

# AGENDA

## Audit and Governance Committee

Date: **Thursday 16 July 2015**

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Time: **2.00 pm**

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Place: **Committee Room 1, Shire Hall, St. Peter's Square,  
Hereford, HR1 2HX**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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# **Agenda for the Meeting of the Audit and Governance Committee**

**Chairman**  
**Vice-Chairman**

**Councillor BA Durkin**  
**Councillor FM Norman**

**Councillor ACR Chappell**  
**Councillor DG Harlow**  
**Councillor EPJ Harvey**  
**Councillor PD Newman OBE**  
**Councillor RJ Phillips**  
**Councillor J Stone**  
**Councillor LC Tawn**



## AGENDA

		Pages
<b>PUBLIC INFORMATION AND FIRE INFO</b>		
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2.</b>	<b>NAMED SUBSTITUTES</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>3.</b>	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the agenda.	
<b>4.</b>	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 19 March 2015.	7 - 14
<b>5.</b>	<b>TRANSPARENCY CODE</b> To update members on the actions undertaken, and those proposed to be undertaken, to ensure compliance with the revisions made to the Transparency Code by the Department for Communities and Local Government in October 2014 under The Local Government (Transparency Requirements) (England) Regulations 2014.	15 - 32
<b>6.</b>	<b>CHANGES TO THE STATUTORY APPOINTMENT AND DISMISSAL PROCEDURES FOR HEAD OF PAID SERVICE, MONITORING OFFICER AND S151 FINANCE OFFICER</b> To advise on the requirement to implement changes required by the Local Authorities (standing Orders) (England) Regulations 2015.	33 - 36
<b>7.</b>	<b>GOVERNANCE IMPROVEMENT WORKING GROUP UPDATE</b> To note the work of the governance improvement working group to date and to consider future work and membership of the group.	37 - 42
<b>8.</b>	<b>DRAFT ANNUAL GOVERNANCE STATEMENT</b> To seek the views of the committee of the draft annual governance statement for 2014/15.	43 - 80
<b>9.</b>	<b>INTERNAL AUDIT ANNUAL REPORT AND OPINION 2014/15</b> To provide a summary of the internal audit work undertaken in 2014/15 and to provide an overall internal audit opinion based on this work.	81 - 94
<b>10.</b>	<b>EXTERNAL AUDIT ANNUAL FEES LETTER 2015/16</b> To approve the external audit fee for 2015/16.	95 - 100
<b>11.</b>	<b>AUDIT COMMITTEE UPDATE FROM GRANT THORNTON</b> To note and comment on the external auditor's update report for Herefordshire Council.	101 - 114
<b>12.</b>	<b>CLOSURE OF 2013/14 ACCOUNTS</b>	115 - 144

To note the completion of the audit of the 2013/14 accounts following the rejection of an objection received in relation to the energy from waste plant.

**13. AUDIT AND GOVERNANCE WORK PROGRAMME UPDATE**

To consider the Committee's work programme for 2015-16.

145 - 148

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Audit and Governance Committee held at Council Chamber, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Thursday 19 March 2015 at 10.00 am**

**Present:** Councillor JG Jarvis (Chairman)  
Councillor EMK Chave (Vice Chairman)

Councillors: WLS Bowen, EPJ Harvey, Brig P Jones CBE, NP Nenadich, GA Vaughan-Powell and DB Wilcox

**Officers:** Peter Robinson (Section 151 Officer), Annie Brookes (Governance Manager), Wayne Welsby (Head of Commercial Services), Josie Rushgrove (Head of Corporate Finance), Jacqui Gooding (SWAP), Ian Baker (SWAP), Phil Jones (Grant Thornton) and Terry Tobin (Grant Thornton)

**46. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CNH Attwood, MAF Hubbard and PGH Cutter.

**47. NAMED SUBSTITUTES**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillor GA Vaughan-Powell attended as substitute Member for Councillor CNH Attwood and Councillor EP Harvey attended as a substitute Member for Councillor MAF Hubbard.

**48. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**49. MINUTES**

A member noted that according to the minutes of the meeting on 28 January 2015, the Whistleblowing policy was due to be presented to the Committee today and queried why it was not on the agenda. It was confirmed that an update was provided as part of the agenda item on the committee's future work programme.

**RESOLVED:**

**that the minutes of the meeting held on 28 January 2015 be confirmed as a correct record and signed by the Chairman.**

**50. EXTERNAL AUDIT UPDATE**

The Committee received a report from external auditors, Grant Thornton. The report was available earlier than usual due to preparation for the audit of final accounts and value for money conclusion.

The main issues emerging from the report are:

- Scrutiny in the current operating climate
- Meeting objectives with regard to outside bodies and joint ventures

- Involvement of citizens

In answer to a question from the Chairman on External Audit's view of contract management arrangements, Grant Thornton representatives felt that arrangements are adequate although this needs to be considered in relation to how the council meets its strategic objectives. External Audit is able to share best practice from other local authorities and noted the difference between commissioning and contract management, where there needs to be focus on developing long-term relationships.

The Chief Financial Officer confirmed that the medium term financial plan is satisfactory and that compared with other authorities, Herefordshire is stronger in its partnership arrangements. Grant Thornton acknowledged that the council shows some good examples of oversight.

The chair of the General Overview and Scrutiny Committee commented on the need to be forward thinking and to optimise joint working. The ability to scrutinise within available resources must also be maintained.

Grant Thornton drew attention to the importance of effective partnerships, citing Greater Manchester's new partnership arrangements. There were also lessons to be learned from experiences at Rotherham with possible intervention there from the Secretary of State as a result of significant failings in governance.

Attention was drawn to the Audit Commission's being abolished in April 2015 which will have implications on the future recommissioning of the Council's external auditor contract beyond 2017-18. The committee was advised to consider delaying until after the elections any decision on extending the engagement of Grant Thornton beyond the current five year contract.

It was noted that in the context of events in Rotherham and Greater Manchester referred to in the report, and the matter of self-sufficiency, Herefordshire must not become complacent and due diligence is required.

The Chief Financial Officer explained that the formula grant of £26m would disappear under self-sufficiency. Demographics and health pressures in Herefordshire would also have an impact on the extent of self-sufficiency.

**RESOLVED:**

**that the External Audit Update be noted.**

**51. EXTERNAL AUDIT PLAN 2014-15**

External Auditors Grant Thornton introduced the Plan which highlights the council's significant challenges and the response from the auditors. The Plan precedes the audit of the final accounts.

The significant risks of material misstatement are identified in the report as:

- Fraud revenue, which is not significant for Herefordshire
- Upgrade of ledger and data transfer, where Audit's involvement is to ensure smooth transfer
- Creditor payments, payroll and benefits
- Value for money conclusion in terms of financial resilience and the medium term financial plan

It was confirmed that some risks are generic and are not unique to Herefordshire and that no material weaknesses have been found for Herefordshire.

In answer to a member's question regarding the extent of the council's say in determining the areas for audit in the context of potentially costly contracts disputes, Grant Thornton confirmed that it is possible to adapt or add to the audit plan. However the plan is designed and costed to allow for focus on major strategic risks. Therefore there has to be a distinction between delivery compliance and working on specific activity outside of the audit plan as well as recognising the differing roles of external and internal audit.

Grant Thornton representatives gave an update on their work on an objection to the incinerator plant. Responses on Grant Thornton's provisional views are awaited from both the council and the objector, which will then be reported to the Audit Commission. It is likely that this matter will not be concluded until May 2015 and in the meantime there is a limit to what can be disclosed about the investigation without the objector's agreement.

**RESOLVED:**

**that the plan be noted.**

**52. INFORMING THE AUDIT RISK 2014-15**

Grant Thornton presented the report which sets out a series of standard questions for governance. The council's responses regarding key controls are satisfactory and these are presented to the committee for oversight.

In response to a question from the Chairman, Grant Thornton confirmed that the responses from the council regarding risks around fraudulent transactions and relationships with providers were satisfactory.

In answer to member's question regarding the robustness of capital borrowing offset against generating finance from sale of assets, Grant Thornton clarified that assumptions would be in the financial plan when it is produced and that assets are valued on a 5-year rolling cycle. Herefordshire is compliant with this rule. It was noted that market fluctuations need to be taken into account in valuations.

A member requested that future reports are in clear language to enable understanding.

The Chairman thanked the representatives from Grant Thornton for their work in producing the reports presented to the Committee today.

**RESOLVED:**

**that the report be noted.**

**53. INTERNAL AUDIT PLAN UPDATE (SWAP)**

The significant findings and risks were presented, highlighting two areas where partial or no assurance was found, these being Procurement and Schools.

With regard to procurement, it was found that guidance for officers was largely satisfactory. However, the contracts register was not up to date and therefore some contracts documentation was not available for audit.

In relation to schools, there were significant findings but no fraud was detected and there are controls in place for the future. Findings were identified across the sample of six schools and a report will be produced which will go to schools. Further work will be carried out with a further six schools as part of a rolling programme, following-up on areas of partial or no assurance and looking at Pupil Premium issues.

There were no significant findings in terms of key controls and all review actions have been accepted by officers.

A question was raised about feedback from schools, particularly where there is no financial control from the council, e.g., with academies. The Chief Financial Officer explained that there is assurance through the systems operated through Hoople and control via the Scheme of Delegation, as well as a statutory duty for academies to work with the Schools Forum, and therefore there is some scope for intervention.

A member requested that school governor training be more thorough, and added that the General Overview and Scrutiny Committee has been asked to look more at schools especially with regard to the Pupil Premium.

In response to a member's observation that some items had been described as removed from the report, it was clarified that this was in order to provide capacity for priority areas and those items would be carried into the next plan.

A member asked how Herefordshire ranked in relation to significant risks when compared with other authorities. It was confirmed that there is consistency with other unitary authorities and further information could be provided on this area.

A further question was raised about timescales for and management of implementing electronic systems given that there has been reference to systems not being up to date. Timescales for implementation were not known. However, it was noted that the difficulties in providing documentation during the audit were found to be historical. Further information was requested on this area.

A member requested that the ICT Plan be included in the future work programme for the Committee.

**RESOLVED:**

**that the report be noted.**

**54. INTERNAL AUDIT CHARTER 2015-16 (SWAP)**

The Internal Audit Charter setting out the work of internal audit for the period 1 April 2015 to 31 March 2016 was presented. The Charter retains the format as that presented to the Committee in June 2014.

**RESOLVED:**

**that the Internal Audit Charter be approved.**



**55. INTERNAL AUDIT PLAN 2015-16 (SWAP)**

The Plan is guided by the Charter approved by the Committee today and contains regular areas of work and special projects as detailed in Appendix B of the report.

The Chairman asked about the rationale for apportioning time to particular activities and the implications of achieving work sooner than planned. It was clarified that the timescales are set out in order to inform resources required and are approximations. It may take longer than planned to complete work and in that case, the work would normally be absorbed unless something significant arose that required re-scoping.

A member asked what was meant in Appendix B of the report by the term "liaison". The auditor explained that this was in relation to ad-hoc discussions about managing the plan and providing advice to the organisation.

In answer to a further question about covering digital processes, data security and robustness of outsourced systems, it was confirmed that there were plans to consider ICT and data security in future audits. The mobile strategy is covered in compliance work but could also be referenced by audit. The developments in use of ICT and changes in the council's operating environment were noted as requiring attention from a governance perspective. The Chief Financial Officer added that it is the role of audit to provide assurance and a separate briefing on ICT would be of benefit. The auditor confirmed that there is a stringent process in place for audit and so if there were any ICT issues, these would be identified.

A member asked for assurance that data is protected as far as possible and that documentation could not be removed from systems by officers or members. The Auditor explained that this was not covered in the audit plan but is addressed in other ways by the council. Some past issues have been identified and as much assurance could be given as possible provided that individuals comply with procedures. Further, it was confirmed by the Governance Manager that information security and confidentiality agreements are signed by staff as a mandatory requirement, and would form a mandatory element of member induction following the forthcoming elections.

The Chairman thanked the internal auditors for their work including the training that they had provided for the Committee over the past year.

**RESOLVED:**

**that the report be approved.**

**56. ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY**

The updated policy was presented by the internal auditor. It was noted that this document had been to Committee previously and now incorporates the changes agreed.

The policy is due for biennial review and the changes have now been included to show a zero-tolerance approach.

**RESOLVED:**

**that the policy be approved.**

## **57. CONTRACTS AND FINANCIAL PROCEDURES RULES**

The Chief Financial Officer introduced the updated rules which reflect changes to posts and legislation as well as a change to the format.

It was noted that an error had been identified in the draft contract procedure rules (Paragraph 4.6.9.3(b)) relating to the value of the contracts register and the value should be adjusted from £10,000 to £5,000.

A member reiterated an earlier point in relation to tracking contract documentation and timescales for implementing electronic systems for better document control. The Head of Commercial Services confirmed that the new system went live in February and will be followed by phase two in relation to the contracts register in June 2015. The system increases visibility and is more dynamic with triggers for contract managers to act in a timely manner in relation to re-procurement. In terms of value for money, the system is better value than the previous system which was comparatively more expensive and more complex in its processes. The new system is simplified and has more scope.

The Vice Chairman commented on key controls and risk management and how this was approached. The Chief Financial Officer explained that there is a risk management officer role and that mitigation is also considered within risk management.

A request was made to ensure that terminology such as that relating to ICT within documents is generic in order to keep pace with technological advances.

### **RESOLVED:**

**that the report be noted.**

## **58. BUDGET MONITORING REPORT**

The Chief Financial Officer presented the report and confirmed that the council is on-track to spend within budget.

A member commented on the timescales for producing this report, noting that it was based on December's figures. The Chairman replied that this was the first opportunity to present this report due to the scale of business at the last committee in January. The report was presented to Cabinet in February. It would be possible to produce a summary of information for the public domain for assurance. It was noted that the timing of the report would present a challenge in responding to issues raised if the report had not been positive, and this would be addressed for next year's report.

### **RESOLVED:**

**That**

- (a) the protected spend by the council within its budget for this financial year be noted;**
- (b) the capital and treasury projected outturns be noted; and**
- (c) the performance to achieve 2014-15 savings plans be noted.**

## **59. ENERGY FROM WASTE LOAN UPDATE**

The Chief Financial Officer introduced the report which provides a briefing on the loan arrangement relating to the waste PFI contract variation in May 2014. The loan is managed through the Audit and Governance Committee with revised terms of reference. Herefordshire and Worcestershire are working together, each having its own committee but the same risk register.

The Vice Chairman asked about the loan balance and how this would be repaid when the contract ends. The head of corporate finance explained that this would be through a bullet mechanism in the cash flow with the 25% ownership being returned at the end of the PFI arrangement. The valuation would not be based on open market values but on a prudent tax valuation, meaning that the expected return would be in excess of the valuation.

**RESOLVED:**

**that the report be noted.**

**60. FUTURE WORK PROGRAMME**

The committee's draft future work programme was presented for discussion and finalisation.

The work programme recognises the Annual Governance Statement and auditors' reports and also needs to plan for regular training updates. It also needs to be more proactive in scope to include urgent matters arising. It was noted that the Forward Plan, which is now presented in a new format, also needs to be observed.

A member asked for the reason for the delay in progressing the Whistleblowing policy. The Governance Manager explained that the delay was to allow for staff consultation and queries from unions.

It was noted that the review of the Anti-fraud, Bribery and Corruption policy could be removed from the work programme for this year as this review has just been concluded.

The work programme must also have scope for the committee to reappraise audit outcomes, building-in separate meetings and working groups where appropriate.

**RESOLVED:**

**That subject to amendments made today, the Committee's work programme for 2015-16 be agreed.**

The Chairman thanked all members for their attendance, wishing everyone well for the new administration.

He also thanked officers for their contributions and support to the committee.

The Chair of the General Overview and Scrutiny Committee thanked the Chair and the Vice-Chair for their work on the committee.

The meeting ended at 12.12 pm

**CHAIRMAN**





<b>MEETING:</b>	<b>Audit &amp; Governance Committee</b>
<b>MEETING DATE:</b>	<b>16 July 2015</b>
<b>TITLE OF REPORT:</b>	<b>Transparency Code</b>
<b>REPORT BY:</b>	<b>Information Governance Principal Officer</b>

## 1. Classification

Open.

## 2. Key Decision

This is not an executive decision.

## 3. Wards Affected

County-wide.

## 4. Purpose

The purpose of this report is to update Members formally on the actions undertaken, and those proposed to be undertaken, to ensure compliance with the revisions made to the Transparency Code by the Department for Communities and Local Government in October 2014 under The Local Government (Transparency Requirements) (England) Regulations 2014.

## 5. Recommendations

**THAT:**

- (a) **Subject to any comments the Audit and Governance Committee wish to make, the report be noted; and**
- (b) **The Committee supports and endorses the actions proposed in order to address compliance with the Transparency Code.**

## 6. Alternative Options

6.1 There are no alternative options.

## 7. Reasons for Recommendations

- 7.1 The Audit and Governance Committee should be aware of the actions undertaken already with regard to compliance with the Transparency Code and to maintain an overview of actions required to raise the openness and transparency of the council through increased publication of data, and publication through open data wherever possible.

## 8. Key Considerations

- 8.1 The aim of the Transparency Code is:

*“to ensure that local people have enough key information to enable them to hold their authorities to account. This, in turn, will enable people to contribute to the local decision making process and help shape public services”*

*Department for Communities and Local Government: Local Government Transparency Code 2014*

*Frequently Asked Questions*

- 8.2 The Transparency Code requires the council to publish certain sets of information (“datasets”) as “open data”. Open data is data published in a machine readable, non-proprietary format so that users can access and re-use it regardless of which computer system they use. The dataset requirements in the Transparency Code are:

### ***Publishing spending and procurement information***

- expenditure exceeding £500
- Government Procurement Card transactions
- procurement information (tenders and contracts)
- grants to voluntary, community and social enterprise organisations
- waste contracts

### ***Publishing organisation information***

- organisation chart
- senior salaries
- the pay multiple
- trade union facility time
- fraud
- constitution

### ***Publishing land asset and parking information***

- local authority land and building assets
- parking accounts and parking spaces

- 8.3 The Transparency Code and guidance from the Local Government Association outline the specific fields or attributes needed under these headings; for example, for expenditure

exceeding £500, fields include supplier details, purpose of expenditure, date and amount.

There are some mandatory requirements, and some recommended requirements; for example, publishing expenditure exceeding £500 is mandatory, £250 is recommended. Some datasets must be published at least quarterly and others must be published at least annually.

- 8.4 Within the council, the teams who are the owners of the data have prepared and published the datasets meeting the mandatory requirements on the council website with support as required from the Information Governance Team and the Web Services Team. A procedure for this has been produced so that the responsibility for maintaining the data and its ongoing publication is owned by teams.
- 8.5 The council aspires to publish more data proactively as capacity allows and to that end the online mandatory training for staff in the requirements of legislation such as the Freedom of Information Act encourages members of staff to publish documents wherever possible where no exemptions apply or to redact parts of documents where such exemptions apply.
- 8.6 An Open Data Policy is in place to support members of staff in making the process of publishing data automatic and in an open format.

## **9. Community Impact**

- 9.1 Increased publication of information in an open format allows members of the public to achieve greater scrutiny of the council and enables communities to make informed choices as part of decision making processes. Open formats increase the re-use of information by communities for other purposes than local authority business processes. The council's agreed values include a commitment to being open, transparent and accountable.

## **10. Equality and Human Rights**

- 10.1 This proposal does pay due regard to our public sector equality duty as set out below as it supports the principle of improving access and ensuring that not only our services are accessible but also the data that we publish:

"A public authority must, in the exercise of its functions, have due regard to the need to -

- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

## **11. Financial Implications**

- 11.1 Whilst there are no direct financial implications from complying with the code it does increase the level of administration and add to the specification of IT systems that in turn will increase costs. Not acting on these recommendations increases the likelihood of a

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Further information on the subject of this Report is available from  
Anthony Sawyer Information Governance Principal Officer on Tel 01432 260112

complaint potentially resulting in enforcement action by the Information Commissioner, the Local Government Association, or a judicial review which would have significant cost implications.

## 12. Legal Implications

- 12.1 Failure to deliver the actions places the council at risk of a judicial review.

## 13. Risk Management

- 13.1 The council has met the initial obligations to publish data under the Transparency Code and has a procedure in place to ensure that this data is maintained and added to. Further publication of other information is supported through the Open Data Policy with advice from the Web Services Team and the Information Governance Team. A greater emphasis on publication is being given through the Digital by Default programme being undertaken by the council which should encourage the cultural change required for publishing information routinely and not just on request. There may be risks around insufficient staffing capacity to publish large amounts of data to set up initial processes until publication as a routine activity is established. Also, there are risks around the possibility of releasing protected information in error more data is published. This is mitigated by the mandatory training that all staff are required to complete, and the clarification of the roles and responsibilities within the open data policy.

