

Minutes of Cabinet

**Wednesday, 6 December 2023 at 3.30 pm
at Council Chamber, Sandwell Council House, Oldbury, B69 3DB**

Present: Councillor Carmichael (Chair)
Councillors Hackett, Hartwell, Hughes, Khatun, Millard,
Padda, Piper and Rollins

Also present: Councillors E Giles, J Giles, Moore and Taylor.

Also present: Shokat Lal (Chief Executive), Brendan Arnold (Interim Section 151 Officer), Michael Jarratt (Director of Children's Services and Education), Dean Epton (Interim Director of Housing), James McLaughlin (Assistant Chief Executive), Mike Jones (Assistant Director – Legal and Assurance), Suky Suthi-Nagra (Democratic and Member Services Manager), Connor Robinson (Democratic Services Officer) and John Swann (Democratic Services Officer).

143/23 Apologies for Absence

Apologies for absence were received from Councillors Fenton and Lewis.

144/23 Declarations of Interest

There were no declarations of interest made.

145/23 Minutes



Resolved that the minutes of the meeting held on 15 November 2023 be approved as a correct record.

146/23 Additional Items of Business

There were no additional items of business to consider.

147/23 Biodiversity Net Gain and Local Nature Recovery Strategy for Sandwell

Approval was sought to the Biodiversity Net Gain and Local Nature Recovery Strategy for Sandwell. Responsible authorities, chosen by the Government to prepare Local Nature Recovery Strategies, were required to work with stakeholders to map the most valuable existing areas for nature, agree nature recovery priorities and to agree what actions should be taken to recover nature and where.

It was a requirement of the Natural Environment and Rural Communities (NERC) Act 2006 that all public bodies had regard to biodiversity conservation when carrying out their duties and functions. The Nature Recovery Network (NRN) was a major commitment in the Government's 25-Year Environment Plan (2018) designed to help wildlife recover by providing more habitat, in better condition and across larger areas that are more closely connected, as set out in Making Space for Nature (2010).

The Environment Act 2021 introduced mandatory Local Nature Recovery Strategies (LNRS) to support spatial planning for nature and reverse the national decline in biodiversity. LNRS would be prepared for 48 areas that would effectively cover the whole of England and which were intended to help deliver the NRN.

In response to a question from the Chair of the Economy, Skills, Transport and Environment Scrutiny Board, the Cabinet Member for Regeneration and WMCA confirmed that the £26,807 made available to the council by the Department for Environment, Food and Rural Affairs was a ring- fenced grant. It was unclear if further funding would be made available.

In addition, the Cabinet Member for Regeneration and WMCA outlined that the Council would appoint an Ecology Officer who would be responsible for managing the Biodiversity Net Gain process, this position was to be funded by the Planning Policy and Development Management services.

The Chair of the Budget and Corporate Scrutiny Management Board endorsed the report and associated strategy and highlighted that it would be of particular benefit to residents living within the Hateley Health ward.

Reason for Decision

The Council was required to approve adoption of the Sandwell element of the Black Country Local Nature Recovery Map and Strategy for planning purposes.

The requirements would be introduced in 2024 and local authorities were required to prepare in to ensure certain types of developments would meet the minimum of 10% biodiversity net gain.

Alternative Options Considered

The Council could have decided to make no preparations for the introduction of statutory biodiversity net gain. This would have resulted in missed opportunities to direct biodiversity net gain to locations of strategic value for nature recovery which would benefit residents. This would also result in an inability to progress the Sandwell Local Plan, which was needed to support the regeneration of the Borough.

Resolved:-

- (1) that approval be given to:-
 - a) the adoption of the Black Country Local Nature Recovery Map and Strategy ([Appendix 1](#)) for planning purposes, including strategic delivery of biodiversity net gain in Sandwell;
 - b) the establishment of six areas of Council-owned land to act as biodiversity net gain habitat banks, as set out in the draft Sandwell Local Plan and in time for the start of the mandatory requirement for biodiversity net gain on development sites ([Appendix 2](#));
 - c) authorise the Leader of the Council and the Cabinet Member for Regeneration and WMCA, in consultation with the Director of Regeneration and Growth, to:

- i. authorise completion of Conservation Covenants between the Council and an appropriate responsible body for the delivery of these sites as detailed in this report; and
 - ii. secure the addition of these sites to the national Biodiversity Gain Site Register;
- (2) that future authority for any additional working on the drawing-up and delivery of biodiversity net gain habitat banks and associated projects be delegated to the Cabinet Member for Regeneration and WMCA and the Director responsible for Regeneration and Growth, in consultation with the Cabinet Member for Leisure and Tourism and the Director responsible for Leisure and Tourism.

