposed to be delegated to Ward members.

3. The restrictions and conditions on the allocation of that spend are proposed to be as follows –

   a) The Ward member may only authorise spend in relation to her or his Ward. However, members may pool budgets across Wards in order to benefit a wider area.

   b) The Ward member must be satisfied that the spend would improve the economic, social or environmental well-being of their Ward.

   c) The Ward member must consult the Communities and Neighbourhoods Team prior to authorising the spend. If the proposed spend is considered to be unlawful, in contravention of any of the duties of the Authority or would result in an additional call upon resources (financial or otherwise) then any of the statutory officers may decline, on behalf of the Authority, to make the payment as authorised, subject always to advising the member of the reasons for that decision.

   d) Immediately after a decision is made the Ward member must complete a pro forma decision notice which will go to Head of Law and Governance. The Head of Law and Governance will
make the details of the decision known to all members of Council not more than five working days from the date of the decision, and always on a Friday (for certainty’s sake) and the decision will then be capable of call-in in the usual manner (i.e. by four members or the chair of the relevant scrutiny committee). The decision cannot be acted upon until the expiry of the call in period.

e) In reaching a decision under their delegated powers, Ward members must consider each of the matters in the attached pro-forma. This will form the written record that must by law be sent to the Head of Law and Governance within one month of the decision being made. This record will be the Council’s formal record of Ward member decisions and it will appear on the Council’s website and will be available for public inspection for a period of six years. This written record and timescale is a legal requirement.

f) The Communities and Neighbourhoods Team will keep the record of member spending and will periodically report to Ward members and to the Head of Finance on expenditure and balances. At the end of each year a composite account will be published on the website.

g) A Ward member may not authorise spend if that member would, if the payment were made, have a prejudicial interest in the authorisation of the spend.
WARD MEMBER DECISIONS – RECORD OF DECISION

1. Councillor - .................................................................

2. Date - ..........................

3. Spend authorised - ......................................................... ...

4. Name and contact details of recipient of spend -

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5. Purpose of spend -

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6. How will the spend promote or improve the economic, social or environmental well-being of your Ward? -.................................

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7. Have you obtained officer advice? YES/NO. If yes, summarise advice and provide Officer contact -

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8. Do you have a personal interest in the proposed spend? YES/NO
   If yes, state nature of interest-..................................................
   Is that interest also prejudicial? - YES/NO

Signed: ..............................................................................................
1. **Present Arrangements**

1.1 In the current Council Year the Council and committee timetable contains five ordinary meetings of full Council, nine ordinary meetings of the City Executive Board and six ordinary meetings of each of the scrutiny committees. The City Executive Board meetings relate as best they can (given the overall number of meetings in the timetable) to meetings of full Council. The Scrutiny Committee meetings do not always best relate to City Executive Board and Council meetings but often need to. There needs to be a reporting relationship so that Council can take City Executive Board recommendations without undue delay, and so that the outcome of scrutiny reviews, pre-decision scrutiny, call-in and recommendations can be dealt with by the City Executive Board (and, as necessary, by Council) without undue delay.

2. **Proposed Arrangements**

2.1 The timetable of meetings at Annex 6 shows a reduced number both of City Executive Board meetings and of the two scrutiny committee meetings (five of each type). The programme retains the same number of meetings of full Council. The programming of the three meeting types enables a reporting relationship between each type to be established, and will enable Council business to be dealt with in a timely and efficient manner. And it enables quarterly monitoring reporting to be programmed in a more certain and systematic way.
SINGLE EXECUTIVE MEMBER DECISION MAKING

Present arrangements

1. The Council does not operate single member decision making at present. Single member decision making is however permitted in law (Section 14, Local Government Act 2000) in respect of the exercise of executive functions by members of the Executive and is widely used through English local government in both upper and lower tier authorities. The “senior executive member” (the Leader in the case of the City Council) may discharge executive functions or may arrange for their discharge by another member of the executive.

Proposed arrangements

2. The presumption will continue to be that all functions are delegated to officers except for those functions or activities which are reserved to either the City Executive Board or individual executive members.