The data required to be published by the Code is available on the council web site from the following links:

### ***Publishing spending and procurement information***

- expenditure exceeding £500  
[https://www.herefordshire.gov.uk/media/1580341/January\\_2015\\_expenditure.csv](https://www.herefordshire.gov.uk/media/1580341/January_2015_expenditure.csv)
- Government Procurement Card transactions  
[https://www.herefordshire.gov.uk/media/1677073/credit\\_card\\_transactions\\_quarter\\_to\\_311214\\_for\\_web.csv](https://www.herefordshire.gov.uk/media/1677073/credit_card_transactions_quarter_to_311214_for_web.csv)
- procurement information (tenders and contracts)  
[https://www.herefordshire.gov.uk/media/7923974/copy\\_of\\_contracts\\_register\\_november\\_2014.xls](https://www.herefordshire.gov.uk/media/7923974/copy_of_contracts_register_november_2014.xls)
- grants to voluntary, community and social enterprise organisations  
<https://www.herefordshire.gov.uk/business-and-employment/business-grants/grants-offered-by-herefordshire-council>
- waste contracts  
<https://www.herefordshire.gov.uk/government-citizens-and-rights/democracy/transparency-contracts-and-expenditure>

### ***Publishing organisation information***

- organisation chart  
[https://www.herefordshire.gov.uk/media/7963589/org\\_chart\\_feb\\_2015.pdf](https://www.herefordshire.gov.uk/media/7963589/org_chart_feb_2015.pdf)
- senior salaries  
[https://www.herefordshire.gov.uk/media/7963588/pay\\_policy\\_statement\\_2015.pdf](https://www.herefordshire.gov.uk/media/7963588/pay_policy_statement_2015.pdf)

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Anthony Sawyer Information Governance Principal Officer on Tel 01432 260112



- the pay multiple  
[https://www.herefordshire.gov.uk/media/7963588/pay\\_policy\\_statement\\_2015.pdf](https://www.herefordshire.gov.uk/media/7963588/pay_policy_statement_2015.pdf)
- trade union facility time  
<https://www.herefordshire.gov.uk/government-citizens-and-rights/municipal-operation/joint-partnership-forum>
- fraud  
<https://www.herefordshire.gov.uk/government-citizens-and-rights/democracy/transparency-contracts-and-expenditure>
- constitution  
<http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=332&MId=4894&Ver=4&Info=1>

#### ***Publishing land asset and parking information***

- local authority land and building assets  
[https://www.herefordshire.gov.uk/media/7963467/land\\_and\\_buildings\\_asset\\_register\\_january\\_2015.csv](https://www.herefordshire.gov.uk/media/7963467/land_and_buildings_asset_register_january_2015.csv)
- parking accounts and parking spaces  
<https://www.herefordshire.gov.uk/transport-and-highways/parking/parking-accounts-and-parking-spaces>

## **14. Consultees**

14.1 None outside internal sign off.

## **15. Appendices**

Appendix A - Procedure for Publishing Local Government Transparency Code Data

Appendix B - Open Data Policy

## **16. Background Papers**

16.1 None identified.



## Procedure for Publishing Local Government Transparency Code Data

### Introduction

The aim of this procedure is to detail the process to follow when publishing data in line with the Transparency Code.

The Department for Communities and Local Government published a revised Transparency Code in October 2014, and as part of that, local authorities are required to publish certain sets of information (“datasets”) as “open data”. Open data is data published in a machine readable, non-proprietary format so that users can access and re-use it regardless of which computer system they use.

There is a five star scale for open data, as adapted by the Local Government Association this scale is:

★	Available on the web (in any format), but with an open licence allowing anyone to re-use it
★★	The same as for one star, plus available as machine-readable structured data
★★★	The same as two stars, but with a non-proprietary format (for example CSV and XML, rather than Excel)
★★★★	All of the above, plus use of open standards from the World Wide Web Consortium (such as RDF and SPARQL21)
★★★★★	All of the above, plus the data is linked to other data to provide context

The minimum to achieve is 3 stars.

The data must be published in line with the following legislation and standards:

- Freedom of Information Act 2000 (as amended by the Protection of Freedoms Act 2012),
- Data Protection Act (DPA) 1998
- the Environmental Information Regulations (EIR) 2004,
- the Re-use of Public Sector Information Regulations (RPSI) 2005 and
- Infrastructure for Spatial Information in the European Community Regulations (INSPIRE) 2009.
- sections 100A, 100B or 100F of the Local Government Act 1972.

The data must therefore be checked ahead of publication to ensure that

- it is not sensitive (for example, personal data, or data identifying sensitive locations such as refuges for victims of abuse);
- it does not enable fraud (for example, enabling fraudulent claims to be made); and
- there is no third party ownership which may restrict the publishing and onward use of the data under the Open Government Licence (for example, Ordnance Survey information is licensed separately).

The dataset requirements in the Transparency Code are:

***Publishing spending and procurement information***

- expenditure exceeding £500
- Government Procurement Card transactions
- procurement information (tenders and contracts)
- grants to voluntary, community and social enterprise organisations
- waste contracts.

***Publishing organisation information***

- organisation chart
- senior salaries
- the pay multiple
- trade union facility time
- fraud
- constitution

***Publishing land asset and parking information***

- local authority land and building assets
- parking accounts and parking spaces

The Transparency Code and guidance from the Local Government Association outline the specific fields or attributes needed under these headings; for example, for expenditure exceeding £500, fields include supplier details, purpose of expenditure, date and amount.

There are some mandatory requirements, and some recommended requirements; for example, expenditure exceeding £500 is mandatory, expenditure exceeding £250 is recommended. Within these requirements, again some attributes are mandatory and some are recommended.

Some datasets must be published at least quarterly and others must be published at least annually.

Within Herefordshire Council, the owners of the data – the “Information Asset Owners” – are responsible for preparing and publishing the datasets on the Council website with support as required from the Information Governance Team and the Web Services Team.

## Responsibilities and Duties

### Colour key:

Information Asset Owner Responsibility
Web Services Team Responsibility
Information Governance Team Responsibility

Actions	Responsibilities and Duties
1	<p>Identify the data that must be published under the Code, and check if the requirement requires it to be published quarterly or annually.</p> <p>The start date for quarterly data to be published by is 31<sup>st</sup> December 2014.</p> <p>The start date for annual data to be published by is 2<sup>nd</sup> February 2015.</p>
2	<p>Check for any data that is sensitive, may enable fraud if published, or is owned by a third party that would restrict publishing and put measures in place to ensure that it is not published.</p>
3	<p>Log with the Web Services Team where the data is held and what data is to be published. Discuss with the Web Services Team means of automating the process of extracting the data from internal systems and publishing it directly to the web site in real time.</p>
4	<p>Communicate as necessary to suppliers, grant beneficiaries and members of staff that information is being published in line with the Transparency Code.</p>
5	<p>Extract the data from the internal system it is held on.</p>
6	<p>Transform the data to the standard templates or schemas if they exist (see specific templates in the annexes to the Local Government Association guidance documents giving the field/column headings)</p>
7	<p>Add further field / attribute information that may be required</p>
8	<p>Clean and check the data for, and get rid of, any inconsistencies</p>

Actions	Responsibilities and Duties
9	Redact any data that is exempt from publication under the Freedom of Information Act and other access legislation so that it is not published and anonymise any personal data, ensuring that the data removal cannot be undone
10	Convert the data into a machine-readable format or another open data format following the five star journey recommended in the Code
11	Publish the data on to the website – with supporting information and commentaries for citizens and users
12	Record metadata about the data and register the data so that it can be found
13	Update the Publication Scheme to include new datasets published

<p><b>Further guidance available (links to useful documents)</b></p>	<p>The Local Authorities (Data Transparency) Code 2014 is published, alongside a frequently asked questions document, on <a href="https://www.gov.uk/government/publications/local-government-transparency-code-2014">https://www.gov.uk/government/publications/local-government-transparency-code-2014</a>.</p> <p>The Local Government Association has produced a set of guidance providing more detail on both the mandatory and recommended elements of the Code: <a href="http://www.local.gov.uk/practitioners-guides-to-publishing-data">http://www.local.gov.uk/practitioners-guides-to-publishing-data</a></p> <p>Information on the Open Government Licence is available from: <a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/">http://www.nationalarchives.gov.uk/doc/open-government-licence/version/2/</a></p>
<p><b>Related policies &amp; procedures</b></p>	<p><a href="#">Data Protection Policy</a></p>

## Contact details

The contact details for the Information Governance Team are:

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Data Protection Officer  
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Information Governance Principal Officer  
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Author: Anthony Sawyer, Information Governance Principal Officer  
Date: November 2014  
Version: 1.0





<i>Reference number</i>	
<i>Approved by</i>	<b>Knowledge and Information Steering Group</b>
<i>Date approved</i>	<b>February 2015</b>
<i>Version</i>	<b>1.0</b>
<i>Last revised</i>	<b>N/A</b>
<i>Review date</i>	<b>February 2018</b>
<i>Category</i>	<b>Information Management</b>
<i>Owner</i>	<b>Equality Records and Information Compliance Manager</b>
<i>Target audience</i>	<b>Anyone who has access to Herefordshire Council's information systems</b>

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## OPEN DATA POLICY

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**After the Review Date has expired, this document may not be up-to-date. Please contact the document owner to check the status after the Review Date shown above.**

**If you would like help to understand this document, or would like it in another format or language, please contact the document owner.**

## Purpose

This policy outlines Herefordshire Council's approach to open formats for data for reuse on the web, and the standards to which it will adhere when it publishes this data. Using open formats for data means that users of the data will not need any specialist software to access the data. If the user's existing software cannot read the data, free software can be downloaded to enable the data to be accessible.

Publishing "open data" therefore enables Herefordshire Council to meet obligations under legislation and standards including the Transparency Code and the Freedom of Information Act 2000 as updated by the Protection of Freedoms Act 2012.

Fundamentally, however, it also enables members of the public to have a choice about the software they use to read and re-use council documents, and it also enables the council to share information more easily.

Open data then is data published in a machine readable, non-proprietary format so that users can access and re-use it regardless of which computer system they use. There is a five star scale for open data, as adapted by the Local Government Association this scale is:

★	Available on the web (in any format), but with an open licence allowing anyone to re-use it
★★	The same as for one star, plus available as machine-readable structured data
★★★	The same as two stars, but with a non-proprietary format (for example CSV and XML, rather than Excel)
★★★★	All of the above, plus use of open standards from the World Wide Web Consortium (such as RDF and SPARQL21)
★★★★★	All of the above, plus the data is linked to other data to provide context

## Policy Statement

Herefordshire Council will publish data in open format to meet its obligations under the Transparency Code and the dataset requirements of the Protection of Freedoms Act.

Herefordshire Council will proactively publish other information on its website that is security classified as not protectively marked wherever possible.

Wherever possible, the process of publishing data will be automatic and in an open format meeting the minimum of 3 stars.

Open data will be published on an advertised web-based platform which will include appropriate tools to help users to exploit the data.

This policy does not apply to any data exempt under the various access to information legislation, including personal data, unless it is anonymised or aggregated.

Whenever open data is published it will wherever possible have the relevant metadata to help ensure the effective exploitation of the data.

All data will be published where possible in multiple physical formats which will allow easy reuse, using non-proprietary and machine-readable formats. For example, csv, odt, JSON, PDF is not an open format. Services may publish data in pdf format, but this should be in addition to a non-proprietary, machine-readable format.

The council aims to publish more data in four star and five star formats.

Four star data would require the council to ensure data contained Uniform Resource Identifiers to make it easier for Herefordshire Council data to be linked to other datasets.

Five star data will require the data to publish linked data. Linked data is a specific form of open data that enables information to be joined up with other related information.

All data will be published with a UK Open Government Licence as appropriate.

## **Roles and Responsibilities**

### ***Information asset owners***

The council staff responsible for the data (the “information asset owners”) will identify datasets to be published and check ahead of publication to ensure that

- it is accurate;
- it is not information that is exempt under access to information legislation;
- publication does not enable fraud; and
- there is no third party ownership which may restrict the publishing and onward use of the data under the UK Open Government Licence.

The information asset owners will log with the Web Services Team where the data is held and what data is to be published. Discuss with the Web Services Team means of automating the process of extracting the data from internal systems and publishing it directly to the web site in real time.

The information asset owners will ensure that the data is maintained and meets the requirements of the Transparency Code, the Freedom of Information Act 2000 as updated by the Protection of Freedoms Act 2012, and any other relevant legislation and standards.

### ***Web Services Team***

The Web Services Team are responsible for advising and supporting information asset owners with publishing open data online. Digital will be provided where datasets can be easily located and linked to supporting information and commentaries.

Where possible the web services team will create systems to ensure the publishing of data will be automated.

The Web Services Team will record metadata about the data and register the data so that it can be found.

The Web Services Team will ensure that the UK Open Government Licence terms are available with the open data.

### ***Information Governance Team***

The Information Governance Team will advise as necessary on any information security aspects and any requirements under access to information legislation. The Team will provide training to Information Asset Owners on their responsibilities under this policy.

### **Examples of Information**

Information that can be published in open format includes:

- Public registers
- Service information such as details of accessing services
- Policies and procedures
- Lists of amenities
- Statistical information anonymised where applicable.

Information that should not be published includes:

- Personal data of members of the public, such as names, contact details and service records, unless individual consent has been provided
- Information provided in confidence
- Commercially sensitive information
- Legal advice
- Records in draft format with no completed version yet reached.
- Information from other organisations (unless permission to publish has been obtained).

## Document Classification

<i>Author Name and Role</i>	Information Governance Principal Officer / Head of Web Communications and Engagement
<i>Date Created</i>	20141104
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<i>Subject</i>	Information management
<i>Title</i>	Open Data Policy

## Consultation Log

<i>Date sent for consultation</i>	2015/01/08
<i>Consultees</i>	

## Approval Log

		Date
<i>Impact assessment by</i>		
<i>To be agreed by</i>		
<i>To be approved by</i>		
<i>Finally to be ratified by</i>		
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## Version Log

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<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>Changes to the statutory appointment and dismissal procedures for head of paid service, monitoring officer and s151 finance officer</b>
<b>Report by:</b>	<b>Deputy solicitor to the council regulatory &amp; people</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To advise on the requirement to implement changes required by the Local Authorities (standing Orders) (England) Regulations 2015.

## Recommendation(s)

**THAT:**

- (a) the changes to the statutory dismissal procedures be noted; and**
- (b) the monitoring officer makes the necessary changes to the constitution as required by law by no later than 17 July 2015.**

## Alternative options

- 1 None; this is a statutory requirement.

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Further information on the subject of this report is available from  
 Claire Ward Deputy solicitor to the council regulatory & people on Tel (01432) 260657

## **Reasons for recommendations**

- 2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (“the regulations”) mandates that by no later than the first ordinary meeting of the council after 11 May 2015 it must incorporate in standing orders the new provisions and modify any of its existing standing orders in so far as necessary to conform with those provisions.

## **Key considerations**

- 3 The regulations make changes to the statutory procedures relating to the dismissal and discipline of three protected officers, namely the head of paid service, monitoring officer and s151 finance officer.
- 4 These changes are required to be implemented by 17 July 2015 which is the first ordinary council meeting falling after 11 May.
- 5 The dismissal of the monitoring officer and section 151 officers now requires full council’s approval; mirroring the requirement relating to the head of paid service.
- 6 In addition, the disciplinary procedures have been changed and no longer require a designated independent person (“DIP”) to be appointed; instead a panel of at least two people drawn from the council’s (or a neighbouring authority’s) appointed independent persons. A new revised procedure set out in the regulations under schedule 3 must be incorporated.
- 7 As these changes are required by law the monitoring officer shall amend section 9 in part 4 of the constitution, (in particular paragraphs 4.9.1.3, 4.9.3.7 and 4.9.4).
- 8 It should be noted that in some cases the previous requirement to appoint a DIP will be incorporated into terms and conditions of employment and that the statutory constitutional changes do not affect that individual right. It is anticipated that the Joint Negotiating Committee will amend the model procedures through collective agreement thereby removing any need to make changes to terms and conditions at a local level.

## **Community impact**

- 9 There are no direct impacts arising from the recommendations.

## **Equality duty**

- 10 There are no direct impacts arising from the recommendations.

## **Financial implications**

- 11 There are no direct impacts arising from the recommendations.

## **Legal implications**

- 12 The regulations state that the authority must make these changes. The council’s constitution delegates authority to the monitoring officer to amend the constitution to reflect changes to the law.



## **Risk management**

- 13 If changes are not made to individual terms and conditions via a collective agreement then the authority will have to be mindful of how the new requirements can run alongside the individual right to have involvement of a DIP appointed.

## **Consultees**

- 14 None

## **Appendices**

None

## **Background papers**

None identified.





<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>Governance improvement working group update</b>
<b>Report by:</b>	<b>Assistant director governance</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To note the work of the governance improvement working group to date and to consider future work and membership of the group.

## Recommendation(s)

THAT:

- (a) the outcomes of the initial work carried out by the governance improvement working group as set out in the report be noted;
- (b) future membership of the working group as set out at paragraph 4 be confirmed; and
- (c) the outline work programme for the working group as set out at paragraph 9 be approved.

## Alternative options

- 1 To not undertake a review of the current governance arrangements. This would be contrary to the agreement reached between group leaders in October 2014 and a resolution passed by Council in December 2014 reflecting observations that the current arrangements lacked transparency and limited the extent of member and

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Further information on the subject of this report is available from  
Annie Brookes, Governance Manager on Tel (01432) 260605

stakeholder involvement in decision making.

## Reasons for recommendations

- 2 To facilitate the future work of this group, with any revised membership, in order to ensure that a review of governance arrangements can be completed. This will enable recommendations to be made for suitable governance arrangements to be in place for the council. This exercise would in turn inform a planned review of the current constitution.

## Key considerations

- 3 Following a meeting of group leaders in October 2014, a cross-party members' working group convened to initiate consideration of how governance arrangements could be improved. Membership represents executive, overview and scrutiny and audit and governance functions plus one member not involved with those functions. Representatives are also tasked with ensuring that the working group effectively engages with the wider membership within their political groups.
- 4 Following the elections in May 2015, the membership of the working group needs updating so that the group can be reconvened to take the work forward to conclusion. Group leaders have been consulted on proposed membership and made the following recommendations regarding the composition of the group (noting that the group leaders would confirm relevant group nominees):
  - senior decision-makers - 1 cabinet member (Con)
  - scrutiny –2 scrutiny members ( Ind and IOC)
  - audit & governance –1 AGC member (Green)
  - frontline members not involved in any of the above (LD)
- 5 The group's initial terms of reference were to undertake a fact-finding exercise to identify the key issues that needed to be resolved, to inform a review of governance arrangements, and to help identify future models of governance. The working group met during February and March 2015 to commence this work.
- 6 The following themes were considered in the context of the current governance arrangements as a focus in order to inform the future work of the group:
  - a) How all members are involved in the policy making/decision making process;
  - b) How the public/stakeholders are involved;
  - c) Having a clear scheme of delegation at member, officer and partnership level;
  - d) Having effective processes for publicising forward plans/decisions;
  - e) How members are involved in performance management and improvement.
- 7 The working group identified that:
  - There had been some limited feedback from members and debate at Council, with some uncertainty regarding levels of delegation, partnership working and limitations of forward plans;

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Further information on the subject of this report is available from  
Annie Brookes, Governance Manager on Tel (01432) 260605

- Good governance arises in part from member involvement in performance management, but it was felt that this is not happening well at present;
- There needs to be greater use of members' experience and credentials and linking this to training and appraisal;
- There are various approaches to democracy and decision-making from council to council, and expertise can be developed by looking at what others do;
- Learning can also be gained from audit and inspection, e.g. Ofsted, regarding leadership and engagement and this is a process of continuous learning.

8 SWOT analyses were carried out systematically against the five themes noted above (see Appendix A). In summary, this identified:

**Strengths:** Decision-making is well-facilitated in terms of speed and clear reporting lines within a known system. Meetings are rarely closed and are available to the public through attendance, questioning and published decisions. Decisions are informed through availability of data and Understanding Herefordshire.

**Weaknesses:** Resources (people, data) are limited, with concern over how they are used. There is an over-reliance on web-based consultations and information which can be hard to find/access, compounded by a lack of public knowledge of politics and council business, all of which contribute to a low response rate to consultations. The balance between the council and executive functions was considered to be a weakness with a lack of clarity on how to feed into the decision making process.

**Opportunities:** To make better use of Members' skills and experience and develop more effective use of Groups with cross-party executive functions. Information and resources such as the corporate plan, Understanding Herefordshire, clearly presented data and information technology could be used more effectively along with an increased scrutiny role linking outcomes to use of resources. This could be facilitated by clearer understanding and management of escalation processes, expansion of call-ins and a more accessible constitution.

**Threats:** Decreasing resources leading to poor communication, and breaks in continuity. Data can be overwhelming which can impact on decision making. The public appears disengaged, with limited awareness of issues and decisions to be made, coupled with a poor perception of members' knowledge of the same.

9 Using the toolkits available (in line with national good practice) and building on the work already undertaken by the working group, an outline programme for the next stages of the review is proposed below:

- a) Finalise the establishment of a baseline – how do we currently do things; what are stakeholders' views of these processes; what are the strengths/weaknesses (complete by end August)
- b) Propose 'design principles' – level of member engagement in policy making/decision making; approach to forward planning; publication of information; engagement of stakeholders/public; consistency of levels of delegation (report to committee in January)

- c) Assess options - how to meet these design principles, build on strengths and address weaknesses (report to committee in April)

## **Community impact**

- 10 There is no impact upon the community as this report is to provide information on the current situation.

## **Equality duty**

- 11 The report does not impact on this area.

## **Financial implications**

- 12 There are no financial implications.

## **Legal implications**

- 13 There are no legal implications.

## **Risk management**

- 14 If governance arrangements are not transparent or robust there are the risks that the council's reputation may suffer; that it will be more difficult to encourage candidates to stand for election and that decision-making is less sound. By undertaking a review of governance arrangements in line with good practice these risks can be mitigated.

## **Consultees**

- 15 The views of group leaders have been sought regarding the proposed membership of the working group and are reflected in the recommendations.

## **Appendices**

Appendix A – SWOT Analyses

## **Background papers**

None identified.