148/23

Review of Council Tenant Rents and Housing Related Property Charges

Approval was sought to adjust council rents and Housing Charges from 1 April 2024 by the consumer price index (CPI) (September 2023) plus 1%.

In 2019, the Government set a rent policy for social housing that would permit rents to increase by up to CPI plus 1% per annum and made clear its intention to leave this policy in place until 2025.

From 2020, the Council had control over its own rent setting in line with the Department for Levelling Up, Housing and Communities (DLUHC) Rents Standard, and Policy Statement on Rents for Social Housing.

Council tenants, leaseholders and other residents were to be notified of the rent and other related housing charges to take effect from the new financial year of 2024/ 25.

Reason for Decision

The council had to achieve the right balance between supporting tenants to mitigate the continued cost of living pressures and protecting the Housing Revenue Account (HRA) to ensure the council could continue to provide affordable social housing for Sandwell residents.

Alternative Options Considered

The Council could have increased rent below the rate of inflation or by a lower percentage. However, this would have created financial pressure for the Council to deliver key services. The provision of good quality Housing and Neighbourhoods were key to improving lives and life chances of residents. Reducing the level of income to the HRA would seriously impact the Councils 30- year business plans and result in less funding for maintenance of Council stock and funding for new homes.

The challenges presented through the Consumer Regulation Act and the Building Safety Act put financial pressures on the HRA to reshape the Councils services to meet the requirements.

Resolved that Full Council be recommended to authorise the Interim Director of Housing to adjust council rents and housing related charges with effect from 1 April 2024 as follows:

- (1) that the housing rental charges be increased by 7.7% which is the consumer price index 6.7% (September 2023) plus 1%, which is equivalent to a 7.7% increase;
- (2) that the housing service charges increase by the consumer price index (CPI)+ 1%, equivalent to a 7.7% increase;
- (3) that housing service charge be implemented on properties not currently being charged but are receiving the service in line with similar properties receiving the service provision, including heating, water and laundry facility following consultation with residents.
- (4) that subject to consultation with the residents of the site, to increase rent at the traveller's pitch in Hills View, Tipton;
- (5) that rental charges for garage sites be increased in line with other council fees and charges agreed by Cabinet and Council;

- (6) that properties managed by Riverside under the Private Finance Initiative (PFI) agreement receive a 7.7% rental increase and a 7.7% increase in service charges to match the council's rent and service charge increase;
- (7) that properties that sit outside the Housing Revenue Account (including service tenants for Parks, Sandwell Valley and Caretaking) receive a 7.7% increase in rental charges and service charges equivalent to CPI plus 1%;
- (8) that the leaseholder annual management fee be increased by 7.7%, CPI + 1% in 2024/25 from £115.66 to £124.57;
- (9) that the Director of Housing be authorised to implement adjustments to council rents and housing related charges as set out in this report with effect from 1 April 2024; and
- (10) that the Director of Housing be authorised to introduce associated service charges in respect of Building Safety Regulation requirements for Leasehold properties.

(Councillor Hughes declared a pecuniary interest in this item on the basis that his spouse was a tenant of a Sandwell Council owned garage and subsequently took no part in the discussion and did not vote on this matter).

149/23

10 Year Business Rates Retention Agreement

Approval was sought for the Council to enter into a 10- year business rates retention arrangement with the Department for Levelling Up, Homes and Communities (DLUHC), the West Midlands Combined Authority (WMCA) and the six other West Midlands metropolitan local authorities.

In 2017, the seven constituent Local Authorities of the WMCA entered into a pilot agreement with DLUHC allowing them to benefit from retaining 100% of the business rates generated within their respective local authority areas, compared with 50%

nationally, in exchange for forgoing Revenue Support Grant ('RSG').

It was initially expected to be a short- term pilot in advance of national rollout of 100% business rates retention, however, the arrangement had been rolled forward under the same terms and conditions annually and remained in effect during 2023/24.

