

# AGENDA

## Audit and Governance Committee

Date: **Monday 28 November 2016**

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Time: **10.00 am**

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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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If you would like help to understand this document, or would like it in another format, please call Caroline Marshall on 01432 260249 or e-mail [caroline.marshall3@herefordshire.gov.uk](mailto:caroline.marshall3@herefordshire.gov.uk) in advance of the meeting.

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

## **Membership**

<b>Chairman</b>	<b>Councillor PD Newman OBE</b>
<b>Vice-Chairman</b>	<b>Councillor FM Norman</b>
	<b>Councillor ACR Chappell</b>
	<b>Councillor EPJ Harvey</b>
	<b>Councillor JF Johnson</b>
	<b>Councillor RL Mayo</b>
	<b>Councillor RJ Phillips</b>
	<b>Councillor J Stone</b>
	<b>Councillor LC Tawn</b>

## AGENDA

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details of Members nominated to attend the meeting in place of a member of the committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the agenda.	
4.	<b>MINUTES</b> To approve and sign the minutes of the meeting held on 22 September 2016.	7 - 12
5.	<b>WORKING GROUP UPDATE: COUNCIL CONSTITUTION</b> To consider amendments to the council's constitution proposed by the governance improvement working group, and to agree recommendations to Council.	13 - 278
6.	<b>ANNUAL REPORT OF THE MONITORING OFFICER</b> To inform the committee of performance in the areas within the remit of the monitoring officer for the municipal year 2015/16.	279 - 286
7.	<b>PROGRESS REPORT ON 2016/17 INTERNAL AUDIT PLAN</b> To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.	287 - 314
8.	<b>2015/16 ANNUAL AUDIT LETTER</b> The annual audit letter (AAL) for 2015/16 at appendix 1 is reviewed and the committee determine whether any issues require further action or inclusion in the committee's work programme.	315 - 332
9.	<b>FUTURE WORK PROGRAMME</b> To provide an update on the Committee's work programme for 2016/17.	333 - 336



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### **You have a right to: -**

- Attend all council, cabinet, committee and sub-committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the council and all committees and sub-committees and written statements of decisions taken by the cabinet or individual cabinet members for up to six years following a meeting.
- 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.
- Access to a public register stating the names, addresses and wards of all councillors with details of the membership of cabinet and of all committees and sub-committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the council, cabinet, committees and sub-committees.
- Have access to a list specifying those powers on which the council have delegated decision making to their officers identifying the officers concerned by title.
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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Audit and Governance Committee  
held at Committee Room 1, Shire Hall, St. Peter's Square,  
Hereford, HR1 2HX on Thursday 22 September 2016 at 2.00 pm**

**Present:** Councillor PD Newman OBE (Chairman)  
Councillor FM Norman (Vice Chairman)

Councillors: ACR Chappell, EPJ Harvey, J Stone and EJ Swinglehurst

**Officers:** Steve Hodges, Josie Rushgrove and Claire Ward

**155. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors JF Johnson, and RL Mayo

**156. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the council's constitution, Cllr EJ Swinglehurst attended the meeting as a substitute member for Cllr JF Johnson.

**157. DECLARATION OF INTEREST**

There were no declarations of interest.

**158. MINUTES**

**RESOLVED:**

**That the minutes of the meeting held on 4 July 2016 be confirmed as a correct record and signed by the chairman.**

**159. TRACKING OF INTERNAL AUDIT RECOMMENDATIONS**

The directorate services team leader presented a report to track the progress of internal audit recommendations.

It was explained that one of the functions of the audit and governance committee was to seek assurances that actions were taken on risk related issues identified by auditors and inspectors. The recommendations included in the report provide a process by which such actions can be monitored.

The report was well received by the committee and was seen as a welcome initiative to enable the committee to monitor the progress of recommendations.

There were some concerns raised regarding the target approach rather than task approach taken and some slippage in evidence with the response being that there has been issues regarding the timely collating and further work in this area is required

**RESOLVED:**

**That**

- a) an additional column be added to the schedule outlining reasons for delay in implementing recommendations.
- b) subject to the above amendment, the process for monitoring implementation of action plans as set out in the report was approved.
- c) future monitoring reports to be provided bi-annually.