1. Members' involvement in the policy-making / decision-making process	
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>• "Known" system</li> <li>• People with sound grasp of issues</li> <li>• Understanding Herefordshire</li> <li>• Clearly defined chain of command</li> <li>• Speed of decision-making</li> </ul>	<ul style="list-style-type: none"> <li>• Don't feel involved</li> <li>• Understanding roles</li> <li>• Too reactive</li> <li>• Resources: people (limited), and use of</li> <li>• Limited involvement</li> <li>• Appointment to roles (but legal requirement)</li> <li>• Perception of "back room" deals</li> <li>• Concern re. workloads / spread</li> <li>• Lack of clarity on how to feed into decision-making process</li> <li>• Balance between council and executive functions</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Understand and build on members' skills and experience</li> <li>• Be more proactive and have closer relationship with scrutiny</li> <li>• Improve communication</li> <li>• Effective use of Groups</li> <li>• Understand and make better use of corporate plan</li> <li>• Use Understanding Herefordshire</li> <li>• Use of resources in different ways</li> <li>• Cross-party executive functions</li> </ul>	<ul style="list-style-type: none"> <li>• Break in continuity</li> <li>• Poor communication</li> <li>• Resources</li> <li>• Public disengagement and perception / knowledge of issues</li> </ul>

2. How the public / stakeholders are involved	
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>• Public meetings and media /web etc.</li> <li>• Very few "exempt" reports</li> <li>• Open meetings</li> <li>• Questions from the public and propose items for future work plan</li> </ul>	<ul style="list-style-type: none"> <li>• Low response-rates</li> <li>• Over-dependence on on-line methods</li> <li>• Lack of public knowledge of politics / council business</li> <li>• Misunderstood open-ness</li> <li>• Limited focus of where questions are directed</li> <li>• Number of clicks to web-site topics</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Use IT to increase accessibility (beyond Planning Cttee)</li> <li>• Varied ways of involving public</li> <li>• Formats for presentation – creativity</li> <li>• Timing of meetings and locations</li> <li>• Webcasting and social media</li> <li>• Earlier release of draft minutes</li> <li>• Transparency statement at start of website</li> </ul>	<ul style="list-style-type: none"> <li>• Perception of level of members' knowledge about specific issues – engagement without undue influence</li> </ul>

3. Having a clear scheme of delegation at member, officer and partnership level	
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>• Timely decisions</li> <li>• It works</li> </ul>	<ul style="list-style-type: none"> <li>• Misunderstood!</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Improve understanding of and clear escalation of processes / way of managing flow</li> <li>• Clarify officer decision call-in</li> <li>• Expand call-ins</li> <li>• Format / accessibility of constitution</li> </ul>	

4. How members are involved in performance management and improvement	
STRENGTHS	WEAKNESSES
<ul style="list-style-type: none"> <li>• Understanding Herefordshire and amount of data</li> </ul>	<ul style="list-style-type: none"> <li>• Poor understanding and use of data</li> </ul>
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• Better use and understanding of data</li> <li>• Improve outcomes in relation to use of resources</li> <li>• Understanding Herefordshire</li> <li>• Linking outcomes to data</li> <li>• Greater role for scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>• Decreasing resources</li> <li>• Overwhelming data</li> </ul>





<b>Meeting:</b>	<b>Audit &amp; governance committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>Annual governance statement</b>
<b>Report by:</b>	<b>Director of resources</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To seek the views of the committee of the draft annual governance statement for 2014/15.

## Recommendation(s)

THAT:

- (a) **the committee reviews and comments on the draft 2014/15 annual governance statement at appendix A.**

## Alternative options

- 1 The draft document is presented for comment; it is open to the committee to propose alternative actions for consideration.

## Reasons for recommendations

- 2 To inform development of the annual governance statement.

## Key considerations

- 3 The council has a responsibility for conducting at least annually a review of the effectiveness of the governance framework including the system of internal control. This is reported through the annual governance statement which is reviewed and

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Further information on the subject of this report is available from  
Peter Robinson, Director of resources on Tel (01432) 383514

approved by the committee as an element of the annual statement of accounts in September. The annual governance statement also provides commentary on how the council's governance framework including the system of internal control can be improved. Whilst the statement by its nature is only signed off once a year, the process of review is continuous. Reports presented to the audit and governance committee inform the development of the annual governance statement, and the committee receives periodic progress reports on implementation of the action plan supporting the annual governance statement.

- 4 A draft statement is attached at appendix A, together with a draft action plan at appendix B; also attached for information, at appendix C, is the previous year's action plan update as reported to the committee in January. A final progress update on that plan will be reported to committee in September and – where appropriate, outstanding actions will be rolled forward to the current year's action plan.

## **Community impact**

- 5 The council is responsible for ensuring that appropriate safeguards are in place to ensure that it operates effective governance arrangements and internal controls. The decisions the council makes have direct impact on the lives of residents of the county and therefore it is essential that the council have appropriate governance arrangements in place.

## **Equality duty**

- 6 A public authority must, in the exercise of its functions, have due regard to the need to:
  - eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under the act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7 Effective governance arrangements ensure that due consideration is given to the exercise of this duty in the decision-making and actions of the council.

## **Financial implications**

- 8 None arising directly from this report.

## **Legal implications**

- 9 The Accounts and Audit Regulations include requirements for all councils to produce an annual governance statement.

## **Risk management**

- 10 The statement itself identifies governance risks and the action plan provides mitigation to those risks.

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Further information on the subject of this report is available from  
Peter Robinson, Director of resources on Tel (01432) 383514

## **Consultees**

11 None.

## **Appendices**

Appendix A – draft annual governance statement 2014/15

Appendix B – draft action plan 2015/16

Appendix C – action plan 2014/15

## **Background papers**

- None identified.



## Annual Governance Statement 2014/15

### Scope of responsibility

1. Herefordshire Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. The council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
2. In discharging this duty, the council is responsible for putting in place proper arrangements for the governance of its affairs and facilitating the effective exercise of its functions. These include arrangements for the management of risk.
3. The council has adopted a code of corporate governance that is consistent with the principles of the Chartered Institute of Public Finance & Accountancy (“CIPFA”)/Society of Local Authority Chief Executives (“SOLACE”) framework for delivering good governance in local government. The council’s code is available on the website at the following link:  
<http://councillors.herefordshire.gov.uk/documents/s50012943/Preamble.pdf>
4. The annual governance statement for 2014/15 explains how the council has complied with its code of corporate governance. It also explains how the requirements of Regulation 4(2) of the Accounts and Audit Regulations 2003, as amended by the Accounts and Audit (Amendment) (England) regulations 2006 in relation to the publication of a statement of internal control have been met.

### The purpose of the governance framework

5. The governance framework comprises the systems, processes, culture and values by which the council is managed and controlled. The framework also sets out how the council accounts to, engages with and leads the community.
6. The governance framework enables the council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate and cost-effective services.
7. The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives as an individual’s failure to comply with policies and procedures, even when provided with comprehensive training on them, can never be entirely eliminated.
8. The system of internal control is based on an ongoing process designed to:

- (a) identify the risks to the achievement of the council’s policies, aims and objectives;
- (b) evaluate the likelihood and impact of the risks should they be realised; and
- (c) identify and implement measures to reduce the likelihood of the risks being realised and to negate, or at least mitigate, their potential impact.

## The governance framework

9. The council’s corporate governance framework was adopted by Council on 31 October 2008 and has been reviewed annually by the section 151 officer to ensure it remains fit for purpose. It seeks to ensure that the principles of good governance are embedded into all aspects of the council’s work. The five principles agreed within the code link to the six principles of good governance outlined in the SOLACE/CIPFA publication “Delivering good Governance in Local Government”.
10. For ease of reference, the following table matches the council’s five principles with those contained in the SOLACE/CIPFA guidance:

<b>SOLACE/CIPFA Guidance - Principle 1</b>	Focusing on the purpose of the authority, on outcomes for the community and creating and implementing a vision for the local area.
<b>Council – Principle 1</b>	Provide the best possible service to the people of Herefordshire.
<b>SOLACE/CIPFA Guidance - Principle 2</b>	Members and officers working together to achieve a common purpose with clearly defined functions and roles.
<b>Council – principle 2</b>	Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness.
<b>SOLACE/CIPFA Guidance - Principle 3</b>	Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
<b>Council – Principle 3</b>	Require high standards of conduct.
<b>SOLACE/CIPFA Guidance - Principle 4</b>	Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
<b>Council – Principle 4</b>	Take sound decisions on the basis of good information.

<b>SOLACE/CIPFA Guidance - Principle 5</b>	Developing the capacity and the capability of members and officers to be effective.
<b>Council – Principle 2</b>	Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness.
<b>SOLACE/CIPFA Guidance - Principle 6</b>	Engaging with local people and other stakeholders to ensure robust public accountability.
<b>Council – Principle 5</b>	Be transparent and open: responsive to Herefordshire's needs and accountable to its people.

11. The framework we have in place to ensure adherence to the code is described in more detail below.

**Principle 1 – Provide the best possible service to the people of Herefordshire**

12. Herefordshire Council's strategic vision for the county is set out in the corporate plan 2013/15 approved by Council in November 2012. An annual delivery plan is approved by cabinet and funding to carry out these activities is agreed through the medium term financial strategy 2014/17 (MTFS). The MTFS is a three year rolling plan, covering both revenue and capital investment, updated annually. Both documents are scheduled for review in 2015/16 to ensure they remained aligned to residents' priorities and fit for purpose to meet the financial challenges facing public services.
13. During 2014/15 a significant number of previously agreed financial savings plans were delivered alongside significant service transformation in adult wellbeing services and children's safeguarding services.
14. Overall performance has been reported to cabinet on a quarterly basis together with financial outturn reports. Quarterly performance reviews have taken place led by senior management and providing the opportunity for members of the executive, overview and scrutiny chairs and group leaders to participate. In addition cabinet receives in June an annual report on performance, financial outturn and summary of the evidence base captured in 'Understanding Herefordshire' which incorporates the joint strategic needs assessment for the county, and summarises the input received from residents through consultations completed during the year. All these documents are available on the council website.
15. The council aims to have good governance arrangements in respect of partnerships, and has developed protocols for working with particular sectors such as local councils and the voluntary and community sector. More formal partnership arrangements with other councils, such as the

Marches Local Enterprise Partnership, have been established as joint executive committees and comply with all relevant statutory requirements for open and accountable decision-making

**Principle 2 – Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness**

16. The constitution sets out transparently and comprehensively the rules controlling our business including the council's executive arrangements, committee structure, codes of conduct, contract standing orders, financial procedure rules and schemes of delegation. We continue to refine and monitor our decision-making processes and constitutional arrangements to ensure they are robust, consistent, transparent, and fit for purpose.
17. The audit and governance committee's terms of reference encompass responsibility for review of the constitution and in 2014/15 a cross party working group was established to inform this work reporting to the committee. Due to the elections held in May 2015, it was agreed the working group would focus on collecting initial information and the more fundamental review would be progressed by the new council.
18. The council publishes an annual pay policy statement setting out arrangements for employee remuneration.
19. There is a formal staff performance review requirement for all officers.
20. An independent remuneration panel is established which makes recommendations to Council regarding member allowances; the panel's last report was considered by Council in May 2015 and is available at the following link:  
<http://councillors.herefordshire.gov.uk/documents/s50025963/Appendix%20A.pdf>
21. Following Council's approval of the recommendations of the independent remuneration panel, with effect from May 2015 there will be a number of mandatory training modules members will be required to undertake.

**Principle 3 – Require High Standards of Conduct**

22. The council has agreed values, which act as a guide for decision-making and a basis for developing positive and trusting relationships both within the council and between the council and its partners. The council follows CIPFA recommended standards of conduct; although the s151 role is not fulfilled by a director the role has direct lines of accountability to the chief executive and is a member of the senior management team.
23. A regular programme of member training has been delivered and induction provided for new members. Refresher briefing sessions on the code of conduct are held annually both for Herefordshire Council members and for parish and town councillors. The annual report of the monitoring officer includes performance information regarding standards cases.



24. Managers are responsible for making sure employees keep to policies, procedures, laws and regulations. There is an employee code of conduct setting out clear expectations and standards; this is supported by employee policies such as whistleblowing, grievances, bullying and harassment.

**Principle 4 – Take sound decisions on the basis of good information**

25. The council ensures its constitutional arrangements provide for effective council and executive decision-making with clearly defined roles for members and officers. Decision makers are provided with complete information necessary for them to take balanced and informed decisions.
26. The council's two overview and scrutiny committees are provided with the support necessary to enable them to perform all statutory duties required of them.

**Principle 5 – Be transparent and open: responsive to Herefordshire's needs and accountable to its people**

27. All meetings are held in public unless there are clear legal reasons for confidentiality. All executive decisions, including those taken by officers under delegated authority, are available on the council's website.
28. Public participation through submission of questions is encouraged at Council; the overview and scrutiny committees also provide for public participation both through submission of questions and suggestions for inclusion in the work programme.
29. The council has strategies which support engagement; promote the use of digital technology to increase engagement and self-service; and respond to customer concerns if expectations are not met.
30. The communications team help the council to communicate with all sections of the community in Herefordshire via the media, marketing and through digital channels. Services are making increasing use of social media.
31. The council meets its statutory responsibilities regarding data transparency.

**Ensuring the authority's financial management arrangements conform to the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2010) and, where they do not, explain why and how they deliver the same impact**

32. The section 151 officer is not fulfilled by a director post; however the officer is a member of the senior management team and the arrangement does not have any negative impact in how the officer fulfils their statutory duties. Financial management arrangements conform to the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2010).
33. The section 151 officer has direct access to the chief executive, senior management and members on financial matters who are all involved in the

detailed medium term financial planning process. They also provide regular revenue and capital budget monitoring reports to cabinet.

## Review of effectiveness

34. Herefordshire Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework, including the system of internal control. The review of effectiveness, jointly led by the section 151 officer and the monitoring officer, is informed by reports from internal and external audit, risk and performance reports, analysis of complaints and standards issues through the year, and assurance reviews completed by managers.
35. Internal audit reports include specific agreed action plans to implement improvements identified, these are reported annually to the audit and governance committee. Nine areas reviewed by internal audit during 2014-15 were given partial assurance and one area was given no assurance. The no assurance and five of the partial assurance opinions related to school audits and each school has an action plan of recommendations that has been agreed and will be monitored by the relevant head teacher and school governors. The remaining four partial assurance opinions related to service specific issues and the agreed action plan for each is monitored by the relevant service director.
36. The results of the review were provided to senior management to consider, and as a result of this review of the effectiveness of the governance framework an action plan has been drawn up (at appendix A) to address the key issues identified and ensure continuous improvement. The previous year's action plan including progress/outcomes is included at appendix B.

Cllr Tony Johnson  
Leader of the council

Signed:  
Date:

Alistair Neill  
Chief executive

Signed:  
Date:

Peter Robinson  
Director of resources

Signed:  
Date:

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
Principle 1: Provide the best possible service to the people of Herefordshire					
1.	A lack of evidence that system wide processes to ensure safeguarding of both children and adults is sufficiently robust in all agencies and that accountabilities are clear and understood.	JD	Dec 15		
	a) HSCB Improvement Plan in place to address weaknesses	JD	Dec 15		
	b) Making Safeguarding Personal ( MSP) implementation plan is completed and benefit realisation review takes place	HC	Dec 15		
	c) Safeguarding Adults peer challenge is completed and action plan implemented for areas of improvement	HC	October 15		
2.	Contract management is not consistently focused on achievement of contracted outcomes	RB	Board in place by July 15		
	a) A Commercial Board will provide oversight and management of key commercial matters. Contract management will be a key feature and include the management of key (platinum) contracts, plus, the agreement of a contract management framework to provide consistency of	RB	Board in place by July 15		

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
		<p>approach across the authority.</p>				
		<p>b) A programme of contract management training is in place to improve contract management skills. Attendees are developing a community of practice to support development of skills and consistency.</p>	RB	Sept 2014 – Ongoing		
		<p>c) Improving contract management performance will also be included as part of the Commissioning and Commercial Strategy due to the refreshed by end of 2015.</p>	RB	Dec 2015		
3.	<p>As public sector resources reduce there is a need to ensure that the council's vision and objectives are clearly understood by the wider public sector</p>	<p>a) Fully engage with WVT, the CCG, Police, Fire and Rescue, and other agencies – with the aim of jointly leading public sector reform in Herefordshire to maximise use of resources.</p>	AN	Ongoing		
	Principle 2: Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness					

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
4.	There is an identified lack of clarity amongst members (and officers) re roles/and processes	Constitution (including codes & protocols) to be reviewed in conjunction with cross-party constitution working group.	BN	May 2016		
5.	Individual directorates/ services have undergone recent elements of peer challenge. We will consider further peer challenge to inform future strategic direction/business planning.	a) Consider options of corporate peer review or ECC review.	AN	December 2015		
6.	Staff reductions have placed a new level of work pressure on staff and on particular departments. Whilst there are signs that morale related to working for Herefordshire Council has improved, we still need to work hard on giving staff a clearer sense of our direction of travel.	a) Ensure clarity of vision and purpose for the organisation. b) Ensure effective staff and member engagement in change and clear, resourced succession planning processes are developed	AN  PR	December 2015  December 2015		
Principle 3: Require high standards of conduct						
7.	Fraud – A lack of focus across the authority and input	a) Higher profile given to fraud awareness through leadership	PR	October		

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
	group		2015		
8.	Data protection/information security – as evidenced by number of breaches, including those arising through interim staff and partnership arrangements	BN	April 2016		
Principle 4: Take sound decisions on the basis of good information					
9.	Performance and quality data is not used as effectively as it could be to inform improvement activity eg as evidenced by the effectiveness of controls re use of agency staff.	RB	New format in place from July		
10.	Lack of robustness of challenge re business cases/benefits – consistency of business cases; follow up re benefits realisation	PR	October 2015		

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
11.	Insufficient linkages between strategic planning processes, project management, and individual decisions e.g. as evidenced by the Colwall school building decision, and compliance with health and safety procedures	a) Review performance management arrangements to ensure compliance issues are addressed b) Corporate health and safety board strengthened	GH	December 2015		
Principle 5 – Be transparent and open: responsive to Herefordshire's needs and accountable to its people						
12.	Although there is a significant amount of information made available publically, including in relation to decision taking, it is not always easy to find on the website or easily understood once found leading to a perception that information is being withheld and/or decisions are taking place 'behind closed doors'.	a) Update website to improve transparency and make it more user-friendly. b) Review decision-making governance processes to ensure there is a proportionate approach to transparency re decision-making so that information is available about decisions taken, that schemes of delegation are clear, but that the process of documenting decisions is not overly bureaucratic.	GH	February 2016		

**Owner:**

RB = Richard Ball, Assistant Director Place Based Commissioning

HC = Helen Coombes, Director Adults and Wellbeing

JD = Jo Davidson, Director Children's Wellbeing

AN = Alistair Neill, Chief Executive

BN = Bill Norman, Assistant Director Governance

PR = Peter Robinson, Director of Resources

CT = Carol Trachonitis, Equality Information and Records Manager



Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
Principle 1: Provide the best possible service to the people of Herefordshire					
<p>1. <u>Safeguarding</u></p> <p>In early 2014/15 Ofsted undertook a follow up inspection of children's safeguarding and re-graded the service from 'inadequate' to 'requires improvement' but given the improvements required the current intervention arrangements remain in place.</p> <p>Health &amp; Social Care Overview &amp; Scrutiny Committee undertook a review of scrutiny arrangements for children's safeguarding and identified a number of improvement areas.</p> <p>The impacts of reductions in council finances combined with growing demand in both adults and children's services</p>	<p>a) Development of protocol governing arrangements between HSCB and Children's Improvement Board</p> <p>b) External peer diagnostic of HSCB and development plan</p> <p>c) Clear forward plan for Boards and Scrutiny to assure sufficient oversight of safeguarding matters</p>	JD	As set out in OFSTED action plan	<p>Protocol established and approved by the HSCB and the Improvement Boards at their respective meetings on 22<sup>nd</sup> October. This action is therefore fully discharged.</p> <p>The peer diagnostic took place between 15-17<sup>th</sup> November 2014; the outcome has been considered by the HSCB and is being monitored through the monthly performance process.</p> <p>The Boards and Scrutiny have clear forward plans for the remainder of the financial year, except in the case of the Improvement Board which it is hoped will be able to handover to the</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
<p>need to be better understood to enable effective planning and demand management.</p> <p>Adults Safeguarding Board has not produced an annual report for 2013/14 or a business plan for the current year.</p> <p>The speed within which adult safeguarding investigations are completed has been identified as needing improvement.</p> <p>The evolving health and social care governance structures require clarity regarding accountability for ensuring safeguarding improvements for both adults and children are achieved.</p>				HSCB during 2015, subject to lifting of DfE intervention notice.	
	<p>d) Agreement through Group Leaders and constitution changes to secure mandatory training elements for members of the new Council</p>	BN	March 2015	<p>Agreement in principle reached with group leaders; the Independent Remuneration Panel (IRP) report to Council on future member allowances will include a recommendation that allowances will be withheld pending completion of mandatory training. Convening the IRP has been delayed pending recruitment of additional members.</p>	
	<p>e) Monitoring the effectiveness of services with a focus on retaining a strong front line. Focus service investment where it can be most effective whilst meeting statutory obligations.</p>	JD/HC	March 2015 & ongoing	<p>Children's Wellbeing: the OFSTED inspection of safeguarding services in May 2014, judged that the council and its partners had made sufficient improvement to</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				<p>be no longer deemed inadequate. The performance monitoring shows that progress is continuing to be made in strengthening the front line services and a further review by the Department for Education took place in December 2014; the outcome will be received during January.</p>	
	<p>f) Ensure that robust information sharing protocols are in place to support the partnership arrangements (IG toolkit)</p>	CT	March 2015	<p>Agreements have been sent to our key partner strategic Partners in Health and the Police, and signed off by management board.</p> <p>Local agreements being drawn up with partners. CWB partners and information flows identified and local</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				<p>agreements in place;</p> <p>AWB a work in progress for identifying partners an audit plan is in place and on target for March 2015. Local information sharing protocols are being drawn up and will be in place by March 2015</p>	
	<p>g) Adults Safeguarding Governance and Operational Arrangements require reviewing and an action plan put in place for improvement and compliance with the Care Act</p>	HC	December 2014	<p>Review completed and the Council has signed up to implementing Making Safeguarding Personal (MSP) a national programme. An improvement action plan is in place with a new process implemented from December 2014 and ensure compliance with Care Act 2014</p>	
	<p>h) Adult Safeguarding Performance monitoring mechanisms put in place and</p>	HC	March 2015	<p>Safeguarding Adults Board and Steering Group now receive</p>	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
		a safeguarding adults peer challenge will be commissioned in 2015			regular performance report Safeguarding Performance is now reported as part of council wide Quarterly Performance Meeting .	
2.	Public health/integration – the quality of data existing in relation to contracts/services novated under the recent national health reforms has been inconsistent and in some cases absent. Insufficient focus has been given to ensuring staff transferring to the local authority have a full understanding of local government governance requirements and processes.	a) Due Diligence is carried out on all novated contracts and where appropriate contracts are transferred onto local authority terms and conditions within 14/15  b) Introduction to Local Authority Governance Workforce Development session undertaken by all Public Health Staff	HC  HC	March 2015  March 2015	In progress, with all contracts reviewed and a planned approach to transferring them onto council terms and conditions  Two sessions have been delivered to ensure coverage of all public health managers.	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
		c) Ensure that processes are in place regarding Information governance and that the Local government IG toolkit is implemented	CT	March 2015	We are now doing a joint Information governance Tool kit which focus across the board not just on public health. We have recruited a fixed term post to support this work to insure that processes are in place. Currently we are at 54% of the IG tool kit and we need to get to 66% to be satisfactory by March 2015 we have a work programme in place and are on track.	
3.	Commissioning/contract management – whilst processes for commissioning are established there is evidence to suggest that they are not consistently followed eg high number of contract procedure rule exemption requests to extend existing	a) Corporate Governance and compliance with the formal decision making process is reflected in the revised Contract Procedure Rules due to be implemented as part of the review of the constitution.	BN	March 2015	The review of the constitution has, with agreement of group leaders, been delayed pending consideration of the governance model to be adopted by Council post May 2015. A separate report on the contract procedure rules	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
	<p>contracts</p> <p>Contract management is not consistently focused on achievement of contracted outcomes e.g. ongoing high value contract dispute (see 10 below)</p>	<p>b) In addition, decision approval is a key step in the pre-procurement planning stage within the Commercial Procurement pipeline and so Category Managers check that stakeholders have secured this as part of major projects procurement.</p> <p>c) These requirements also feature within the internal procurement awareness sessions due to start in Sept and therefore aim to increase awareness in the requirement.</p>	RB	Training October 14	<p>will be brought forward for AGC consideration in advance of that wider review.</p> <p>Commercial Services has carried out contract management training with a cross section of staff involved from across the organisation.</p> <p>Two days training course was held using external training expertise which covered these actions.</p> <p>Category managers within commercial services are now in place to work across directorates to plan the pipe line of procurement which is successfully reducing the number of exemption requests through improved</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
	d) Ensure Equality considerations are incorporated into commissioning process	CT		planning. Equality considerations are incorporated into our decision making process through the Equality Impact assessment process for reports that go to Cabinet or councillor decision. They are also incorporated into our procurement and contract process. These have been reviewed and amended and are now consistently implemented into new contracts. .	
Principle 2: Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness					
4.	There is an identified lack of clarity amongst members (and officers) re roles/and processes – as evidenced by budget debate at Council in	a) Constitution (including Codes & Protocols) to be reviewed in conjunction with cross-party Constitution Working Party.	BN	See 3a above.	End March 2015



Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
February 2014. HSCOSC has identified the need for greater member training and development re safeguarding and corporate parenting	b) Improved clarity to be one outcome of 2014/15 review of Constitution.	BN	End March 2015	See 3a above	
	c) Induction Programme for May 2015 intake of Members to be developed in conjunction with Member Development Group	BN	End March 2015	Survey of all members undertaken in November/December. A very low response was given and follow up work is underway. In the meantime proposals for induction for all new and returning members will be considered by the Member Development & Training Group in early February.	
	d) Review of Constitution to consider introduction of mandatory training (and sanctions for non-compliance)	BN	End March 2015	See 3a above	
	e) Managers receive monthly reports re compliance with mandatory training requirements	BN	ongoing	Reports are produced on a monthly basis that the performance leads in each directorate disseminate to the	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				respective managers. This report is at individual level so managers can identify those individuals who have not complied so appropriate action can be taken.	
	f) Ongoing programme of Governance awareness training with management teams.	BN	ongoing	All directorate management teams have received training and periodic refreshers/updates are scheduled.	
	g) Ongoing programme of Equality awareness and training for decision makers and report writers to comply with Equality duties (PSED)	BN	ongoing		
	h) Increased use of modern.gov, including better version controlling of emerging reports.	BN	End December 2014	Progress on this element has been delayed by a lack of capacity; additional resources are being identified to	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
5.	<p>Staff reductions of around 20% in 18 months have placed a new level of work pressure on staff and on particular departments. This has had an impact on staff morale alongside wider public sector confidence levels. The use of interim staff in key roles provides a further challenge to workforce cohesion during a long period of continuing restructuring.</p>	<p>a) Continue and further develop staff engagement with the council's programme of change. Ensure staff are clear about the direction of change.</p> <p>b) Review staffing needs in any areas of significant pressure.</p>	AN	Ongoing	<p>support this work.</p> <p>1.A December Leadership Group session focussed on these issues, using the staff feedback.</p> <p>2.Introduction of the major new C-PIP (Continuous Performance Improvement Programme) across all staff groups, focussed on staff priority proposals for how we can improve is now bedding in, with excellent cross directorate staff take-up (over 60 staff).</p> <p>This is kept under regular review, and has featured as a significant consideration in 2015/16 budget developments. Reality is that we must</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				reduce costs by very large amounts, and therefore must also consider alternative approaches – which has been taken forward eg in considering channel-shifting opportunities.	
	c) Where appropriate re-balance staffing levels within the organisation.	AN		This is ongoing work, and has been a feature of budget development.	
	d) Risks to be reviewed before any further contract extensions recommended for approval/further interim appointments made.	AN	ongoing	Risks are reviewed: the Jan Employment Panel report sets out the intention to replace senior interim appointments with permanent appointments.	
	e) Annual pay policy statement review to address any issues arising re use of interim senior managers including transparency requirements	BN	January 2015	Employment Panel on 14 January agreed to commence the recruitment to a number of senior management posts currently covered	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
	and taxation guidance.			by interim arrangements.	
Principle 3: Require high standards of conduct.					
6.	<p>Fraud – A lack of focus across the authority and input by Internal Audit aside from Housing Benefits</p> <p>a) The new Internal Audit provider, the South West Audit Practice has been given responsibility for a number of fraud initiatives in the Internal Audit Plan, 135 days in total approved by the Audit and Governance Committee that will improve focus and process around fraud detection and prevention</p>	PR	Ongoing to commence May 2014, reviewed by CFO and Audit and Governance Committee	<p>Fraud/governance audits have been completed for Members and staff expenses.</p> <p>The annual fraud and corruption survey for the council has been completed and the whistleblowing, Fraud and corruption Policy updated.</p>	
7.	<p>Data protection/information security – as evidenced by number of breaches, including those arising through interim staff.</p> <p>a) Non-compliance with staff on-line mandatory information/data security training to be pursued with relevant managers.</p>	CT	31 December 14 March 2015 for those with no access to CPD on-line	There has been an on-going drive to get all staff to complete mandatory training, a final deadline of the 31 <sup>st</sup> December 2014 has been communicated to all staff that have access to CPD on-line. A final report is	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
					<p>awaited from CPD on-line to check who has not completed. Those that have not completed will face disciplinary proceedings. These will commence in January / February</p> <p>There are a number of cases where exceptions have been requested. This is due to a number of issues including access issues to CPD on-line. For all of these cases alternative methods of ensuring compliance with mandatory training will be put into place. It is expected that these alternative solutions will be completed by March 15</p> <p>There is also an issue</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				with agency staff an alternative method of ensuring compliance is being investigated. Completion expected Dec 2014	
	b) Non-disclosure / confidentiality agreements to be signed by all staff / interims/ agency prior to be granted access to systems.	CT	November 2014	There have been a number of operational issues in getting this completed. An on-line solution went live in September of which there were 463 responses. There have been issue with recruitment not sending the agreement to new starters and agency staff. Currently there is further work required to identify those that have not signed up. Completion date for all staff now expected March 2014	
Principle 4: Take sound decisions on the basis of good information					

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
8.	Lack of robustness of challenge re business cases/benefits – consistency of business cases; follow up re benefits realisation; need for horizon scanning at point of decision to assess what may impact on achievement of benefits e.g. as identified in recent external audit report following a public interest disclosure act disclosure.	<p>a) Reorganisation of finance function to enable greater focus on change and business case development and strategic/corporate oversight</p> <p>b) Standard business case template to be developed and implemented</p>	PR	April 2014	Reorganisation and implementation of financial self- service has meant the finance team have been more proactive, particularly in supporting change.	
9.	Budget - Adult Wellbeing overspent by £3m in 2013/14 due to over optimistic assumptions on the rate of change, inadequate data and strategic planning, a lack of challenge and lack of contingency	<p>a) The budget approved by council in February 2014 was subject to a zero based approach before applying savings plans. The budget was prepared with Directors and challenged by the finance team. A corporate contingency was established and reserves added to ensure any unforeseen items arising could be managed. Monitoring at June 2014</p>	PR	December 2014	In progress, draft produced and being piloted on target for completion by 31st January 2015	
				Budget and Medium Term Financial Plan approved February 2015	Budget monitoring for 2014/15 demonstrates that the council is predicted to spend within its overall budget. This gives confidence that the budget was reasonable based on available information. Budgets for 2015/16 being updated using the same approach used in 2014/15 with additional challenge on	



	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
		<p>predicts an overall balanced budget with minor variations in Directorate budgets and unforeseen items managed through corporate contingency arrangements approved by Cabinet</p>			savings plans.	
10.	<p>Progress has been slow in achieving closer integration with health in order to reduce waste and duplication, achieve better demand management and deliver service improvements.</p>	<p>a) Establish formal governance mechanisms to drive integration and transformation</p> <p>b) Establish projects and programmes to re-shape service delivery.</p>	AN	March 2015 & ongoing	<p>System Wide Transformation Board and governance structure put in place and reporting to the HWBB.</p> <p>Joint Commissioning Board between the CCG and Council put in place to oversee all joint commissioning arrangements and the implementation of the Better Care Fund</p> <p>Transformation Board and Better Care Fund has identified series of key projects to oversee implementation this</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				<p>includes children's, adults and communities.</p> <p>For children's the position is:</p> <p>Agreed programmes of change are taking place in relation to child and adolescent mental health and disabilities. The council has commissioned a new integrated model the Herefordshire Intensive Placement Support service which, when it becomes fully operational in January 2015, will begin to change the models of delivery for some of the most vulnerable children in the County.</p> <p>The CCG is leading on mental health needs assessment work to</p>	

	Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
					<p>identify further programmes of change.</p> <p>The council has acted as lead commissioner for changes in short breaks services for families of children with disabilities and is currently working with the CCG to further develop the model to move away from residential and institutional forms of support.</p>	
11.	Decisions supported by more informed options appraisals including assessment of risks/opportunities – the number of legal challenges indicates a need for greater consistency/robustness in this area. Internal risk management processes are not sufficiently clear.	<p>a) High value cases regularly reviewed by senior legal services officers; evolving risks evaluated and relevant colleagues and Members kept informed.</p> <p>b) Legal services restructured to address capacity/skills gaps; recruitment to populate new structure.</p>	BN	Ongoing	<p>Completed. Deputy Solicitors to the Council now involved routinely in leading legal input and advice on high value cases.</p> <p>Completed. New structure in place that reduces historic spend and ongoing costs on external legal fees by</p>	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				ensuring sufficient skills and capacity are available in the in-house legal team. Two posts remain vacant following difficulties experienced in recruiting lawyers of the right calibre.	
	c) Decision reports and options appraisals to follow the principles of good decision making.	BN	Ongoing	Draft reports undergo an internal review (by finance, legal, procurement, equality, governance, communications and risk leads) prior to submission to the decision-maker which includes quality assurance against the principles of good decision-making.	
	d) Internal audit review of risk management scheduled for 2014/15 will inform future improvement actions	RB		Internal audit review completed and action plan in response to issues identified is being	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
				developed for consideration by management board later in January.	
Principle 5: Be transparent and open; responsive to Herefordshire's needs and accountable to its people					
12. Arm's length/partnership governance – General Overview & Scrutiny has highlighted the need to ensure future arrangements have strong and clear links back to council governance processes.	a) Include as part of the review of the Council's Constitution (see point 4 above)	BN	End March 2015	See 3 a above	
	b) Ensure LEP, West Mercia Energy and Hoople governance is appropriately reflected in the Constitution	BN		See 3a above. Also note that the Marches LEP joint executive committee will at its next meeting be considering a draft accountability framework for submission to government for approval.	
	c) Review of functioning of HWBB and further development of ToR	JD	End December 2014	First stage of research completed and discussions underway with the different members of the Health and Wellbeing Board to develop the approach	

Area for Improvement	Actions	Owner (see key at end)	Timescale	Progress Update	Improvement outcome
	d) Approval of the system wide transformation programme through the governance system to ensure clarity of role of Boards	HC		Completed	

**Owner:**

RB = Richard Ball, Assistant Director Place Based Commissioning

HC = Helen Coombes, Director Adults and Wellbeing

JD = Jo Davidson, Director Children's Wellbeing

AN = Alistair Neill, Chief Executive

BN = Bill Norman, Assistant Director Governance

PR = Peter Robinson, Chief Financial Officer

CT = Carol Trachonitis, Equality Information and Records Manager



<b>MEETING:</b>	<b>Audit &amp; Governance Committee</b>
<b>MEETING DATE:</b>	<b>16 July 2015</b>
<b>TITLE OF REPORT:</b>	<b>Internal audit annual report and opinion 2014/15</b>
<b>REPORT BY:</b>	<b>Internal Audit – South West Audit Partnership</b>

## Classification

Open

## Wards Affected

County-wide

## Purpose

The purpose of this report is to provide Herefordshire Council with a summary of the internal audit work undertaken in 2014/15 and to provide an overall internal audit opinion based on this work.

## Recommendation

That subject to any comments the Audit and Governance Committee wishes to make the report be noted.

## Alternative Options

- 1 This report is for information and therefore alternative options are not applicable.

## Reasons for Recommendations

- 2 To ensure compliance with good practice as set out in the Public Sector Internal Audit Standards (PSIAS).

## Key Considerations

- 3 The annual report is required to ensure that the Committee is informed of the internal audit work undertaken in 2014/15.

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Further information on the subject of this report is available from  
Jacqui Gooding – Assistant Director (SWAP) on Tel: 01432 260294 or 07872500675

- 4 The report also provides the Council's Section 151 Officer (The Chief Financial Officer) with an opinion on the adequacy and effectiveness of the Council's governance, risk management and control processes.
- 5 Sufficient internal audit work has been carried out to enable the SWAP Director to draw a reasonable conclusion about the adequacy and effectiveness of the Council's risk management, control and governance processes.
- 6 In the opinion of the SWAP Director and having considered the balance of audit work, the assurance levels provided and outcomes together with the response from Senior Management and the Audit and Governance Committee the Director can offer 'Reasonable Assurance' in respect of the areas reviewed during the year, as most were found to be adequately controlled. Generally risks are well managed but some areas require the introduction or improvement of internal controls to ensure the achievement of objectives. However, as this is SWAP's first full annual report, the Director will keep this opinion under review as management's implementation of higher priority actions throughout the coming year are monitored.

## **Community Impact**

- 7 The report does not impact on this area.

## **Equality and Human Rights**

- 8 The report does not impact on this area.

## **Financial Implications**

- 9 There are no financial implications.

## **Legal Implications**

- 10 There are no legal implications.

## **Risk Management**

- 11 There is a risk that the level of work required to give an opinion on the Council's systems of Internal Control is not achieved. This is mitigated by the regular active management and monitoring of progress against the agreed internal audit plan.

## **Consultees**

- 12 The Chief Financial Officer (Section 151 Officer) was consulted in the drafting of this report.

## **Appendices**

Appendix A – Annual Report and Opinion 2014-15

## **Background Papers**

None identified.





## **Herefordshire Council**

Annual Report and Opinion – 2014-15

# Contents

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The contacts at SWAP in connection with this report are:

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SWAP Director’s Opinion	Page 1-2
Purpose and Background	Page 3
<u>Summary of Internal Audit Activity – 2014/15</u>	
Audits Completed	Page 4
Audits Completed - Opinions	Page 5-6
Significant Corporate Risks and Priority Actions	Page 7-8
SWAP Performance	Page 9-10

## Annual Opinion:

The Director of Quality is required to provide an annual opinion report to support the Annual Governance Statement.

## **SWAP Director’s Opinion**

With regards to the 2014/15 Annual Plan for Herefordshire Council, there will be a total of 50 reviews delivered which includes 12 individual School Reports delivered against the Prevention of Fraud theme. In agreement with management, and previously reported to this Committee, a number of reviews were ‘exchanged’ or ‘removed’ as the need to respond to new and emerging risks was identified.

Most audits have been completed to report stage. There remain 5 reviews either currently being drafted or are ‘In Progress’; these reviews will remain a priority for completing.

At the close of each audit review a Customer Satisfaction Questionnaire is sent out to the Service Manager or nominated officer. The aim of the questionnaires is to gauge satisfaction against timeliness, quality and professionalism. As part of the Balanced Scorecard presented to the SWAP Boards, a target of 85% is set where 80% would reflect the fact that the client agreed that the review was delivered to the expected standard. For Herefordshire Council the average feedback score was 82%.

Of the 45 Reviews that have an Assurance Opinion, 9 (32%) have received Partial Assurance and one (4%) received No Assurance. I am encouraged by the management response and readiness to accept and address the matters raised in audit reports.

On the other hand there have been 2 reviews (7%) that have received a Substantial Assurance and this is highly commendable with the remaining 57% receiving Reasonable Assurance.

For those areas not covered by the Annual Internal Audit Plan, the Chief Financial officer seeks assurance from Service Managers as to the adequacy of the internal control environment for their service areas. Any matters arising are reported in the Council’s Annual Governance Statement.

The high proportion of ‘Non-Opinion’ reviews (37%) and the changes agreed throughout the year, reflects the ever changing environment and challenges that local authority managers are facing.

## Annual Opinion:

*Continued.....*

## **SWAP Director's Opinion**

Whilst I would like to see this number reduce in the next year as things settle down, this also reflects an organisation that is keen to involve internal audit to help address problem areas and this can be seen as a positive commitment to improving governance arrangements.

This is our first Annual Report and Opinion for the Council, however for comparison with the 2013-14 report provided by the previous Audit Provider – of the 15 Audits completed four (26%) were graded as Limited Assurance equivalent to SWAPs Partial assurance. While the number of 'Partial' Opinions has increased and there was one No Assurance for the 45 audits completed in 2014-15; I take a positive view in that it indicates the success of our planning and risk assessment and the openness of service managers to assist in pointing internal audit resource to those areas in greatest need of review.

I believe that the Senior Management of Herefordshire Council have worked hard to cooperate with the audit process and while there have been difficulties in progressing some audits expediently, I recognise the pressures they face through managing the changing environment. In this regard I have also been grateful for the support of the Chief Financial Officer which has enabled us to make good progress against the agreed plan.

I have considered the balance of audit work, the assurance levels provided and outcomes together with the response from Senior Management and the Audit and Governance Committee and offer **★ ★** 'Reasonable Assurance' in respect of the areas reviewed during the year, as most were found to be adequately controlled. Generally risks are well managed but some areas require the introduction or improvement of internal controls to ensure the achievement of objectives. However, as this is my first full annual report, I will keep this opinion under review as we monitor management's implementation of higher priority actions throughout the coming year.

## Annual Opinion:

The SWAP Director of Quality is required to provide an annual opinion report to support the Annual Governance Statement.

## **Purpose of Report and Recommendation**

The Accounts and Audit Regulations (England) 2011 requires public authorities to publish an Annual Governance Statement (AGS). The Statement is an annual review of the Systems of Internal Control and gathers assurance from various sources to support it. One such source is Internal Audit. The Head of Internal Audit should provide a written annual report to those charged with governance to support the AGS. This report should include the following:

- an opinion on the overall adequacy and effectiveness of the organisation's risk management systems and internal control environment
- disclose any qualifications to that opinion, together with the reasons for the qualification
- present a summary of the audit work from which the opinion is derived, including reliance placed on work by other assurance bodies
- draw attention to any issues the Head of Internal Audit judges particularly relevant to the preparation of the Annual Governance Statement
- compare the work actually undertaken with the work that was planned and summarise the performance of the internal audit function against its performance measures and criteria
- comment on compliance with these standards and communicate the results of the internal audit quality assurance programme.

The purpose of this report is to satisfy this requirement and Members are asked to note its content.

## **Overview of Internal Audit Activity**

The Internal Audit service for Herefordshire Council is provided by South West Audit Partnership Limited (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the International Professional Standards of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Auditing Standards (PSIAS). The Partnership is also guided by the Internal Audit Charter which is reviewed annually.



SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Auditing Standards.

## Summary of Work 2014/15

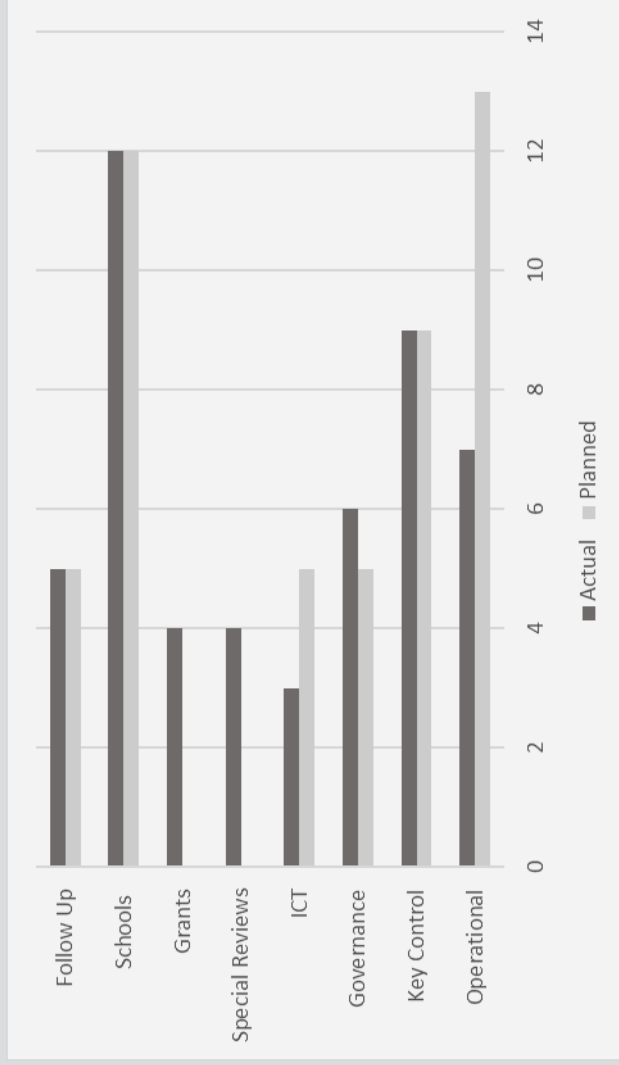
*The agreed Annual Audit Plan covers the following key areas of Activity:*

- Operational Audit
- Key Control Audit
- Governance Audit
- Schools Audit
- ICT Audit
- Grants
- Follow Up
- Other Reviews

## **Audits Completed**

Internal Audit provides an independent and objective opinion on the Authority’s control environment by evaluating its effectiveness. Primarily the work of the Unit is based on the Annual Plan agreed by Senior Management and this Committee. This report summarises the activity of SWAP for the year June 2014 to March 2015.