The proposed agreement was similar in many respects to the existing pilot arrangements and was therefore not expected to have any impact on projected business rates income in the short term.

Reason for Decision

The 10- year business rates retention agreement would allow the seven West Midlands metropolitan local authorities to retain 100% of their business rates income for ten years from 2024/25, with a share payable each year to the West Midlands Combined Authority (WMCA) and 1% payable to the West Midlands Fire and Rescue Authority.

The agreement was in accordance with the 'West Midlands Trailblazer Deeper Devolution Deal' which had been approved by Cabinet on 13 September 2023.

Alternative Options Considered

The Council could choose to opt out of the proposed 100% business rates retention "Devolution Deal" offer proposed by DLUHC and would return to 50% business rates retention, in line with the arrangements of the majority of local authorities across England.

If the WMCA and West Midlands authorities did not agree to enter into a new ten- year business rates retention arrangement in time for 2024/25 or 2025/26, then it was assumed that the pilot would come to an end and the member authorities would revert to the national 50% scheme. This would mean that the Council was again liable to pay a levy on business rates growth above the baseline and would lose the enhanced safety net protection offered under the pilot. Without the additional regional share of business rates growth from which to fund the WMCA contribution, the WMCA would need to either seek financial contributions from the West Midlands authorities outside of the business rates scheme or seek government support to ensure its ongoing sustainability.

Resolved that Full Council be recommended to:-

- (1) authorise the Council to enter into a 10-year business rates retention arrangement with the Department for Levelling Up, Homes and Communities (DLUHC), the West Midlands Combined Authority (WMCA) and the six other West Midlands metropolitan local authorities;
- (2) that the Director of Finance in consultation with the Monitoring Officer, be authorised to complete any necessary agreements for the retention arrangement referred to in Resolution (1) above;
- (3) that the Director of Finance be authorised to make an annual payment to the West Midlands Combined Authority of £1.264m in 2023/24, which constitutes the Council's proportion of the "WMCA Share" of regional business rates income collected in the current year under the existing 100% business rates retention pilot arrangements;
- (4) the Director of Finance be authorised to make an annual payment to the West Midlands Combined Authority in each year throughout the 10-year period commencing on 1st April 2024, comprising of the Council's proportion of the "WMCA Share" of regional business rates income collected in that year.

150/23

A461 Bus, Cycle & Walking Corridor - Initial scheme approval

Approval was sought to the initial scheme in relation to the A461 Bus, Cycle and Walking Corridor.

The A461 Walk, Cycle and Bus Corridor formed part of the West Midlands City Region Sustainable Transport Settlement Programme which had been approved by the West Midlands Combined Authority (WMCA) Board on 14 January 2022. The Sandwell elements of this programme were approved by Cabinet in July 2022.

In response to a question from the Chair of the Budget and Corporate Scrutiny Management Board, the Cabinet Member for Regeneration and WMCA confirmed that the highway network was usually the most direct route for residents to travel.

In addition, the Cabinet Member for Regeneration and WMCA outlined that 68% of the canal towpath network in Sandwell had been upgraded to make it suitable for cycling, with further upgrades to be made subject to the availability of funding.

Reason for Decision

The Council was required to approve the scheme to enable it to progress through the WMCA Single Assurance Framework Process, receive consultation from the public and stakeholders and proceed to the next stages of design and business case preparation.

Alternative Options Considered

The Council could decide not to continue with the scheme and reallocate the funding back to the WMCA for spending on a different scheme. This was not recommended, as it would leave the WBHE without essential connections to nearby communities and amenities and there was no guarantee that the Council would be able to retain the funding for a different scheme, resulting in Sandwell residents becoming disadvantaged against other areas in the region.

The scheme could also be amended, however, this would make it difficult to deliver by 2027 and would risk the funding being reclaimed.