#### **160. WORK PROGRAMME UPDATE**

The committee's updated work programme was presented, showing amendments which included annual monitoring officer's report being moved to the work plan for November.

##### **RESOLVED**

**That subject to the amendment noted, the updated work programme be agreed.**

#### **161. WORKING GROUP UPDATE - GOVERNANCE IMPROVEMENT**

The monitoring officer outlined the progress of the working groups.

It was confirmed that the committee has three working groups that have been assisting with the work programme and the report provides an update of their work.

Consultation feedback from the parish councils on the revised standards procedure is awaited.

The timetable for the constitution work was noted and it was suggested that there was a need to provide clarity and consistency in all correspondence in particular when reference is made to council and who this is as a decision making body

It was agreed that a link be provided to all members to the performance, risk and opportunity management (PROM) webpage.

##### **RESOLVED:**

**That:  
the report is noted.**

#### **162. EXTERNAL AUDIT FINDINGS REPORT 2015/16**

The head of corporate finance introduced the findings from Grant Thornton. The report was positive and reflected the information that had been reported throughout the year.

Representatives from Grant Thornton gave an overview of their findings from the executive summary. The findings had not identified any significant control weaknesses which required highlighting to the committee.

It was confirmed that a supplement had been issued with reference to the status of the audit opinion.

It was confirmed that an additional risk had been incorporated in relation to the value of the net pension fund liability. This was due to it representing a significant estimate. However, this was not presented as a local risk but reflects a national view that pensions contribute a significant risk within local government.

The audit was in the main complete, however it was confirmed that procedures were still being finalised in a number of areas.



In terms of value for money conclusion it was confirmed that in all significant aspects, the council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources.

It was explained to the committee that it was not possible at the time of the report to issue a certificate in relation to the council's housing benefit subsidy claim. Work in this area is ongoing and is due to be finalised at the end of November 2016.

Officers were thanked for the assistance given at all times throughout the audit.

**RESOLVED:**

**That the report be noted**

**163. SIGNING OF 2015/16 STATEMENT OF ACCOUNTS**

The head of corporate finance presented the report highlighting key points of the report which included:

- the council underspent during 2015/16 by £0.3m.
- the general budget reserves increased to £7.3m, which represented 5% of its 2016/17 net revenue budget.
- specific reserves had been set aside totalling £28.5m, this included £9.4m of school reserves.

In answer to a member's question regarding Hereford Futures it was confirmed that payments had been made in this area but that these payments had now been refunded.

In response to a member's question regarding Hoople it was confirmed that Grant Thornton are auditors for Hoople.

A question was asked in respect of rural grants from central government and whether they were still being held in reserve with the response being that the referred to grants were due in 2016/17 and currently expected to be added to reserves, however, this position may change as the municipal year progresses.

It was confirmed that the salary for the director of public health is a shared position with Shropshire county council.

**RESOLVED**

**That:**

- a) the 2015/16 statement of accounts be approved; and
- b) the letter of representation is signed by the chairman of the committee and the acting S151 officer.

**164. ENERGY FROM WASTE (EFW) LOAN UPDATE**

The head of corporate finance presented an update.

The drawdown of funds will continue up to 2017 when loan payments will commence. A technical adviser update was provided where it was confirmed that the latest programme provided for review shows a target completion date of 29 December 2016. This is 9 weeks ahead of the contractual hand over date of 28 February 2017. Current progress

suggests that this is optimistic but it is considered that the likely take over date would be in advance of the contractual take over date.

The committee's attention was asked to note that since the previous update a number of waivers and consents had been requested and approved and these were highlighted in the report.

In response to members' concerns regarding safety issues it was noted that the report does recognise safety issues and that safety issues and incidents were in line with those seen in similar size projects.

It was confirmed to the committee that operational aspects were not included within the committee's remit however it was recognised that matters of risk might fall under the scope of the committee. The head of corporate finance was tasked to confirm this and report back to the committee.