Members will have considered my progress reports for the Council for work completed and the following tables summarise the current position. There were 49 reviews in the 2014/15 Annual Plan; in all 50 reviews will be progressed as follows:

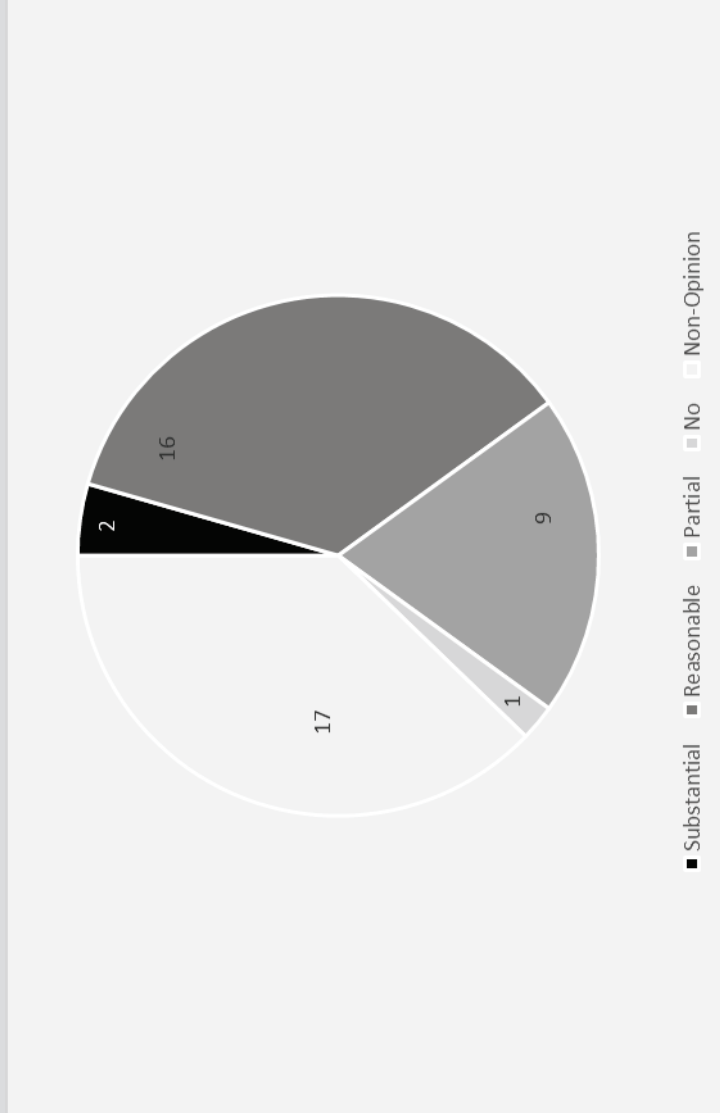


## Summary of Work 2014/15

### **Audit Completed - continued**

*Continued.....*

Of the 45 reviews that have a draft or final report, the Opinions offered are summarised as follows:

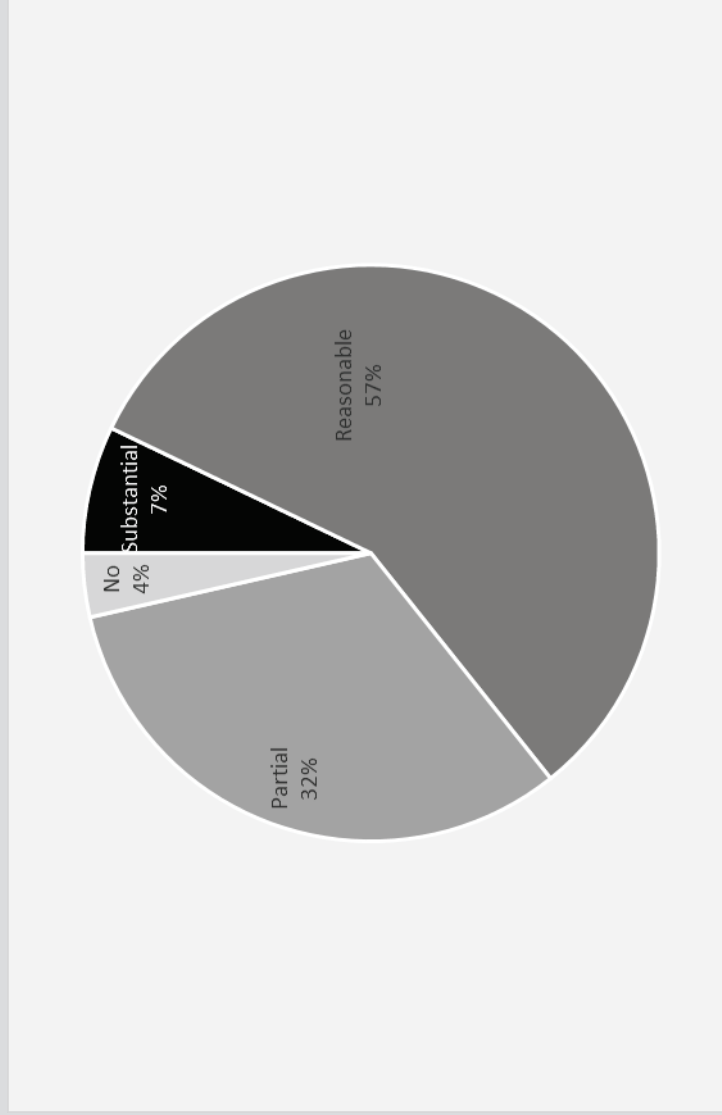


Summary of Work 2014/15

*Continued.....*

**Audit Completed - Opinions**

For those audits (28) with a draft or final report and where an opinion was offered the range of opinions were as follows:





Corporate Risks and Priority

Actions

Identified Significant Corporate Risks should be brought to the attention of the Audit and Governance Committee.

**Significant Corporate Risks**

We provide a definition of the 4 Risk Levels applied within audit reports. For those audits which have reached report stage through the year, we have assessed the following risks as ‘High’ or ‘Very High’:

Review/Risks	Auditors Assessment
<p><b>Risk Management</b> - Business objectives are not achieved due to failure to anticipate and react to future uncertainties or events (<b>NOTE: this is due to the possibility of low probability events occurring with a significant impact on the Council.</b>)</p>	<p>High</p>

## Corporate Risks and Priority

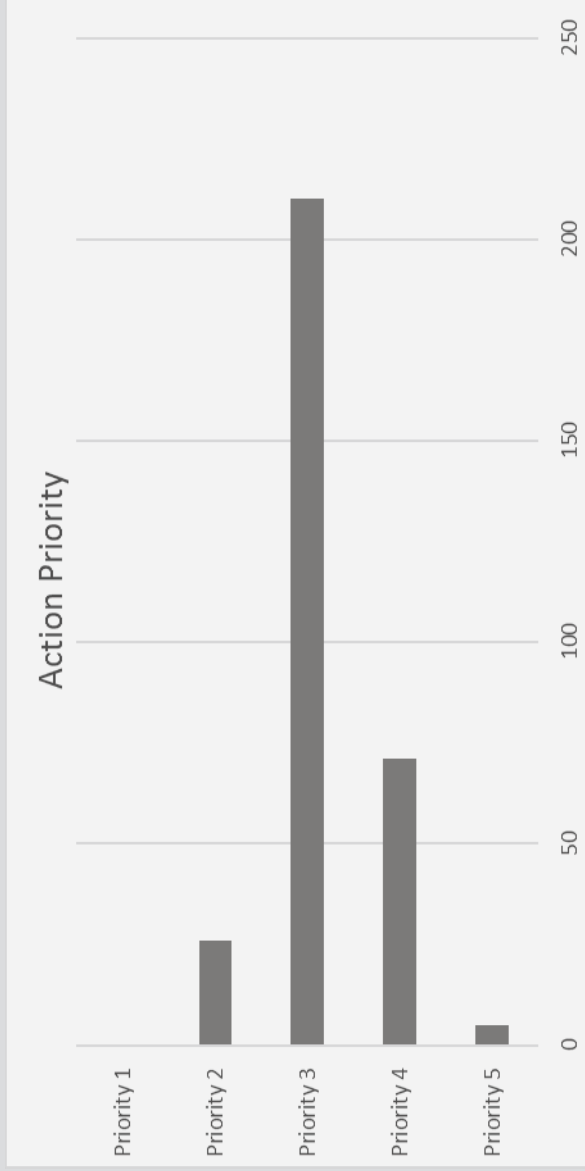
### Actions

*Continued.....*

**We rank our recommendations on a scale of 1 to 5, with 1 being minor or administrative concerns to 5 being areas of major concern requiring expedient corrective action.**

## **Priority Actions**

At the request of the Audit and Governance Committee, where a review has a status of 'Final' and has been assessed as 'Partial or No Assurance' I provide further details to inform Members of the key issues identified. I normally summarise those actions where the Auditor has assessed the priority to be a level 4 (Medium/High) or 5 (High). For those reviews where a final report has been issued there have been 312 agreed actions for improvement; 5 of these were rated at a level 5 and 71 at a level 4; 210 are level 3 with 26 level 2.



However, the Committee will note that there are a five reviews that are yet to be finalised. I hope to be in a position to summarise any priority actions resulting from these reviews in my quarter one update report for 2015/16.

**SWAP strives to deliver audit excellence and works hard to demonstrate VFM, increased productivity and quality outputs for its Partner Councils**

## **SWAP Performance**

Two years ago now, SWAP became a publically owned Company Limited by guarantee. A review of SWAP by the Local Partnerships an organisation jointly owned by HM Treasury and the Local Government Association took place in December 2014. The purpose of the review was to assess the benefits realised by the Partnership and its on-going commercial delivery. In short the conclusion of the review, in relation to SWAP, was that “all of its key objectives have been achieved”.

The review team summarised the following as positive outcomes achieved since incorporation:

- More efficient decision-making
- Scope for more flexible and proactive management
- Economies of scale which facilitate the development of specialist skills enabling more resilience
- Effective leveraging of technology
- Training and professional development opportunities for staff
- Effective partnership working and ‘best practice’ knowledge transfer across member organisations
- Ability to provide a cost effective service tailored to individual members budgetary needs.

With regards to the last bullet point, while we have not been able to carry out any further benchmarking for the year, I am pleased to report that for all the SWAP Partners there has been no increase in the day rate, for some Partners this has not increased for the last eight years. Herefordshire Council made significant savings when changing their Audit Provider to SWAP and it is hoped that SWAP can continue to maintain the day rate at its current level.

**SWAP strives to deliver audit excellence and works hard to demonstrate VFM, increased productivity and quality outputs for its Partner Councils**

## **SWAP Performance**

The Public Sector Internal Audit Standards (PSIAS) require that there should be an external quality review to validate that Internal Audit Teams are conforming to the International Professional Standards at least every five years. SWAP carried out such an assessment in 2012 and at that time agreed that it would be best practice to complete such a review every three years and therefore we have commissioned our next review to take place in September 2015. As a result of the quality review, a Quality Assessment Improvement Plan (QAIP) is produced. This document is a live document, reviewed regularly by the SWAP Board to ensure continuous improvement.

And finally, just like any other Company and Herefordshire Council itself, our accounts are subject to both Internal and External Audit Review. The auditor confirmed that the audit did not find any areas of concern and the auditor was confident that the processes in place are adequate to support SWAP's annual report and financial statements.



<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>2015/16 annual audit fee</b>
<b>Report by:</b>	<b>Director of resources</b>

### **Classification**

Open

### **Key Decision**

This is not an executive decision.

### **Wards Affected**

Countywide

### **Purpose**

To approve the external audit fee for 2015/16.

### **Recommendation(s)**

**THAT:**

- (a) the 2015/16 audit fee be approved.

## **Alternative options**

1 None.

## **Reasons for recommendations**

2 To review Appendix A, Grant Thornton's proposed fee and outputs for external audit work to be completed in 2015/16.

## **Key considerations**

3 Grant Thornton are proposing a fee of £129k for 2015/16, a reduction of £40k compared to 2014/15 following procurement review by the Audit Commission.

4 The proposed fee is charged in relation to the external audit on Herefordshire's statement of accounts, value for money conclusion and review of the whole of government accounts.

## **Community impact**

5 None.

## **Equality duty**

6 There is no impact on our equality duty as a result of this report.

## **Financial implications**

7 The proposed fee of £124k plus audit certification of £5k are funded in the 2015/16 budget, this excludes any additional work.

## **Legal implications**

8 None.

## **Risk management**

9 The proposed fee is set independently and levied under our existing contract with Grant Thornton.

## **Consultees**

10 None.

## **Appendices**

Appendix A Grant Thornton planned audit fee for 2015/16

## **Background papers**

None identified.

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Further information on the subject of this report is available from  
Peter Robinson, director of resources on Tel (01432) 383514



# Grant Thornton

An instinct for growth™

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24 April 2015

Dear Peter

## Planned audit fee for 2015/16

Before it closed on 31 March 2015, the Audit Commission was asked to set the scale fees for audits for 2015/16. The Commission published its work programme and scales of fees for 2015/16 at the end of March 2015. In this letter we set out details of the audit fee for the Council along with the scope and timing of our work and details of our team.

### Scale fee

The Audit Commission defines the scale audit fee as “the fee required by auditors to carry out the work necessary to meet their statutory responsibilities in accordance with the Code of Audit Practice. It represents the best estimate of the fee required to complete an audit where the audited body has no significant audit risks and it has in place a sound control environment that ensures the auditor is provided with complete and materially accurate financial statements with supporting working papers within agreed timeframes.”

The Council's scale fee for 2015/16 has been set by the Audit Commission at £124,405, which compares to the audit fee of £164,803 for 2014/15. The reduction in fees has been enabled by the procurement exercises run by the Commission across both the Local Government and Health sectors.

After the Commission's closure, the 2015/16 work programme and fees will be accessible from the archived Audit Commission website from the National Archives [http://webarchive.nationalarchives.gov.uk/\\*/http://www.audit-commission.gov.uk/](http://webarchive.nationalarchives.gov.uk/*/http://www.audit-commission.gov.uk/) and on the Public Sector Audit Appointments PSAA website [psaa.co.uk](http://psaa.co.uk)

The audit planning process for 2015/16, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary as our work progresses.

### Scope of the audit fee

The scale fee covers:

- our audit of your financial statements
- our work to reach a conclusion on the economy, efficiency and effectiveness in your use of resources (the value for money conclusion)
- our work on your whole of government accounts return.

#### Chartered Accountants

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### **Value for Money conclusion**

Under the Audit Commission Act, we must be satisfied that the Council has adequate arrangements in place to secure economy, efficiency and effectiveness in its use of resources, focusing on the arrangements for:

- securing financial resilience; and
- prioritising resources within tighter budgets.

We undertake a risk assessment to identify any significant risks which we will need to address before reaching our value for money conclusion. We will assess the Council's financial resilience as part of our work on the VfM conclusion and provide feedback in our Audit Findings Report.

### **Certification of grant claims and returns**

The Council's indicative grant certification fee has been set by the Audit Commission at £4,571.

### **Billing schedule**

Fees will be billed as follows:

<b>Main Audit fee</b>	<b>£</b>
September 2015	31101
December 2015	31101
March 2016	31101
June 2016	31102
<b>Grant Certification</b>	
December 2016	4571
<b>Total</b>	<b>128,976</b>

### **Outline audit timetable**

We will undertake our audit planning and interim audit procedures in December 2015 to February 2016. Upon completion of this phase of our work we will issue a detailed audit plan setting out our findings and details of our audit approach. Our final accounts audit and work on the VfM conclusion will be completed in July/August 2016 and work on the whole of government accounts return in September 2016.



<b>Phase of work</b>	<b>Timing</b>	<b>Outputs</b>	<b>Comments</b>
Audit planning and interim audit	December 2015- February 2016	Audit plan	The plan summarises the findings of our audit planning and our approach to the audit of the Council's accounts and VfM.
Final accounts audit	June to Sept 2016	Audit Findings (Report to those charged with governance)	This report sets out the findings of our accounts audit and VfM work for the consideration of those charged with governance.
VfM conclusion	Jan to Sept 2016	Audit Findings (Report to those charged with governance)	As above
Whole of government accounts	September 2016	Opinion on the WGA return	This work will be completed alongside the accounts audit.
Annual audit letter	October 2016	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.
Grant certification	June to December 2016	Grant certification report	A report summarising the findings of our grant certification work

### **Our team**

The key members of the audit team for 2015/16 are:

	<b>Name</b>	<b>Phone Number</b>	<b>E-mail</b>
Engagement Lead	Phil Jones	0121 2325232	phil.w.jones@uk.gt.com
Engagement Manager	Terry Tobin	0121 2325276	terry.p.tobin@uk.gt.com
In Charge Auditor	Sarah Good	0121 2325334	sarah.l.good@uk.gt.com

### **Additional work**

The scale fee excludes any work requested by the Council that we may agree to undertake outside of our Code audit. Each additional piece of work will be separately agreed and a detailed project specification and fee agreed with the Council.

**Quality assurance**

We are committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact Jon Roberts our Public Sector Assurance regional lead partner [jon.roberts@uk.gt.com](mailto:jon.roberts@uk.gt.com).

Yours sincerely

Phil Jones  
Engagement Lead  
For Grant Thornton UK LLP



<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>Grant Thornton Audit and Governance Committee Update</b>
<b>Report by:</b>	<b>Director of resources</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To note and comment on the external auditors update report for Herefordshire Council.

## Recommendation(s)

**THAT:**

- (a) the report be noted.

## Alternative options

- 1 There are no alternative options.

## Reasons for recommendations

- 2 This report provides the Audit and Governance Committee with a progress report from Grant Thornton in delivering their responsibilities as Herefordshire Councils external auditors. The report also refers to emerging issues and developments that may be relevant to Herefordshire.

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Further information on the subject of this report is available from  
Josie Rushgrove head of corporate finance on Tel (01432) 261867

## **Key considerations**

- 3 Grant Thornton's report is attached as an Appendix. The report provides the committee with a progress update in delivering their responsibilities as the councils external auditors, no areas of concern have been highlighted in their work completed to date.
- 4 The report also refers to emerging issues and developments that may be relevant to Herefordshire and the Committee may wish to consider what assurances you would like to receive on these issues.

## **Community impact**

- 6 None.

## **Equality duty**

- 7 None.

## **Financial implications**

- 8 None.

## **Legal implications**

- 9 None.

## **Risk management**

- 10 The report highlights the key areas of risk and Grant Thornton will report their findings at future Committee meetings.

## **Consultees**

- 11 None.

## **Appendices**

APPENDIX A Herefordshire Council LG Audit Committee Update (June 2015)

## **Background papers**

None



# Herefordshire Council Audit and Governance Committee Update

APPENDIX A

Year ended 31 March 2015

10 June 2015

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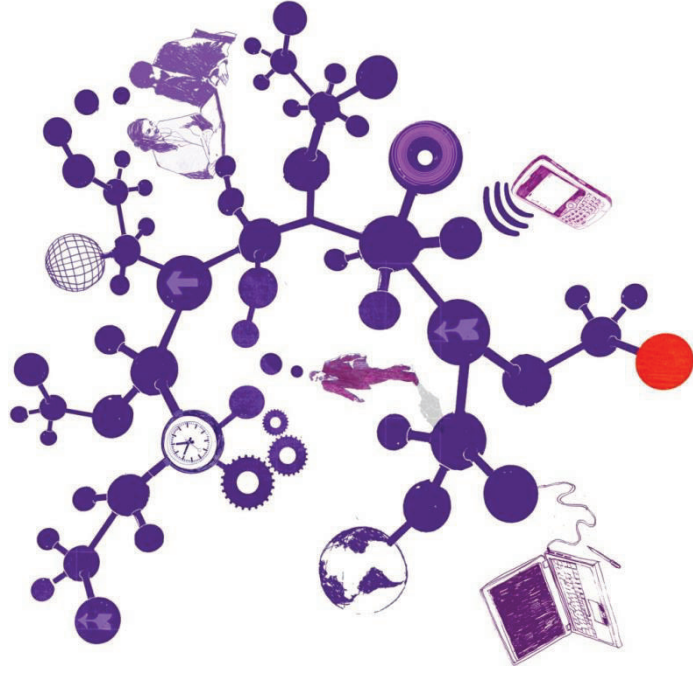
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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Contents

<b>Section</b>	<b>Page</b>
Introduction	4
Progress at June 2015	5
Emerging issues and developments	
Grant Thornton	7
Local government issues	9
Accounting and audit issues	10

# Introduction

This paper provides the Audit and Governance Committee with a report on progress in delivering our responsibilities as your external auditors. The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you; and
- a number of challenge questions in respect of these emerging issues which the Committee may wish to consider.