Resolved:-

- (1) approval in principle be given to the proposed sustainable transport and highway improvements that make up the A461 Bus, Cycle & Walking Corridor as shown on Drawing at [Appendix A](#);
- (2) authorise the Director of Regeneration & Growth, in consultation with the Cabinet Member for Regeneration and WMCA, to carry out public consultation on the proposed sustainable transport and highway improvements that make up the A461 Bus, Cycle & Walking Corridor;

- (3) that in connection with Resolution (2) above, the Cabinet Member for Environment & Highways in conjunction with the Cabinet Member for Regeneration & WMCA, be authorised to consider and determine any objections received at a future Decision Making Session;
- (4) authorise the Director Regeneration & Growth to approve the submission an Outline Business Case to the West Midlands Combined Authority;
- (5) authorise the Assistant Director - Legal & Assurance, in conjunction with Assistant Director – Highways, to enter into an agreement with Dudley Metropolitan Borough Council under section 8 of the Highways Act 1980 in connection with Resolution (1) above;
- (6) that the Scheme of Delegation to Officers (Executive side) be amended to include authority to the Assistant Director - Legal & Assurance in conjunction with Assistant Director - Highways to enter into agreements under section 8 of the Highways Act 1980 for future schemes as required.

151/23

Sandwell Strategic Road Safety Plan 2024-2030

Approval was sought to the Sandwell Strategic Road Safety Plan 2024- 2030 and the continued use of the Safe System approach which considered the five elements of Safe Road Use, Safe Speeds, Safe Vehicles, Safe Roads and Roadsides and Post-crash Response.

The Cabinet Member for Environment and Highways highlighted the positive input of the Economy, Skills, Transport and Environment Scrutiny Board which had considered the matter in October 2023.

In response to a question from the Chair of the Economy, Skills, Transport and Environment Scrutiny Board, the Cabinet Member

for Environment and Highways confirmed only the Police had statutory powers to enforce speeding contraventions.

Reason for Decision

Every Highway Authority in England and Wales had a statutory duty under 'Section 39 of the Road Traffic Act 1988 to carry out studies into road casualties arising from the use of vehicles on their road network and in light of those studies put together and adopt a programme of works and initiatives to help prevent such incidents in the future. The adoption of the new Strategic Road Safety Strategy 2024-2030 helped the Council discharge this Statutory duty.

Alternative Options Considered

The Council could have no strategic vision and long-term plan to reduce identified road casualty problems in the Borough, however, basing decisions on community concern and perceived problematic areas only would have a detrimental effect on the success in reducing road casualties.

Resolved:-

- (1) that approval be given to the Sandwell Strategic Road Safety Plan 2024-2030 to inform and prioritise the delivery of road safety projects, initiatives and campaigns within the Borough until 2030;
- (2) that approval be given to the continued use of the Safe System approach to improving road safety and reducing road casualties, and adoption of the Vision Zero principle;
- (3) that the new road casualty reduction targets included within the new Road Safety Plan for the Borough be endorsed;
- (4) that approval be given to the publication of the Sandwell Strategic Road Safety Plan 2024-2030 on the Council website.

Approval was sought to the Quarter 2 position for 2023/ 24. Due to budgetary pressures, the projected outturn for the General Fund was £1.222m.

The reports were due to be referred to the Budget and Corporate Scrutiny Management Board for consideration and comment.

In response to a question from the Chair of the Budget and Corporate Scrutiny Management Board, the Cabinet Member for Finance and Resources confirmed that the £10.177m of the projected £16.933m draw from reserves was related to legacy grant funding received during the Covid- 19 pandemic. In addition, it was confirmed that the forecast year end reserves balance of £110.522m was appropriate for a council of Sandwell's size.

In response to a question from the Chair of the Economy, Skills, Transport and Environment Scrutiny Board, the Cabinet Member for Finance and Resources confirmed that adult social care users were charged for social care in accordance with rules prescribed by government, with the service users contribution decided following a financial assessment.

Reason for Decision

Section 151 of the 1972 Local Government Act required the Chief Financial Officer to ensure the proper administration of the council's financial affairs. Budgetary control, this included the regular monitoring and reporting of budgets, was an essential element in discharging this statutory responsibility.

Alternative Options Considered

The Council could consider other spending controls that could be needed to avoid reliance on use of reserves.