3. Some decisions are more appropriately made by executive members collectively (i.e. by the City Executive Board). It is proposed that the following be reserved for consideration and decision by the City Executive Board –

- recommending the Budget and Policy Framework to Council.
- agreeing a draft budget for consultation.
- considering periodic financial, risk and performance management monitoring reports.
- approving the medium term financial strategy and the risk management strategy.
- receiving scrutiny recommendations and re-considering decisions of the Board which have been referred back from scrutiny following the call-in of an Executive decision.
- matters that Councillors place on the agenda.
- matters that the statutory Officers of the Council place on the agenda.
- matters that a single Executive member is precluded from making a decision on because of a prejudicial interest.
• responding to consultations by outside bodies where the Leader wishes the Board to approve the response.

4. It is proposed that the following be reserved for consideration and decision by individual Executive members –

• considering reports from the Audit Commission and agreeing action plans in response.
• appointing representatives to outside bodies.
• adoption of supplementary planning guidance.
• recommending extra spending outside the budget to Council.
• agreeing transfers between cost centres of £100,000 to £250,000 that are consistent with the Policy Framework.
• recommending to Council transfers between cost centres that are over £250,000 or that are inconsistent with the Policy Framework.
• recommending to Council transfers assets between the general fund and housing revenue account.
• accepting tenders of £250,000 or over.
• giving project approval for projects of £100,000 or over.
• writing off business debts of over £10,000 and personal debts over £5,000.
• using a year-end surplus in a trading account.
• bidding for work outside the city of Oxford.
• acquiring or disposing of freeholds or leaseholds with a consideration or premium over £500,000.
• acquiring or disposing of leases with a rental value over £125,000 each year.
• disposing of property or leases for less than best consideration.
• making compulsory purchase and control orders.
• changing eligibility for services.
- agreeing the community and voluntary organisations grants prospectus.

- giving grants (except small and emergency grants, historic building grants and renovation, improvement and adaption grants for private properties).

- setting fees and charges.

- setting minimum service standards.

- responding to consultations by outside bodies where the Leader wishes an Executive member to approve the response.

5. In terms of which Executive member decides which parts of the list of reserved functions set out above, that will follow from the allocation of political portfolios by the Leader. It is proposed, however, to provide for a constitutional presumption that reserved decisions may only be taken by a single Executive member. If political portfolios overlap such that it is not clear which single Executive member the decision is reserved to then the Leader will indicate which single member is to be the decision-maker.

6. The mechanics of how single Executive members reach decisions is important in order to ensure that the process is efficient and simple to operate whilst retaining openness and transparency of decision making. It is proposed that -

   a) Matters upon which single member decisions are to be made will be published in the Forward Plan. This enables two things to happen:-

      - Representations from the public to be made

      - Scrutiny involvement to apply. If scrutiny wishes to be involved in a single member matter then a scrutiny panel will be convened and the panel’s report or comments will be sent to the single member for consideration alongside the officer report and any public (Forward Plan) representations received.

   b) Single executive member decisions will be taken by executive members in public at a time and in a place which will be published.

   c) Officer reports and recommendations upon the matters which are the subject of single member decisions will be made available to all members via an electronic link and the public through the Council’s website. Before a single member takes a decision he or she will be expected to have obtained all
additional relevant information (over and above the officer report) to reach a sound and informed decision.

d) Immediately after the decision is made, the single member will complete a pro-forma decision notice which will go to the Head of Law and Governance. The Head of Law and Governance will issue a pro-forma decision notice to all members of Council not more than five working days from the date of the decision, and always on a Friday (for certainty’s sake) and the decision will then be capable of call-in in the usual manner.

e) If a single member decision is called in then it would be considered by a scrutiny committee or sub-committee and referred back to the single member. The single member will then consider the views of scrutiny and reach the final decision.

f) A written record will be kept of all single executive member decisions. This record will be the Council’s formal record of executive member decisions and it will appear on the Council’s website and will be available for public inspection for a period of six years.
1. A draft timetable of Council and committee meetings for 2011/12 incorporating the new democratic decision-making arrangements will be circulated to the Board and to Council in April. As far as it is possible to achieve, meetings will be programmed for the same day of the week at the same time in the month. Scrutiny, Executive and Council will all relate reasonably to each other, thus minimising delay in reaching substantive decisions that can be acted upon.

2. We will also show regular member training / development opportunities. A programme of member training / development to be delivered on those days will be worked up in conjunction with members.