Members of the Audit Committee can find further useful material on our website [www.grant-thornton.co.uk](http://www.grant-thornton.co.uk), where we have a section dedicated to our work in the public sector (<http://www.grant-thornton.co.uk/en/Services/Public-Sector/>). Here you can download copies of our publications including:

- Spreading their wings: Building a successful local authority trading company
- Easing the burden, our report on the impact of welfare reform on local government and social housing organisations
- All aboard? our local government governance review 2015
- Stronger futures: development of the local government pension scheme
- Rising to the challenge: the evolution of local government, summary findings from our fourth year of financial health checks of English local authorities
- 2020 Vision, exploring finance and policy future for English local government
- Where growth happens, on the nature of growth and dynamism across England

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Audit Manager.



# Progress at June 2015

Work	Planned date	Complete?	Comments
<p><b>2014-15 Accounts Audit Plan</b> We are required to issue a detailed accounts audit plan to the Council setting out our proposed approach in order to give an opinion on the Council's 2014-15 financial statements.</p>	January 2015	Yes	Our fee letter was sent to the Council in April 2014. Our detailed audit plan was presented to March 2015 Audit and Governance Committee
<p><b>Interim accounts audit</b> Our interim fieldwork visit includes:</p> <ul style="list-style-type: none"> <li>• updating our review of the Council's control environment</li> <li>• updating our understanding of financial systems</li> <li>• review of Internal Audit reports on core financial systems</li> <li>• early work on emerging accounting issues</li> <li>• early substantive testing</li> <li>• proposed Value for Money conclusion.</li> </ul>	January-March 2015	Complete	No major issues emerged from the interim.
<p><b>2014-15 final accounts audit</b> Including:</p> <ul style="list-style-type: none"> <li>• audit of the 2014-15 financial statements</li> <li>• proposed opinion on the Council's accounts</li> <li>• proposed Value for Money conclusion.</li> </ul>	July-August 2015	Just starting	Meetings held with management to fix timescales and discuss key issues for 2014/15 accounts early. Working paper requirements shared. Training provided for officers. Work commencing 29 June 2015.

## Progress at June 2015

Work	Planned date	Complete?	Comments
<p><b>Value for Money (VfM) conclusion</b></p> <p>The scope of our work to inform the 2014/15 VfM conclusion comprises the two criteria specified by the Audit Commission:</p> <ul style="list-style-type: none"> <li>The organisation has proper arrangements in place for securing financial resilience. The focus will be on whether the Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.</li> <li>The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness. The focus will be on how the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.</li> </ul>	<p>March-July 2015</p>	<p>In progress</p>	<p>Planning meeting held and evidence requirements shared. Work now nearing completion.</p>

# Spreading their wings: Building a successful local authority trading company

## Grant Thornton

Our report, 'spreading your wings' focuses on how to set up a local authority trading company and, importantly, how to make it successful. It is available at <http://www.grant-thornton.co.uk/Global/spreading-their-wings-LATC-report-2015.pdf>

The trend in using alternative models to protect and develop services has continued over the last year. As councils continue to confront financial pressure, many have considered how to reduce costs, generate income and improve efficiency by introducing commercial structures.

The introduction of LATCs has been a key part of this innovation and we predict that the number will grow in the next five years. While restricted initially to areas such as entertainment or airports – for example Birmingham's NEC and Manchester Airport – LATCs have grown into new areas such as highways, housing and education. More recently, LATCs dedicated to the delivery of social care services have emerged.

We recognise that the delivery of a successful company is not easy. In light of this, this report provides practical guidance on the steps that need to be followed in:

- deciding to set up a local authority trading company
- setting up a local authority trading company
- building a successful local authority trading company.

Grant Thornton has worked with many LATCs and continues to support growth in this area. We have based this report on market research, interviews with councils and LATCs, and our own experience of working with LATCs and councils. It is a practical guide drawing on our own experiences but also on the successful companies we have worked with.

Hard copies of our report are available from your Engagement Lead or Audit Manager.



# Welfare Reform Review: Easing the burden

## Grant Thornton

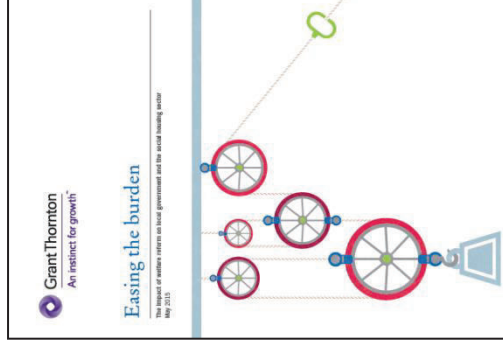
Our second welfare reform report, 'Easing the burden' provides insight into the impact of welfare reform on English local authority and social housing organisations over the past two years. It is available at <http://www.grant-thornton.co.uk/Global/Easing-the-burden-welfare-reform-report.pdf>

It focuses on the governance and management arrangements being put in place across the two sectors to deliver reform, the early signs of how successful the reforms have been and the upcoming issues and risks on the reform agenda in the wider context of social impact.

The key messages include:

- The cumulative effect of various welfare reforms is putting a significant financial strain on those people needing welfare support
- The majority of local authorities and housing associations surveyed have seen a rise in average council tax and rent arrears since 2012/13, which they attributed at least in part to welfare reform
- There has been limited movement to smaller properties as a result of the spare room subsidy and benefit cap reforms,
- Local authorities are becoming reliant on Discretionary Housing Payments (DHP) to plug the gap for those unable to pay.
- Any reduction in DHP funding from central government is therefore likely to result in further increases to rent arrears and homelessness in the next two years, unless mitigated by other means
- The withdrawal of ring-fenced hardship funding (formerly the Social Fund) will result in a reduction of provision, as the majority of local authorities told us that they are not in a position to fund this from their own revenue
- Reductions in DHP, hardship funding and general funding reductions inhibit the ability of local authorities and housing associations to pursue early intervention policies, preventing people falling into long-term benefit dependency. This has cost implications for the medium- to long-term.
- The cost of administering housing benefit is rising as a result of welfare reform. Around half of local authorities and housing associations surveyed said housing benefit is becoming significantly more costly to administer, partly due to the increased complexity of cases.

Hard copies of our report are available from your Engagement Lead or Audit Manager.



# The Queen's Speech 2015 – what is means for local government

## Local government issues

The Queen's Speech was presented to Parliament on 27<sup>th</sup> May 2015 and set out the new government's policies and proposed legislative programme for the next parliamentary session. There are a range of proposals impacting on local government, including:

- A Cities and Local Government Devolution Bill aimed at boosting growth and increasing local government productivity and efficiency. It will provide the legislative framework to deliver the Greater Manchester deal and other future deals. The provisions of the bill will be applied to specified combined authorities and their areas, led by an elected mayor.
- A Housing bill extending right to buy legislation to housing associations and requiring local authorities to dispose of high-value vacant council houses. This bill will also introduce measures to simplify and speed up the neighbourhood planning system other changes to housing and planning legislation to support housing growth.
- An Education and Adoption bill that aims to speed up intervention in failing schools and requires inadequate, and coasting schools to become academies. It is also planned to introduce regional adoption agencies, working across local authority boundaries to reduce delays in the adoption system.

# Understanding your accounts – Member guidance

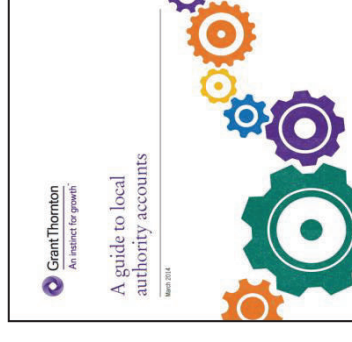
## Accounting and audit issues

Local authority Audit Committee members are not expected to be financial experts, but they are responsible for approving and issuing the authority's financial statements. However, local authority financial statements are complex and can be difficult to understand.

In 2014 we prepared a guide for Members to use as part of their review of the financial statements. It explains the key features of the primary statements and notes that make up a set of financial statements. It also includes key challenge questions to help Members assess whether the financial statements show a true and fair view of their authority's financial performance and financial position. Any new members to the Audit Committee may find this guide helpful.

The guide considers the :

- explanatory foreword – which should include an explanation of key events and their effect on the financial statements
- annual governance statement – providing a clear sense of the risks facing the authority and the controls in place to manage them
- movement in reserves statement – showing the authority's net worth and spending power
- comprehensive income and expenditure statement – reporting on the year's financial performance and whether operations resulted in a surplus or deficit
- balance sheet – a 'snapshot' of the authority's financial position at the year end; and
- other statements and additional disclosures



We have provided copies of the Guide to Local Authority accounts to the Council for distribution to the Audit and Governance Committee.

## 2014/15 Accounts hot issues

### Accounting and audit issues

As part of our audit of local authorities 2014/15 accounts we will be considering the following issues

**Accounting for schools** – in particular the judgements made on whether to include non current assets for voluntary aided and voluntary controlled schools on the Council's balance sheet

**Provisions for business rates appeals** – as a result of a change in rules relating to business rates appeals we do not expect to see provisions for unlogged appeals in 2014/15 accounts

**Early payment of pension contributions** – we expect authorities that are spreading the impact of pension deficit contributions to obtain legal advice (either internally or externally) to determine the amounts that are chargeable to the general fund and the accounting judgements and treatment in the 2014/15 accounts should reflect the advice received

**Inclusion of overtime in the calculation of holiday pay** – authorities that are likely to be affected in a material way by the Employment Appeal Tribunal judgement on the extent to which overtime pay should be included in the calculation of holiday pay should include an appropriate provision in their 2014/15 accounts



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<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>Closure of 2013/14 accounts</b>
<b>Report by:</b>	<b>Director of resources</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To note the completion of the audit of the 2013/14 accounts following the rejection of an objection received in relation to the energy from waste plant.

## Recommendation(s)

THAT:

- (a) the closure of the 2013/14 accounts and the rejection of the objection received be noted.

## Alternative options

- 1 There are no alternative options.

## Reasons for recommendations

- 2 To confirm the completion of the external audit on the 2013/14 accounts and to share the statement of reasons for the rejection of the objection received.

## Key considerations

- 3 Grant Thornton confirmed on 10 June 2015 the conclusion of their audit work on Herefordshire's 2013/14 accounts.

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Further information on the subject of this report is available from  
Josie Rushgrove head of corporate finance on Tel (01432) 261867

4 No adjustments were required and an objection received regarding the waste PFI was rejected.

5 Grant Thornton's statement of reasons for rejecting the objection is attached (appendix a), in summary the Council:

- took into account relevant information in making its decision to build the energy from waste plant;
- sought and obtained appropriate expert advice;
- secured relevant financial information from appropriate experts;
- determined and carefully considered appropriate quantitative and qualitative criteria in respect of value for money in reaching its decision.

### **Community impact**

6 None.

### **Equality duty**

7 None.

### **Financial implications**

8 None.

### **Legal implications**

9 None.

### **Risk management**

10 A successful objection to the accounts carries a reputational risk. This has been mitigated by the rejection of the objection for the reasons detailed in the attached report.

### **Consultees**

11 None.

### **Appendices**

Appendix A - Statement of Reasons

### **Background papers**

The 2013/14 statement of accounts can be viewed via the following web link:  
<https://www.herefordshire.gov.uk/government-citizens-and-rights/democracy/council-finances>



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April 2015

[REDACTED]

**Herefordshire County Council: Objection to the 2013/14 accounts regarding the VFM of the Procurement of the Contract variation for the Waste Incinerator: Decision and Statement of Reasons**

- 1 We write further to your Objection to Herefordshire's County Council's (the Council) accounts for the year ended 31 March 2014. This letter sets out my final decision in relation to that objection.
- 2 In your objection of September 9 2014 you stated that you believed that the Council has not put in place appropriate arrangements to ensure value for money for its waste management services. You accordingly requested that we issue a public interest report under section 8 of the Audit Commission Act
- 3 In exercising our functions under the Audit Commission Act in relation to your objection, we have had regard to paragraph 55 of the statutory Code of Audit Practice. This provides:
 

**55** In considering whether to exercise any of their specific powers under the Act, auditors should apply a balanced and proportionate approach in determining the time and resources to be spent on dealing with matters that come to their attention. They should consider: the significance of the subject matter; whether there is wider public interest in the issues raised; whether the substance of the matter has previously been considered by the body's auditor; the costs of dealing with the matter, bearing in mind that these fall directly on the taxpayer; and in the case of objections, the rights of both those subject to objection and the objector.
- 4 You will see below that we do not consider that the matters raised in your objection justify a report under section 8 of that Act and we set out our detailed reasons for this.

## The objection

5 Your objection of 9 September 2014 sets out a number of areas of concern in relation to the Council's arrangements to secure value for money from its waste management services; specifically that:

- the Council did not secure sufficiently skilled independent advice to support the work presented to Councillors on which to base their decisions
- the Council, with its partner Worcestershire County Council, negotiated changes to the Private Finance Initiative (PFI) contract for the waste management service in May 2014. You are concerned that this may not have been the best option to achieve value for money as the Councils did not at that stage test the market to see whether another provider could offer the service more competitively.
- the Council(s) seemed 'determin[ed] to continue with the proposal to build an incinerator, even though continuing with the PFI contract was deemed too expensive'
- a report by the National Audit Office (NAO) in June 2014 noted, inter alia, that the Councils had decided to use prudential borrowing to support delivery of the waste management service. In your view, the NAO report identified risks associated with this decision, and you are concerned that the Council(s) may not have provided sufficient challenge to address these risks with respect to achieving value for money; specifically in relation to:
  - the management of the contractor
  - whether the Councils needed to act as the sole finance provider for the project, rather than as just one lender alongside a banking group
  - a reduction in income from the Department for Environment, Food and Rural Affairs (DEFRA)
  - the valuation of the Energy-From-Waste (EfW) facility at the end of the contract, 'given that the contractor will operate the facility for a much shorter period than originally envisaged'
  - the responsibility to bear any risks associated with any potential breach of European Union (EU) Law
- the Council may not have sufficient long-term financial resilience to fund on an on-going basis the loan costs associated with the PFI arrangement

6 Appended to your objection is a report carried out for the Herefordshire & Worcestershire Action Group entitled 'Review of Funding for a Mass Burn Incinerator.' In your letter of objection you state that you consider that the report 'adds weight to [your] concerns about the Local Authority not having in place adequate arrangements to achieve value for money'. You have also subsequently forwarded to us a copy of the Planning Inspector's report of 24 January entitled 'Herefordshire Local Plan Core Strategy 2011-31 (the CS) Minerals and Waste (M&W) Primary Note.' In this context, we have reviewed the aforementioned documentation and taken account of their contents where this appeared relevant to the heads of objection set out in Paragraph 5 above. We accordingly have not sought to respond to each detailed issue raised in these documents, but have had regard to the points made in considering your concerns as set out in your letter of objection.



## **Work carried out**

7 We have:

- obtained and reviewed the key documents relating to the procurement of the EfW facility and shared these with you where we considered them material to our decision
- obtained the Council's response to various questions and other background information
- reviewed the legal advice received by the Council from counsel
- considered the impact of your concerns
- provided you with a provisional views document, inviting your comments

8 We have previously considered a number of the matters you raise in our Audit Findings Report (AFR) to the Council of September 2014. However as you have now raised a number of these matters as a formal objection, we have considered them here afresh. We however refer to our conclusions recorded in the AFR here, where, having considered the points you raise, we consider that they remain valid.

## **Background**

9 The Worcestershire and Herefordshire Waste Management Service Private Finance Initiative Contract ('WMSC') was signed between Herefordshire and Worcestershire Councils and Mercia Waste Management Ltd (Mercia) in December 1998 to run for 25 years. The WMSC was to provide an integrated solution for the disposal of all Local Authority Collected Waste ('LACW') arising within the two counties. The Councils' local authority waste disposal company (Beacon Waste) was transferred at the same time to Mercia Waste Management Ltd ('Mercia') which took on responsibility for the disposal of all 'Contract Waste'. During the subsequent course of the project, Worcestershire County Council acted as the 'Lead' in progressing arrangements, particularly as it was responsible for 75% of the value of the contract, Herefordshire's portion of the contract amounting to 25%.

10 The Waste Management Service Contract included requirements for: a Mixed Waste Material Reclamation Facility ('MRF'); Transfer Stations; Pre-Sorted MRF; Household Waste Sites (now Household Recycling Centres); Operations and Management of Hill and Moor Landfill; Construction and operation of an Energy from Waste (EfW) Plant and Composting facilities. The intention was for the new facilities to come on stream early in the contract. Mercia started the construction of the facilities required under the contract, except for the Waste to Energy Plant, which required the land first to be secured and planning and other consents agreed.

11 The contract procured in 1998 was based on an EfW solution for dealing with residual waste. Mercia started the process to deliver an EfW plant at the anticipated British Sugar site in Kidderminster. However, the planning application failed at appeal in 2002 and the Councils therefore concluded that the proposed EfW plant was not deliverable at that particular site.

- 12 The Councils and Contractor agreed a 'standstill' position whereby the respective rights of the parties to terminate the WMSC were frozen to allow further discussion to identify alternative solutions for the disposal of residual waste. This followed on the failure to obtain planning permission for the Kidderminster EfW plant by the anticipated date. The WMSC continued, subject to it being agreed that it would be terminated should the standstill agreement be brought to an end. This standstill agreement continued to the date of the variation to the contract to deliver the EfW Plant at Hartlebury.
- 13 The planned EfW facility would have enabled the diversion of residual waste from landfill in accordance with the contract. The failure of the scheme to go ahead resulted in the landfill site at Hill and Moor filling faster than had been anticipated under the WMSC. Some means of diverting waste from landfill was therefore required. Mercia made interim arrangements to dispose of some of the residual waste at EfW plants outside of the two counties which helped ease problems.
- 14 Various solutions for the residual waste were subsequently investigated including out of county disposal, treatment and autoclaves. Planning permission was obtained in 2005 for an autoclave solution at Hartlebury Trading Estate (Worcestershire) and Madeley (Herefordshire).
- 15 In 2006 Worcestershire County Council acquired land at Hartlebury Trading Estate with the intention of developing an autoclave facility there. However autoclave negotiations with Mercia broke down in 2007 due to the uncertainty about the end market for the process by-product. A satisfactory end market was a planning requirement but it became clear that this could not be met with any certainty. The autoclave option was therefore not deliverable.
- 16 A Joint Municipal Waste Management Strategy (JMWMS) was originally adopted in 2004 by the two Councils. A Review of the JMWMS in 2009 included a list of possible options for the treatment of residual waste. The two Councils commissioned the firm, Environmental Resources Management Limited (ERM), to carry out an independent appraisal of available options. ERM shortlisted the following technologies as potential options:
- Energy from Waste (EfW) with and without Combined Heat and Power
  - Mechanical and Biological Treatment (MBT) with gasification or Refuse Derived Fuel
  - Autoclave
- 17 ERM assessed each option against 14 un-weighted criteria; specifically against:
- its projected Capital and Operational (CAPEX and OPEX) cost; and
  - environmental criteria using the Environment Agency's life cycle assessment tool, WRATE (Waste and Resources Assessment Tool for the Environment)
- 18 The top two options identified by this process were: EfW and autoclaving. The appraisal ranked EfW highly, particularly where it featured combined heat and power (CHP).
- 19 In September 2009, the Council's Cabinet adopted the revised JMWMS which now adopted a neutral stance towards the type of technology to be deployed to deal with residual waste; whereas previously the two Councils had favoured autoclave technology.



The JMWMS was however supported by the ERM options appraisal which ranked EfW highly. The ERM options appraisal was included as an appendix to the September report to Cabinet on the JMWMS. The report stated that the options appraisal would inform the choice of future treatment of residual waste and that Mercia would be asked to come forward with a proposal on this basis.

20 In line with the JMWMS, Mercia subsequently proposed an Energy from Waste facility to deal with residual waste and accordingly commenced a site search. This resulted in the land at Hartlebury Trading Estate being selected as the best site available in the two counties for an EfW plant.

21 The two Councils then appointed Entec, a specialist technical advisor on waste, to examine the EfW proposal to ascertain to what extent it best met the needs of the Councils and the JMWMS. Entec produced a report, concluding that the EfW Proposal was likely to provide the flexibility required for the Counties' ongoing waste management needs against a range of waste growth scenarios. The Entec report was provided as an appendix to a December 2009 Cabinet Report on the development of the waste management proposals.

22 In January 2010, the Council's Cabinet received a report which concluded that Mercia's proposals for an EfW facility with CHP on the Hartlebury Trading Estate appeared to align well with the requirements of the JMWMS. Further, that the proposals were worth progressing through a planning application with a view to considering a variation to the PFI contract should planning permission be secured. The report to Cabinet noted that a financial assessment needed to be carried out to decide whether the proposals were: (i) affordable and (ii) represented value for money. The report set out how the financial assessment could be carried out.

23 Subsequently, the Secretary of State granted planning consent for the EfW Plant at Hartlebury in July 2012 following a comprehensive call-in Planning Inquiry. The consent required any development on site to commence within three years, that is, by July 2015.

24 An update on progress on the waste contract variation was reported to Cabinet in February 2012.

25 In December 2012, a report was taken to Cabinet on progress in relation to the contract variation negotiations with Mercia. This report included a refresh by an external expert of the JMWMS Residual Waste Options Appraisal which continued to rank EfW highly (with or without CHP). Cabinet authorised the pursuit of proposals for alternative methods of finance for the EfW Plant. Cabinet also authorised the procurement and commencement of enabling works at Hartlebury for the proposed EfW up to a maximum capital cost of £1.8M, without prejudice to the final decision on residual waste.

26 A December 2013 Cabinet meeting considered the option of constructing an EfW plant against other options such as 'do nothing' and termination of the contract. It also considered alternative methods of financing the EfW plant such as private finance, mixed private finance and prudential borrowing and prudential borrowing. The assessment

included both a quantitative appraisal which had been supported by the Council's financial advisers, Deloitte, and also qualitative factors.