Resolved:-

- (1) that the financial monitoring position as at 30 September 2023 (Quarter 2) be received and the report be referred to the Budget and Corporate Scrutiny Management Board for consideration and comment;
- (2) that the following budget virements above £1m be approved in line with the revised delegated limits for Cabinet Members and Directors:

Virements above £1m for approval by Cabinet	£'000	£'000
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Contingency	Transfer of budget for asset rationalisation savings, achieved in year within Regeneration and Growth	1,660	
Regeneration and Growth	Transfer of budget for asset rationalisation savings, achieved in year within Regeneration and Growth		1,660
Contingency	Transfer of one-off property budgets held within Regeneration and Growth - no longer required	1,658	
Regeneration and Growth	Transfer of one-off property budgets held within Regeneration and Growth - no longer required		1,658
TOTAL		3,318	3,318

153/23

Wednesbury to Brierley Hill Metro Extension (Sustainable Access Measures) - Initial scheme approval

Approval was sought to the initial scheme in relation to the Sustainable Access Measures as part of the Wednesbury to Brierley Hill Metro Extension.

The project aimed to link up the Metro Extension effectively with the local community, to ensure users could access the metro from their homes and nearby amenities via sustainable transport modes.

In response to a question from the Chair of the Economy, Skills, Transport and Environment Scrutiny Board, the Cabinet Member for Regeneration and WMCA confirmed that funding had been secured for the whole route through Sandwell. Construction was in the advanced stages and tram services were scheduled to be running by 2024.

Reason for Decision

The Council was required to approve the project to enable it to progress through the WMCA Single Assurance Framework Process, receive consultation from the public and stakeholders and proceed to the next stages of design and business case preparation.

Alternative Options Considered

The Council could decide not to continue with the scheme and reallocate the funding back to the WMCA for spending on a different scheme. This was not recommended as it would leave the WBHE without essential connections to nearby communities and amenities and there was no guarantee that the Council would be able to retain the funding for a different scheme, resulting in Sandwell residents becoming disadvantaged against other areas in the region.

The scheme could also be amended, however, this would make it difficult to deliver by 2027 and would risk the funding being reclaimed.

Resolved:-

- (1) that approval in principle be given to the proposed package of improvements that make up the Wednesbury to Brierley Hill Metro Extension (Sustainable Access Measures) as shown on the drawings contained at [Appendix A](#);
- (2) that in connection with Resolution (1) above, the Director of Regeneration and Growth be authorised to carry out public consultation, in consultation with the Cabinet Member for Environment & Highways;
- (3) that the Cabinet Member for Environment & Highways be authorised to consider and determine objections at a future Decision Making Session;
- (4) that the Director Regeneration & Growth be authorised to submit an Outline Business Case to the West Midlands Combined Authority.

154/23

Council's Use of Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016

Approval was sought to the Corporate Policies regarding Directed Surveillance and Covert Human Intelligence Sources and Acquisitions of Communications Data.

The circumstances in which a local authority could carry out covert surveillance and access communications data were detailed in the Regulation of Investigatory Powers Act 2000 and the Investigatory

Powers Act 2016. The Investigatory Powers Commissioners Office (IPCO) had responsibility for reviewing the use of investigatory powers by public authorities, the Council had been the subject of a desktop review in 2023 and the IPCO had been satisfied that it had complied with its requirements.

In response to a question from the Chair of the Budget and Corporate Scrutiny Management Board, the Leader of the Council confirmed that powers had been used rarely by the Council and that nationally there had been a large reduction in the use of investigatory powers. The Council was able to use the powers in the context of counter fraud, fly tipping, counterfeiting, unlawful eviction and under- age sales.

Reason for Decision

Compliance with the legislation was a statutory obligation of the Council.

Alternative Options Considered

The Council could decide not to have a public policy, but this would be contrary to transparency and good practice expectations.

Resolved:-

- (1) that the information regarding the Council's use of powers under the Regulation of Investigatory Powers Act 2000 and Investigation of Powers Act 2016 from July 2017 to October 2023 be received and noted;
- (2) that the following policies be approved:
 - i) Corporate Policy: Directed Surveillance and Covert Human Intelligence Sources;
 - ii) Corporate Policy: Acquisitions of Communications Data
- (3) that the Director of Law and Governance be authorised to make administrative amendments to policies referred in Resolution (2) above as required.

Approval was sought for the Forge Mill Animal Welfare Policy. The policy applied to all animals within the management control of Forge Mill Farm across Sandwell Valley Country Park, Sandwell Valley Visitor Centre, Forge Mill Farm and any other Council location where animals were present. This included a variety of rare breed animals including sheep, goats, cattle, pigs, alpacas, horses, ponies, donkeys, chickens, ducks and rabbits.