27 The Council also assessed the cost impact of potential changes to waste volumes and possible increases to landfill tax. The preferred option from a value for money perspective remained unchanged even on the basis of more pessimistic assumptions employed by the Council's advisers. The assessment concluded that procuring an EfW plant fully financed through prudential borrowing as a variation to the existing contract was the best option over the whole life of the plant.

28 The December Cabinet report concluded that, in net present cost terms, the chosen option would be £128 million cheaper than the 'continue as is' option, over the 25 year period post construction. The report stated that it would add around £6.6 million to the annual unitary charge to be paid to the contractor.

29 Cabinet therefore agreed that the Council should enter a variation of the existing WMSC with Mercia to give effect to Option 2 (variation to the existing WMSC to build and operate an EfW at Hartlebury funded through prudential borrowing) to enable the construction and operation of a new EfW Plant at Hartlebury. Option 2 showed the best value for money for the whole life cost (to 2042). The costs included the construction and operation of an EfW plant as well as the other aspects of waste disposal and management as per the existing waste management services contract.

## **Your Objection**

### **Findings**

#### **General factors taken into account**

30 In considering the matters raised in your objection, we have taken into account general factors that are relevant to the Council's decisions. These include the concept of value for money ('VFM'), the pre-existing contract with Mercia Waste Management (Mercia) and the established criteria for decision making in public bodies.

31 The Audit Commission has defined VFM as comprising the achievement of economy, efficiency and effectiveness. In general terms, economy means securing a specified good or service at the best price, taking account of relevant contract conditions. Efficiency is about providing a level of service for a cost that compares well that achieved by similar authorities. Effectiveness is about whether a service or good meets needs.

32 Making a sound judgment which achieves value for money is often complicated. For instance, in relation to the matters considered here, making a robust decision about a large scale waste treatment facility involves complex considerations, not least in relation to the choice of waste technology and how reliable this will be over the life of the project. Expert advice is useful to aid decision making where Councils do not have sufficient internal expertise. But experts often have different views and it is possible that other experts might



have reached different views in this instance. Accordingly it is important that when Councils need to commission outside help to aid complex decision-making, that they:

- take appropriate expert advice
- consider that advice objectively;
- and have regard for the advice in reaching decisions

33 Expert advice was important in this instance given the large scale nature of the project. The complications of site suitability and availability, the acquisition of planning permission and changes in the development of waste technology, all contributed to a complex decision-making process, imposing constraints on options available. The Council also had to take into account the consequences of its existing contract with Mercia and the costs of varying or breaking this contract. This could mean that the best solution taking into account these constraints would not be the best solution if no such constraints existed.

34 A key consideration for the Council was also the financing of the project. Different methods of financing are in themselves complicated and subject to different risk implications.

35 The Council was therefore faced with the need to strike an appropriate balance between finance, environmental, practical and service considerations. Ultimately it is for a Council to determine how that balance is struck taking account of all relevant considerations. In this context, councils are invested with wide powers to undertake their activities. Providing that they make their decisions within accepted principles of proper decision making these decisions are not likely to be successfully challenged. When considering whether a decision made by a Council is both lawful and provides value for money, it is necessary to consider a range of factors, including, that the Council has:

- taken into account relevant information
- not taken into account extraneous information; and
- not made a decision so unreasonable that no reasonable Council could reach it
- had regard for the value for money implications of the decision.

36 Therefore in considering your objection and the Council's decisions we have had regard to these general principles, in addition to the specific detailed points of your objection.

### **Summary Decision**

37 We have concluded, subject to the exception referred to below, that the Council took into account relevant information in making its decision in regard to the waste contract variation. In particular the Council:

- sought and obtained appropriate expert advice regarding the technology to deal with residual waste.
- obtained projected waste flow information from its advisers
- secured relevant financial information from appropriate experts and from the Council's officers regarding the costs of the project and financing criteria
- received detailed legal advice on its proposed course of action.
- determined appropriate criteria in regard to VFM, covering both quantitative and qualitative measures, and considered these criteria carefully in reaching its decision.

38 An overarching consideration was the fact that the Council had existing obligations under its extant contract with Mercia which would have led to significant penalty or termination costs had the contract been set aside. We consider that it was entirely reasonable for the Council to have regard for the additional costs which would have arisen had the contract been abrogated as part of its overall considerations.

39 Cabinet reached a final decision to proceed with the EfW waste treatment facility in December 2013 and the Council approved the financing option to take the project forward in January 2014. In our opinion this was a reasonable decision based on the information and advice received.

40 However, despite this overall assessment, we believe that there were three areas where the Council could have improved its decision making and reporting processes which we refer to later. Action has now been taken in relation to on-going monitoring and reporting of the lending arrangements.

## Detailed response to the main issues in your objection

41 In considering your objection we have reviewed the particular matters you raise in your objection. In the following table we give our response to your individual points.

**Table A Response to main issues listed in the objection**

<p>The Council did not secure sufficiently skilled independent advice to support the work presented to Councillors on which to base their decisions</p>	<p>The Council, and its partner, Worcestershire County Council, secured the support of a range of expert advisers during the course of the development of the project to aid its decision making. We have found no evidence to suggest that any of these advisers lacked independence nor the expertise to provide the advice required. A brief summary of the work carried out by the principal advisers (ERM, Entec, Deloitte and KpmG) used by the Council is set out below and the Council's response to that advice.</p> <p><b>ERM</b></p> <p>In 2009 the Councils engaged the consultancy firm ERM to carry out an options appraisal to identify solutions for the treatment of residual waste, taking account of the principles set out in the JMWMS. ERM is a firm with considerable expertise in this type of work. A key principle of the JMWMS was the desire to maximise value from the residual waste and use it wherever possible as a resource. ERM devised a method that allowed the benefit of gaining value from waste to be quantified. ERM compared the options based on the tonnages of material handled by each of the following management methods:</p> <ul style="list-style-type: none"> <li>• the amount of waste landfilled;</li> <li>• the amount of mass lost during treatment;</li> <li>• the amount of waste used to generate electricity;</li> <li>• the amount of waste used to generate heat; and</li> <li>• the amount of waste recycled.</li> </ul> <p>The score for each option was based on the relative tonnages for each management method, and multiplied by a weighting factor to represent the preference for each of these in the waste hierarchy. This criterion identified option B (EfW +CHP) as the best performing option in 2009 and again in 2012.</p>
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As we noted in our AFR of September 2014:

'The option chosen was not necessarily the cheapest but the option identified as scoring most highly had benefits which others did not, including that it was tried and tested technology, which had been identified by the Councils as being a critical factor. The options appraisal was not weighted, in line with DEFRA advice at the time, but drew attention to the three key criteria which the Council considered most important. These criteria were developed in a workshop attended by officers and members. It took no account of transportation costs and income from heat energy and other recyclables on the advice of consultants who also stated that this would not have changed the outcome of the process. This option appraisal was refreshed by the same consultants in 2012 and the consultants concluded that the initial appraisal was still valid.'

Our view is that the Council received expert advice from ERM and reached a reasoned decision regarding the choice of residual waste treatment technology based on the targets, policies or principles in the JMWMS. We reiterate our comments from our September AFR that the options appraisal was not weighted in line with DEFRA advice, but again conclude, that, notwithstanding this, the option appraisal was carried out in a reasonable and objective way.

#### **ENTEC**

The Councils commissioned a report from the firm Entec in September 2009 to identify the size of the residual waste treatment facility required drawing on elements of the waste flow model and the JMWMS. Again, we conclude that Entec had sufficient independence and expertise to carry out this work. The report produced by Entec specifically considered waste growth (see page 17) for 5 different scenarios. The report suggested that on the basis of the evaluation of these 5 scenarios, that a reasonable approach would be to base the capacity of the facility at 220,000tpa although the lowest estimate was for 201,000tpa.

In 2012/13 the total Local Authority Collected Waste (LACW) in Herefordshire and Worcestershire was: 362,273 tonnes, of which:

- 120,425 tonnes were Recycled
- 42,400 tonnes were composted
- 199,448 tonnes was Residual Waste.

By 2023/24 it is forecast that LACW in the two counties will

be: 404,177 tonnes/year, of which it is forecast that:

- 134,355 tonnes would be recycled
- 47,304 tonnes would be composted
- 222,518 tonnes would be for Residual Waste treatment/disposal.

At the planning inquiry for the EfW, section 7.34 of the Secretary of State's decision letter looks at the need for the facility; (i) it states:

'Ms Brook-Smith expressly agreed that EnviRecover's capacity of 200,000 tpa fits extremely well (and with a measure of prudence) in the range of capacity forecast to be required in the ENTEC report. She was able to agree, looking only at MSW, that the facility was appropriately sized.'

The Council decision in December 2013 was to develop an EfW facility of 200,000tpa.

Our view is that the Council in this instance took expert advice in order to guide decision making on the size of waste facility required and considered that advice appropriately. Entec considered a number of scenarios in assessing the likely amount of residual waste. The Council opted for an EfW plant at the lowest end of the range for residual waste treatment. This course of action allowed more room for improvements in recycling to be obtained without impacting on the residual waste facility.

#### **DELOITTE**

Deloitte prepared a report for the two Councils on December 6 2013 in order to provide a quantitative value for money analysis of the proposal by the Council's contractor, Mercia, to build an EfW facility as a variation to the Council's extant PFI waste contract. Deloitte has substantial experience in delivering advice of this nature and we have no evidence that the firm did not act independently in this instance.

The Deloitte quantitative VfM analysis of the Council's six options was based on the financial models submitted by Mercia. The Deloitte report included two analyses: one, a 'no delay' analysis based upon a financial close for the contract variation of 31 December 2013 and a 'delay' analysis based upon a financial close of 30 September 2014.

The report concluded that the Council's decision as to which option to take forward on either scenario ('delay' or 'no delay') should not be based on Deloitte's VfM analysis alone, but should link to the Council's qualitative considerations of the six options, but in particular to the Options 1, 1a and 2. These latter 3 options all involved continuing with the existing Mercia contract to its expiry in 2023, and as part of that contract, constructing an EfW facility.

The differences between Options 1,1a and 2 related to the method of financing. For the 'no delay' scenario the difference between option 1a ( co-financed by Mercia through commercial borrowing [51%] and the Council [49%] by prudential borrowing from the Public Works Loan Body ['PWLB']) and option 2 (financed by the Council wholly through prudential borrowing from the PWLB and lending this to Mercia on the same commercial terms as Option 1) was identified as 1.7% in net present value ('NPV') terms. That is, Option 2 provided better value for money.

The report was included as Appendix D to the report on the Waste Management Contract presented to Cabinet on 12 December 2013. We have no evidence to suggest that the report was not carried out objectively and professionally. In our view, the Council acted on the report's advice in considering both qualitative and quantitative considerations in making its decision on the contract variation. Subsequently the Council proceeded essentially on the basis of option 2, which under the Deloitte analysis provided the best value for money in NPV terms.

#### **KPMG**

KPMG was commissioned by Herefordshire Council to carry out a review to provide additional assurance for the Council and was not carried out on behalf of Worcestershire County Council. The review covered: an examination of key documents, including the Deloitte report; a high level review of the draft financial model and associated supporting documentation. The review did not cover: the funding arrangement for the project; an evaluation of alternative options and any review of costs. The scope was therefore tightly circumscribed. KMPG in our view have the expertise and independence to carry out a review of this kind.

The conclusions in the report are heavily qualified, either because key documents were in draft or because KPMG was not for instance present at the options appraisal exercise (albeit the report notes that KPMG considered that the advisers involved in that process had experience in the waste



sector).

The report noted that the Deloitte report did not make a clear recommendation as to whether the preferred option represented best value for money or not, but rather, as noted already here, advocated that the Council consider both qualitative and quantitative considerations. It recommended that the Council ensure that all assumptions used in key documents remained valid. It is not clear to what extent this recommendation was followed up.

Given that KPMG's scope specifically did not cover the options (or alternative options); the funding arrangements or costs, the report provided limited assurance in line with its defined scope. Accordingly it was not key in assisting the Council in reaching its decision.

#### **OTHER ADVICE**

The Councils also took a range of legal and other expert advice during the course of the project. Again, our view is that we have no evidence to suggest that this was not appropriate or independent.

#### **OVERALL CONCLUSION**

We are satisfied that the Council sought sufficiently skilled and independent advice during the course of the project and that it acted appropriately based upon the advice received. We also concur with the conclusions set out in our September 2014 AFR to the Council which noted weaknesses in documentation presented to Members as follows:

'We have identified a significant issue in relation to the documentation supporting the reporting to members of officers' views of the preferred technological solution and the reasons for this to help make an informed decision. There was no detailed accompanying report to Cabinet setting out why officers (rather than consultants) considered that this choice of technology provided better value for money over other options available, taking account of cost and other key factors. Instead the accompanying officer report to the December 2009 Cabinet made reference to the fact that the technology proposed by Mercia had been ranked highly in the consultants ERM options appraisal (which had been commissioned to support the Joint Municipal Waste Management Strategy).'

	<p>Notwithstanding this criticism, the AFR nonetheless concluded that 'On the basis of our work, having regard to the guidance on the specified criteria published by the Audit Commission in October 2013, we are satisfied that, in all significant respects, Herefordshire Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2014'.</p>
<p>The Council(s), negotiated changes to the Private Finance Initiative (PFI) contract for the waste management service in May 2014. You are concerned that this may not have been the best option to achieve value for money as the Council(s) did not at that stage test the market to see whether another provider could offer the service more competitively.</p>	<p>In broad terms, the Councils had a pre-existing contract with Mercia which was legally binding. In addition to the detailed considerations outlined below, the Councils were also conscious that to have tested the market (to establish whether another provider could have offered the service more competitively) would have potentially given rise to an abrogation of the contract, had the contract been awarded to a provider other than Mercia. This would potentially have exposed the Councils to significant exit costs (through contractual penalties for instance), which may not have been recouped through any potential savings from instigating an open market tender.</p> <p>In relation to the decision taken, the Councils took legal advice which confirmed that the proposed contract variation was lawful and consistent with the provisions of European Union (EU) procurement law.</p> <p>The Councils also undertook other due diligence work including procuring advice from the Technical Advisor, AMEC, which confirmed that the proposed costs were within current market expectations. AMEC also confirmed that in their opinion the existing contract allowed the contractor to propose variations to the contract price arising from change in law. These provisions remain in place and the risk allocation between the parties is clear.</p> <p>Further work was undertaken to confirm the operating expenditure for the EfW plant. Existing service expenditure was supplied by Severn Waste Services, the contractor responsible for the delivery of Operational and Maintenance services for all waste disposal streams until 2023. Operation and Maintenance services post 2023 were validated by the Councils' advisor team.</p>



Financing costs post 2023 were provided by the Councils' internal Finance Teams based on forecasts from the Public Works Loans Board. The Councils' Financial Advisor, Deloitte (see above) supported this process including the linkage of the Credit Agricole and Councils Financial Models. The Credit Agricole Financial Model was subjected to a Model Audit by an independent auditor.

At the December 2013 Cabinet meeting, Herefordshire Council considered a range of options in addition to the option of constructing an EfW plant through a contract variation. These included a 'do nothing' option as well as termination of the contract. As noted previously, the Council also assessed the cost impact of potential changes to waste volumes and possible increases to landfill tax. The preferred option from a value for money perspective remained unchanged. The assessment concluded that procuring an EfW plant fully financed through prudential borrowing as a variation to the existing contract was the best option over the whole life of the plant.

As also noted, the Council also considered alternative methods of financing the EfW plant such as private finance, mixed private finance and prudential borrowing and prudential borrowing. The assessment included both a quantitative appraisal which had been supported by the Council's financial advisers, Deloitte, and also qualitative factors.

Cabinet therefore agreed that the Council should enter a variation of the existing WMSC with Mercia to give effect to Option 2 (variation to the existing WMSC to build and operate an EfW at Hartlebury funded through prudential borrowing) to enable the construction and operation of a new EfW Plant at Hartlebury. Option 2 showed the best value for money for the whole life cost (to 2042). The costs included the construction and operation of an EfW plant as well as the other aspects of waste disposal and management as per the existing waste management services contract.

In May 2014, the Council negotiated some further changes to the contract variation which were financially advantageous to the Council, but substantially the arrangement remained that agreed at the December 2013 Cabinet meeting.

	<p>We therefore consider that the Council gave adequate consideration to the decision to vary the PFI contract to enable construction of a waste facility. The Council considered lifetime risks and took appropriate measures to mitigate risks in the course of reaching its decision. This does not mean however that there should not be further risk evaluation of the project as it proceeds.</p>
<p>The Council(s) seemed 'determin[ed] to continue with the proposal to build an incinerator, even though continuing with the PFI contract was deemed too expensive'</p>	<p>See comments above. We consider that the Council adequately considered the cost, environmental and other factors in reaching the decision it did. We have seen no evidence to suggest that the PFI contract was deemed too expensive for the Council to continue with. The expert advice presented to Cabinet at its December 2013 meeting clearly indicated that the decision which was taken represented the best long term value for money given the prevailing circumstances and constraints. The Council's decision therefore was driven by rational considerations, considering a range of options, rather than by any pre-existing and fixed point of view about the solution to be adopted.</p>
<p>A report by the National Audit Office (NAO) in June 2014 noted, inter alia, that the Councils had decided to use prudential borrowing to support delivery of the waste management service. In your view, the NAO report identified risks associated with this decision, and you are concerned that the Councils(s) may not have provided sufficient challenge to address these risks with respect to achieving value for money; specifically in relation to:</p> <ul style="list-style-type: none"> <li>– the management of the contractor</li> <li>– whether the Councils needed to act as the sole finance provider for the project, rather than as just one lender alongside a banking group</li> <li>– a reduction in income from the</li> </ul>	<p>The National Audit Office raised a number of concerns about the Herefordshire and Worcestershire waste scheme, principally in relation to its role as sole finance provider and the valuation of the EfW facility at the end of the contract. However it also raised a specific concern about the nature of the management of the contract which is covered below.</p> <p><b>The management of the contract:</b> The NAO report noted that: 'The local authorities will raise the finance through 'prudential borrowing' and then lend it to the contractor in the form of a loan. This unusual approach presents a number of risks to Herefordshire and Worcestershire, including the need to manage two separate, and potentially, competing relationships with the contractor—one as its sole investor, and the other as the contracting authority.'</p> <p>The Council considers that it has adequate arrangements in place to mitigate any risk from the two different relationships it has with its contractor. Given that the advice from its advisers was that Option 2 (variation to the existing WMSC to build and operate an EfW at Hartlebury funded through prudential borrowing) represented the best value for money of all available options over the life of the project, the Council's decision to assume a sole lender role as well as a contracting authority (a relationship that it would have had irrespective of the option chosen) was a decision supported by external expertise in terms of its value for money.</p>



<p>Department for Environment, Food and Rural Affairs (DEFRA)</p> <ul style="list-style-type: none"> <li>- the valuation of the Energy-From-Waste (EFW) facility at the end of the contract, 'given that the contractor will operate the facility for a much shorter period than originally envisaged'</li> <li>- the responsibility to bear any risks associated with any potential breach of European Union (EU) Law</li> </ul>	<p>Given that the option chosen represented best VFM according to its advisers, the Council therefore needed then to consider how to manage its two different roles.</p> <p>Worcestershire County Council has established a Waste Credit Governance Committee to provide oversight of the Council acting as Lender to the waste project and the waste contractor, Mercia Waste Management Ltd. In meetings to date the Committee has for instance considered a range of cash-flow tests to provide assurance to the Council that Mercia is able to sustain sufficient cash to qualify as equity.</p> <p>By contrast Herefordshire Council did not establish a separate waste credit governance committee, arguing that it could maintain adequate oversight of the contractor, both in terms of its role as a lender and contracting authority, through its existing committee structures. The Council has however recently updated its Terms of Reference for the Audit and Governance Committee to include a role in governing the loan arrangement, which will fulfill a function very similar to that provided by Worcestershire County Council's Waste Credit Governance Committee. An update paper was provided in this respect to the Audit and Governance Committee meeting of 19.3.15.</p> <p>We have not however identified any evidence to suggest that the dual role (lender and contracting authority) provides disadvantages which outweigh the advantages to be accrued from an arrangement which the Council's external advisers have argued provides best value for money. We discuss the advantages of the arrangement, in VFM terms, as it relates to the use of prudential borrowing below.</p> <p><b>Sole Finance Provider:</b> the Council considered a range of financing options at its December 2013 Cabinet meeting. As has been already noted, the difference, for the no delay scenario, between option 1a (co-financed by Mercia through commercial borrowing [51%] and the Council [49%] by prudential borrowing from the Public Works Loan Body [PWLB]) and option 2 (financed by the Council wholly through prudential borrowing from the PWLB) and lending this to Mercia on the same commercial terms as Option 1) was identified by the Council's advisers Deloitte, as 1.7% in net present value (NPV) terms, amounting to a difference of some £12m.</p> <p>On the basis of the Deloitte advice, acting as sole finance provider, provided best value for money of the available options. The advantage of prudential borrowing from the Council's perspective was that it was able through PWLB to access a source of cost effective reliable financing. The two Council(s) worked with their Financial Advisors on the funding side, in this case, Ashursts as legal advisors, Deloitte as financial advisors and Fitchner as technical advisors to</p>
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	<p>understand the basis on which Commercial Banks reserve elements of the margin they make from providing debt finance against risks that may emerge.</p> <p>The Councils agreed to borrow from the PWLB based on a repayment basis to maximise the efficiency and affordability of borrowing. The Councils determined that they would take advantage of historic low levels of interest associated with PWLB public sector borrowing. The Councils noted that that the public sector borrows money on the basis of long term gilt prices whilst the commercial banks' costs of finance are based on the London Inter Bank Offer Rate (LIBOR). The Councils calculated that the difference between the cost of public sector borrowing and that which could be obtained through Commercial Banks was about 3%.</p> <p>Therefore prudential borrowing provided better value for money as the Councils effectively agreed to lend money to Mercia at a commercial rate but source the funding from PWLB at a lower rate. This generated a surplus which will be used to offset the loss of WIG (previously known as PFI credits) and to provide contingency against any possible overspend risk during the EfW facility construction that is not absorbed by either Mercia or its subcontractors.</p> <p>The arrangement involved the Councils providing loan finance to Mercia in the period 2014 to 2023 and continuing to repay the outstanding debt finance at 2023 at the conclusion of the WMSC.</p> <p>In considering the best route forward, the Councils undertook an assessment of risk of becoming the Lender. Working with their advisers, the Councils considered a number of risks; including:</p> <ul style="list-style-type: none"><li>• counterparty risk with Mercia's shareholders and the major construction and operation subcontractors</li><li>• key income generation assumptions</li><li>• general industry risk</li><li>• specific risks of this particular project; and</li><li>• interest rate fluctuations</li></ul> <p>To mitigate these risks, the Councils have negotiated a security package with Mercia and its EPC contractor during the construction phase that has left only a minimal risk, according to advisers, that costs are borne by the Councils during the construction phase. From a funding perspective, almost all of the debt finance is repayable during the operating period should termination on any basis occur.</p>
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Our view is that the Council considered its decision carefully in determining the best financing option for the project and that it took appropriate advice in making its decision. It has also worked with its partner Council, to put in place actions to mitigate risk.

**Reduction of Income from DEFRA:** A detailed report 'Herefordshire & Worcestershire Variation Business Case version 4.0' was produced in June 2014 as an update of financial information presented to the Cabinets of both Councils in December 2013., following financial close. The section on 'Costs, Budgets & Finance' notes inter alia that the proposed variation was between £152 million and £163 million lower in NPV terms than Option 3, to continue 'As Is' (to continue 'As Is' with the existing contract and not execute the EfW variation).

The report noted:

'Following work with DEFRA it was confirmed, in December 2013, that the level of Waste Infrastructure Grant (WIG) credits received by the Councils reduce by 2013 by £30 million from 1 April 2014 to the end of the WMSC in December 2023. This reduction does not affect the Value for Money assessment, as per the Her Majesty's Treasury Green Book does not consider WIG credits. However this was a consideration in relation to affordability.' (page 38)

To mitigate the impact of the reduction in WIG credits, as has already been noted, the Councils, according to the report, intended to use a portion of their accumulated reserves that have been established, to smooth the uplift in costs for the EfW plant together with the anticipated surplus from the Councils' provision of debt finance for the variation.

The December 2013 Cabinet report had noted that the uplift in unitary charge from adoption of the contract variation was £6.55 million. Following further negotiations subsequently, the position at financial close in May 2014 showed an improved position, with the contract uplift in unitary charge being £2.7 million. Removing a loan buffer from the Councils' lending and adding back the maintenance reserve being built up, meant that the total equivalent uplift amounted to some £3.8 million, within the original £6m affordability envelope set for the project.



	<p>The report also demonstrated at Table 15 (page 49) that the option chosen by the Councils- Option 2- remained the best option in value for money terms, notwithstanding the loss of PFI credits. The report notes:</p> <p>'Whilst the reduction in WIG Credits was a major factor of the Councils to consider, it was viewed that a reduction would make the preferred option deliverable and acceptable for Central Government whilst remaining (1) Value for Money for local tax payers when considered against the alternative options and (2) affordable.' (pp 49-50)</p> <p>We are satisfied that the Council carefully evaluated its funding strategy for the project relying on appropriate expert advice to reach a reasonable balance decision on the best funding method, taking account of the loss of PFI credits.</p> <p><b>Valuation of the EfW Facility at the end of the contract:</b> The NAO report commented on the valuation of the EfW facility at the end of the contract, 'given that the contractor will operate the facility for a much shorter period than originally envisaged'. We are not clear as to the precise nature of the risk being referred to in this instance.</p> <p>The Councils have reported that following construction, the EfW plant will be attributed a normal life (for an asset of this kind) of 25 years and the cost will be depreciated over this timeframe. The plant will be handed back to the Councils in 2023, 7 years into its useful economic life. At that point, the plant will have 18 useful years life remaining. The value of the asset at that stage will be used to determine the plant and loan bullet valuation. The basis of the valuation will be prudent according to the Councils. Open market valuations will not be used; rather a straight line depreciated cost value will be derived, which is the basis normally used in the financial planning of EfW plants. It is expected that the value of the plant is likely to exceed its written down value at the point that the asset is handed back to the Councils.</p> <p>Whilst the Special Purposes Vehicle (SPV) will repay the bullet tranche on a maturity basis (one repayment at the end of the Contract), the Council will alongside Worcestershire Council on a several basis enter into either an annuity loan from the PWLB (repaying the Capital during the last 7 years of the Concession) or enter into a series of short dated maturity loans to manage its exposure to interest rate risks. Therefore the repayment by the SPV of the Bullet Tranche in 2023 will in turn just form part of the normal Treasury Management activities of each Council.</p>
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	<p>The Councils also intend that the plant should maintain its value by taking a number of additional measures:</p> <ul style="list-style-type: none"> <li>• specific maintenance and performance commitments have been stipulated during the operational period to preserve the asset value</li> <li>• the Councils will maintain maintenance reserves to meet the cost of any remedial works which might be required in 2023</li> <li>• the contract has specific insurance commitments</li> <li>• the market standard loan obligations ensure that the asset value is maintained in the event that any early step-in were required</li> </ul> <p>We are satisfied that the Council has taken reasonable steps to ensure that the value of the EfW plant is maintained and that it has in place plans to deal with the handover arrangements consequent upon the transfer back to the Councils of the asset in 2023.</p> <p><b>Risks associated with any breach of European Union (EU) law:</b> again as the NAO report does not expand on this point, we are not clear as to which aspect of EU law this point relates. In relation to EU procurement law, the Councils took Counsel's advice which was clear that the proposed procurement did not breach EU procurement law. In essence this was based upon a view that the contract variation did not materially alter the sense of rights and obligations under the original WMSC, which was to construct a waste to energy plant. The Council also took separate advice which confirmed that the arrangements did not breach EU state aid regulations.</p> <p>As regards any future changes to, for instance, EU emission laws, the Council concluded that it was difficult to 'price in' or predict the impact of any changes which might in any event not happen, but if they did, would be inherently difficult to quantify in terms of their financial or operational impact at this stage.</p> <p>We have concluded that the Council took advice to ensure that the variation complied with EU procurement and state aid law. We however accept that it was difficult for the Council to put in place measures to mitigate any possible future changes in EU law which are at this stage difficult to predict.</p>
<p>The Council may not have sufficient long-term financial resilience to fund on an on-going basis the</p>	<p>The Energy from Waste loan finance will be financed by borrowing and repaid by Mercia Waste Management until 2023 when the outstanding debt finance will be repayable by the Council until 2042. The loan finance to Mercia Waste</p>

<p>loan costs associated with the PFI arrangement</p>	<p>Management will mirror the structure that would be provided by Commercial Banks and will comprise two elements:</p> <ul style="list-style-type: none"> <li>• An interest only loan to the value of circa £31 million (£123 million when combined with Worcester County Council) that will be taken on by the Councils in 2023 (equivalent to the forecast Net Book Value of Asset); and</li> <li>• A loan that is repaid by Mercia to the Value of £9.5 million (£38 million when combined with Worcester County Council) between 2017 and 2023.</li> </ul> <p>Repayments by Mercia Waste Management will be ring-fenced to directly repay the debt that specifically relates to this project.</p> <p>In order to reduce its overall borrowing requirement, the Council set out in its 2014/15 Treasury Management Strategy ('The Strategy'), that it proposes selling fixed assets to raise proceeds of around £60 million (approximately £20 million per annum) over the three years from 2015/16 to 2017/18. Appendix 2 of the Strategy shows total estimated council borrowing over the next twenty years, assuming that these proceeds are received. This shows a reduction in the longer term fixed rate borrowing from £132m in 2015 to around £55m by 2034.</p> <p>Increased borrowing increases both interest payable and the amount to be set aside from revenue each year for the repayment of loan principal (called Minimum Revenue Provision ('MRP')). Annual MRP is estimated to be around £10m. Therefore if, after the large capital schemes scheduled for the next few years are completed, the new capital spend financed by borrowing can be reduced to below the annual MRP, the Council's total borrowing will fall, as is shown in Appendix 2 of 'The Strategy'. This is clearly dependent on the Council's ability to sell off assets successfully to the desired value over the next few years.</p> <p>The Council is also required to set specific parameters, known as Prudential Indicators, each year to control the extent of its borrowing. The essential purpose of this requirement is to ensure that the Council always has the means to repay and does not borrow beyond its ability to service associated debts.</p> <p>There is a requirement under the Local Government Act 2003 for local authorities to have regard to CIPFA's Prudential Code for Capital Finance in Local Authorities (the "CIPFA Prudential Code") when setting and reviewing their Prudential Indicators.</p>
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'Gross Debt and the Capital Financing Requirement' is a key indicator of Prudence. In order to ensure that over the medium term debt will only be for a capital purpose, the local authority needs to ensure that debt does not, except in the short term, exceed the total of the capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and next two financial years. If in any of these years there is a reduction in the capital financing requirement, this reduction is ignored in estimating the cumulative increase in the capital financing requirement which is used for comparison with gross external debt.

The Chief Finance Officer reported in the 2014/15 Strategy that the Council had no difficulty meeting this requirement in 2013/14, nor are there any difficulties envisaged for future years. This view takes into account current commitments, existing plans and the proposals in the approved budget. The Strategy did not however provide any analysis of Prudential Indicators beyond 2016/17. This will need to be updated to take account of the Council's treasury management requirements, particularly as the loan for the EFW facility commences. We will in any event continue each year to review the Council's treasury management arrangements to ensure that the Council continues to abide by the requirements of its Prudential Code.

In addition, it is the duty of the external auditor of local authorities to consider at each annual audit the financial resilience of councils as part of their value for money conclusion work.

In essence, we carry out a review Herefordshire Council's financial resilience each year, having regard not only to the liability arising from the PFI arrangement, but also to other factors impacting the budget, including other cost pressures and reductions in grant income arising from other areas of the Council's services. In this context, the ongoing PFI liability is one of only a number of ongoing cost commitments which the Council needs to service going forward.

Auditors' work on financial resilience focuses heavily on the development of the medium term financial plan, which is a key tool in enabling the Council to predict the impact of spending pressures and income reductions going forward, but also to plan the actions required on a medium-term basis to ensure that the Council continues to maintain a lawful balanced budget.

As part of the 2014-15 audit of accounts we shall be undertaking work to support the value for money conclusion which will include a consideration of the Council's financial resilience. In the September 2014 Audit Findings Report we commented positively on the improvements made by the Council to strengthen financial resilience but noted the challenges ahead, which the Council, like all councils, faces, as Government grant is reduced.

In February 2015 the Budget and Medium Term Financial Strategy (MTFS) was presented to Council setting out details of the 2015-16 Budget and the MTFS (2015-17). The Budget and MTFS set out the cost and other pressures facing the Council in the year ahead and in the medium term. The report states that the Council delivered savings totaling £34m between 2011/12 and 2012/13 but identifies further savings of £18m required in the period 2015/16 to 2016/17. This is very challenging, but in this context, the Council faces similar challenges to other councils and has recently strengthened its arrangements to secure financial resilience. The Budget and MTFS accordingly set out how the Council intends to meet its legal requirement to deliver a balanced budget in the short and medium term.

The Budget includes provision for the costs associated with the waste PFI scheme during the period of the Budget and MTFS. Beyond that financial horizon, the Council will be updating its MTFS over the coming year, but the longer term, beyond the timeline of the current MTFS, is inherently difficult to model financially as this is dependent significantly on factors such as the Government's public sector funding intentions and associated decisions around annual grant settlements for local government.

In conclusion, it is clear that the Council faces a number of significant cost pressures in the coming years, not least in relation to Adult Care Services, and the liability associated with the PFI scheme forms just one element of those cost pressures. It however has plans in place to deliver financial balance. In addition the actions it has taken with its partner, Worcestershire County Council, have secured a waste contract variation, which according to their advisers, has delivered the most cost effective long term solution. This will therefore mitigate the impact of other pressures within the MTFS.

	<p>We are therefore satisfied that at this stage the Council has plans in place to secure financial resilience in the medium term and that the costs associated with the waste contract do not pose any threat to financial resilience during the period of the MTFs.</p> <p>It is difficult to look further forward than the period of the current MTFs. Delivering the Council's longer-term treasury management strategy is heavily dependent on the need to deliver significant asset sales to reduce indebtedness. But in the longer term, the waste PFI will represent, as has been noted, just one of a number of cost pressures, that the Council, like other Councils, will face.</p>
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42 On the basis of the above responses to the detailed points of the objection, and with the limited exceptions referred to below, we believe that the Council has taken proper professional advice, considered the relevant facts and reached a reasonable decision based on that information.

**Areas where the Council could have improved its decision making process.**

43 We consider that there were a number of areas where the Council could have improved its decision making process. The first was in relation to the approval of the residual options appraisal in 2009. The second area was the consideration of the change in options from EFW + CHP to EFW (CHP enabled). Also related to this decision was the lack of consideration of the potential income from electricity sales and the potential sale of heat and recycles. The third was in relation to level of detail associated with the reporting of the prudential borrowing plans and also in relation to the arrangements for the ongoing monitoring of the Council's role as Lender.

**Residual options appraisal 2009**

44 We have already reported our conclusions on the shortcomings in relation to the residual options appraisal in our Audit Findings Report of September 2014. We noted that: 'We have identified a significant issue in relation to the documentation supporting the reporting to members of officers' views of the preferred technological solution and the reasons for this to help make an informed decision. There was no detailed accompanying report to Cabinet setting out why officers (rather than consultants) considered that this choice of technology provided better value for money over other options available, taking account of cost and other key factors. Instead the accompanying officer report to the December 2009 Cabinet made reference to the fact that the technology proposed by Mercia had been ranked highly in the consultants ERM options appraisal (which had been commissioned to support the Joint Municipal Waste Management Strategy).'



### **Change in options from EfW + CHP to EfW (CHP enabled)**

- 45 It is not clear when the Council changed its preferred approach from EfW with CHP to EfW without this facility. The November 2012 ERM review of the residual options appraisal still included this option and scored it as the highest option with an overall score of 2.5. The next best option with a score of 3.14 was the EfW option, although this option scored best for costs. But by December 2013 EfW + CHP was no longer deemed to be an option to be considered
- 46 The November 2012 ERM report did not take into account the potential income arising from heat supply, electricity export and sale of recyclate to the market. These were omitted from the financial assessment. The reasons for excluding these potential incomes from the assessment was that they were considered to be subject to considerable uncertainty, due to significant fluctuation in market prices and to changing levels of Government subsidy.
- 47 ERM was subsequently asked to consider the effects of including potential income in 2014. The firm concluded that the performance of option B (CHP) would have improved in all likelihood significantly, with revenue generated from heat, electricity and metal. ERM also concluded that Option A (EfW), which was ranked 1st in the original assessment, would have performed even more strongly, if costs associated with transport and recyclate and electricity revenue had been included. However the ERM report was a brief high level document and it did not, in particular, contain detailed modeling of the heat, and electricity revenue. The report was also prepared after the decision had effectively been made by the Councils and was in any event not considered by Cabinet at its December 2013 meeting.
- 48 The change to EfW was not specifically reported to Cabinet and in our view this was a departure from best practice. It may have been considered that this option was an obvious choice given that the Hartlebury site did not have a potential power user. Nonetheless, the change to EfW should have been reported to Cabinet so that it could consider the change before the December 2013 decision was taken.
- 49 We believe that it would also have been better if Cabinet had been provided with more information about the potential revenues from heat supply, electricity export and sale of recyclate before making its decision to proceed with the EfW option.
- 50 However, we do not consider that it is likely, that the reporting shortcoming identified above would have resulted in a different decision being taken by Cabinet, given the absence of a suitable site for EfW with CHP and the difficulty of securing planning permission for a suitable site. Nevertheless it is an area where the Council should improve its reporting of material changes in any future major projects.

## **Prudential Borrowing and the Council's role as Lender**

51 Worcestershire County Council in January 2014 provided a report to Cabinet setting out the detailed arrangements associated with the proposed prudential borrowing arrangements, involving PWLB support, and explaining the Council's risk management strategy. This report enabled Members better to understand the complexities and long term implications of the arrangements that the two Councils were entering into. Although reports prepared by Herefordshire Council covered the essentials of the proposed arrangements, particularly in the December report to Cabinet, we are not aware of any detailed report being prepared on the prudential borrowing arrangements. We are clear however that the omission of such a detailed report would have made no difference to the decision that the December 2013 Cabinet took, and that the essential information that was required by Cabinet to make an informed decision was made available to it.

52 We noted earlier that Worcestershire County Council has established a Waste Credit Governance Committee to provide oversight of the Council acting as Lender to the waste project and the waste contractor, Mercia Waste Management Ltd. Herefordshire Council did not establish a separate waste credit governance committee, arguing that it could maintain adequate oversight of the contractor, both in terms of its role as a lender and contracting authority, through its existing committee structures. The Council has however recently updated its Terms of Reference for the Audit and Governance Committee to include a role in governing the loan arrangement, which will fulfill a function very similar to that provided by Worcestershire County Council's Waste Credit Governance Committee. An update paper was provided in this respect to the Audit and Governance Committee meeting of 19.3.15.

## **Overall Conclusion**

53 We have therefore considered the Councils decisions in this procurement and overall our view is that, although there were three areas in which the Council may have fallen short of best practice, on balance the Council conducted the procurement process in a reasoned and well-informed way. The Council took into account relevant matters, given wide consideration to VFM issues, and reached a reasonable decision on the basis of the relevant information considered.

## **Public Interest Report**

54 We have discretion as to whether or not to make a Report in the Public Interest under section 8 of the Audit Commission Act 1998. Factors which we take into account include:

- the significance of the issue and its impact on the public
- the level of existing interest in the issue from the public
- any remedial action already taken by the Council
- the costs of producing such a report.

55 The progress of the waste project has been a significant issue locally. However our view is that, on balance, the Council has conducted the procurement process in a reasonable way, taking into account all relevant matters; giving close consideration to VFM issues and accordingly reached a reasonable decision on the basis of relevant information and advice received. There is therefore no major issue or concern which we feel we need to bring to the attention of the public. There is also no particular remedial action that we believe the Council needs to take in relation to this project.

56 Therefore we do not believe that issuing a Report in the Public Interest under section 8 of the Audit Commission Act 1998 would be justified.

### **Next Steps and Rights of Appeal**

57 In this objection, we understand that you have sought a public interest report under section 8 of the Audit Commission Act 1998, and not a declaration under section 17 of that Act. As such, it is our understanding that you do not have a right of appeal to the Court (which would normally lie to the High Court within 28 days of this document being received).

58 We have copied this letter to Herefordshire Unitary Authority.

Yours sincerely



Grant Thornton UK LLP

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Enclosures: (attached)



<b>Meeting:</b>	<b>Audit &amp; Governance Committee</b>
<b>Meeting date:</b>	<b>16 July 2015</b>
<b>Title of report:</b>	<b>A&amp;G committee work programme for 2015-16</b>
<b>Report by:</b>	<b>Governance Manager</b>

## Classification

Open

## Key Decision

This is not an executive decision.

## Wards Affected

Countywide

## Purpose

To consider the Committee's work programme for 2015-16.

## Recommendation

**THAT:**

**subject to any updates made by the committee, the work programme for 2015-16 for the Audit and Governance Committee be agreed.**

## Alternative options

There are no alternative options as regards whether or not to have a work programme as the committee will require such a programme in order to set out its objectives for the coming year.

The programme was discussed and finalised by the committee in March 2015. However, following discussion, adjustments to timescales and content may be required.

## Reasons for recommendations

- 1 The work programme is recommended as the committee is required to define and make known its work for the coming year. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.

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Further information on the subject of this report is available from  
Annie Brookes, Governance Manager on Tel (01432) 260605

- 2 The Committee is asked to note its work programme, subject to any adjustments, and to note progress on current work.

## **Key considerations**

- 3 A number of items considered by the committee will be ongoing and updates are programmed in to the year.
- 4 The routine business of the committee has been reflected as far as is known, including the regular reporting from internal and external auditors.
- 5 It is noted that members of the committee requested the inclusion of a meeting with the auditors during the year that is closed to the public and officers, and the timing of this needs to be identified.

## **Community impact**

- 6 The work of the committee supports the council in demonstrating its values, and in particular the commitment to being open, transparent and accountable.

## **Equality duty**

- 7 This report does not impact on this area.

## **Financial implications**

- 8 There are no financial implications.

## **Legal implications**

- 9 There are no legal implications.

## **Risk management**

- 10 The programme can be adjusted in year to respond as necessary to risks as they are identified; the committee also provides assurance that risk management processes are robust and effective.

## **Consultees**

- 11 Internal and external auditors.

## **Appendices**

Appendix A – A&G Work Programme 2015-16

## **Background papers**

- None identified.



Audit & Governance Work Programme 2015-16		
Meeting	Items	Comment
September 2015	<ul style="list-style-type: none"> <li>• Signing of Accounts</li> <li>• Biannual forecast of revenue and capital outturn</li> <li>• External audit findings report 2014-15</li> <li>• PIDA Update</li> <li>• Whistleblowing Policy</li> </ul>	
November 2015	<ul style="list-style-type: none"> <li>• Monitoring Officer's Annual Report</li> <li>• Annual Audit letter (Grant Thornton)</li> <li>• Internal Audit Report on Commercial Properties</li> <li>• Community Governance Review</li> <li>• Risk Register</li> </ul>	
January 2016	<ul style="list-style-type: none"> <li>• Staff Survey Report</li> </ul>	
March 2016	<ul style="list-style-type: none"> <li>• Internal Audit Plan update</li> <li>• External Audit update</li> <li>• Future work programme 2016-17</li> <li>• Biannual forecast of revenue and capital outturn</li> </ul>	
Unallocated	<p>Implications of the Grant Thornton 2016 tipping point report ref: Min no 39 (b) if the Chief Financial Officer becomes concerned about the Council's financial resilience in the light of the findings of the "2016 tipping point report" by Grant Thornton a report will be made to the Committee.</p>	