The policy included the provision of regular inspection, accreditation and certification from external organisations including a nominated vet practice.

Reason for Decision

It was Forge Mill Farm's ambition to become a centre of excellence in animal welfare food and farming education. The policy ensured that during the expansion of Forge Mill Farm's public facing operations, animal welfare would continue to be at the centre of that growth.

The approval of the policy would ensure high standards of animal welfare persists through any future changes in leadership, management or commercial direction.

Alternative Options Considered

The Council could have chosen not to approve the policy presented and the farm could have continued to base decisions on legal minimum requirements and best practice recommendations outside of Council policy. However, having a clear policy set standards and expectations, against which performance could be measured.

Resolved:-

- (1) that the Forge Mill Farm Animal Welfare Policy be approved;
- (2) that the Assistant Director of Borough Economy be authorised to implement and review the policy in line with legislation, best practice guidance and advice from industry experts/ veterinary professionals.

Approval was sought for Cabinet to recommend to Council that the Improvement Plan Progress Report, the October 2023 progress report and an accompanying letter be submitted to the Secretary of State for Levelling up, Housing and Communities to form the Council's six-monthly update on progress against the Improvement Plan.

In response to a question from the Chair of the Budget and Corporate Scrutiny Management Board, the Leader of the Council confirmed that the Customer Journey Programme Board continued to meet monthly to review progress. The telephony contract working group had continued to progress with the BT contract which was due to be implemented in 2024 and the high-level design was in process of being agreed.

Reason for Decision

Under the Statutory Directions, the council was required to report progress against the Improvement Plan to the Department of Levelling Up, Housing and Communities every six months. Reports had been submitted in December 2022 and June 2023. It was proposed that this report and the quarterly update received by Cabinet in September 2023 would form the basis of the report to the Secretary of State along with a covering letter. Council were responsible for approving the report for submission to the Secretary of State and Cabinet would make a recommendation to Council.

Alternative Options Considered

The Directions issued by the Secretary of State were a statutory requirement and the Council had a legal obligation to respond appropriately. Failure to do so would likely result in further intervention measures.

Resolved:-

- (1) that progress against the Improvement Plan up to 1 November 2023 be received;
- (2) that Cabinet receive the Improvement Plan Risk Register.;
- (3) that Cabinet receive changes to the Improvement Plan;

(4) that Cabinet receive any recommendations or comments made by Budget and Corporate Scrutiny Management Board and Audit and Risk Assurance Committee in relation to the Improvement Plan progress.

(5) that the Council be recommended to consider this report along with the October progress report and an accompanying letter be submitted to the Secretary of State for Levelling up, Housing and Communities to form the Council's six-monthly update on progress against the Improvement Plan.

157/23

Regeneration Programme Performance

Approval was sought to amend the Regeneration Pipeline, which was to incorporate the long-term plan for towns programme, the millennium centre expansion and the Grove Lane, Smethwick project.

The Regeneration Project Pipeline had set out the major investment projects that the Council, its partners and the private sector intended to deliver. It had identified the infrastructure priorities for the council and had established where resources would be focused.

Reason for Decision

In March 2022, Cabinet approved the Regeneration Strategy, Regeneration Project Pipeline and the Inclusive Recovery Action Plan for Business. These documents set out the corporate regeneration priorities for the period 2022 to 2027. The pipeline was a live document and Cabinet resolved for it to be monitored via a report submitted to Cabinet every 6 months. The last report was submitted in July 2023.

Alternative Options Considered

Cabinet were required to consider additions to the regeneration project pipeline. There were no alternative options.

Resolved:-

- (1) that Cabinet note the Performance of the Regeneration Programme.
- (2) that the Director of Regeneration & Growth be authorised to make the recommended amendments to the Regeneration Pipeline:
 - Add Long-Term Plan for Towns programme to the project pipeline.
 - Add Millennium Centre expansion project to the project pipeline.
 - Add Levelling Up Fund Round 3 - Grove Lane, Smethwick to the project pipeline.

(Councillor Hackett declared an other interest in this item as he was a Board Member and Trustee of the Friar Park Millennium Centre and left the room during consideration of the matter).

Meeting ended at 4.12pm

Contact: democratic_services@sandwell.gov.uk