## **RESOLVED**

### **THAT:**

- a) the risks to the council, as lender, are confirmed as being reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and**
- b) arrangements for the administration of the loan are reviewed and, having regard to the advice of external advisors, confirmed as satisfactory.**

## **165. BI-ANNUAL FORECAST**

The head of corporate finance presented the report, which provided assurance that budget monitoring and management were appropriate. This was reported twice a year and showed how forecasting informed the accounts.

An overspend in adults and wellbeing of £994k has been predicted and the first of a number of recovery plan meetings has taken place with initial focus on the single handed care project which is anticipated to reduce the overspend in 2016/17 by £150k and maximising of block purchased beds to further reduce the overspend by a further £300k.

Further overspends were forecast in children's wellbeing and the economy, communities and corporate directorates with overspends of £459k and £68k respectively.

It was also noted that budget and reserves include a contingency of £0.7m which if not required would be used to offset any remaining directorate year end overspend.

It was confirmed that it was not unusual to report an overspend at this point in the year and that general reserves were adequate to offset if required.

It was commented that it would be helpful for the committee if future reports included up to date data to enable the committee to offer helpful comments.

## **RESOLVED:**

**That the report be noted**

## **166. CHANGES TO ARRANGEMENTS FOR APPOINTMENT OF EXTERNAL AUDITORS**

The head of corporate finance presented the report, which summarised the changes to the arrangements for appointing external auditors following the closure of the audit commission and the end of the transitional arrangements at the conclusion of the 2017/18 audits.

It was noted from the report that the appointed external auditor would be one of the larger firms in the country with smaller local companies unlikely to meet the eligibility criteria.

### **RESOLVED:**

**That the committee supports the Local Government Association (LGA) in setting up a national sector led body.**

## **167. PROGRESS REPORT ON 2015/16 INTERNAL AUDIT PLAN**

Members were provided with an update on the progress of internal audit work and to bring to their attention key internal control issues arising from work recently completed.

Members' attention was drawn to the significant findings of the report which were;

Better care fund (BCF)  
PCI Data Security Standard Compliance  
Deprivation of Liberty Safeguards (DOLS)

These were findings that were identified as being a high priority and therefore should be brought to the committee's attention. With all three findings a partial assurance was given with the definition being that some key areas were not well managed and system requires the introduction or improvement of internal controls to ensure the achievement of objectives.

With regard to the BCF it was confirmed that the object of the audit was to give assurance that the BCF was showing evidence of progress in integrating health and social care within Herefordshire.

There were a number of well controlled areas; however errors were highlighted in the calculation of monthly performance returns which were replicated in quarterly returns.

In terms of PCI data security standard compliance it was confirmed that the object of the audit was to provide assurance that for all service areas where the council takes credit/debit card payments there is compliance to the payment card industries data security standards (PCI-DSS).

It was reported that out of 132 PCI-DSS controls, the council assessed itself as compliant against 91 of these. With a further 25 of these controls not applicable. It was noted that there remained a further 16 instances where it was found that the council was not either compliant or fully compliant.

With regard to the DOLS, it was reported that DOLS was a new service, which had been developed over the last 18 months. There were a number of well controlled areas identified however risks were identified which included the impact on the council's financial resources from possible DOLS claims.

A member commented that although partial compliance was welcomed renewed efforts should be made to achieve a far higher level of compliance than reported.

Members expressed frustration that the relevant service area officers were not in attendance to enable the committee to further explore the audit findings.

It was recommended that the relevant service area officers should be requested to attend for future meetings.

**RESOLVED:**

**That the report be noted.**

**168. PROGRESS REPORT ON 2016/17 INTERNAL AUDIT PLAN**

Members were provided with an update on the progress of internal audit work and to bring to their attention key internal control issues arising from work recently completed.

Members' attention was drawn to the summary of the annual plan which listed the audits as agreed in the annual audit plan 2016/17. The importance of members being aware of the status of audits throughout the year was that this enables them to place reliance on the work of internal audit and its ability to complete the plan as agreed.

It was reported that reasonable progress had been made on the 2016/17 audit with 13 audits in progress and two audits completed. Of the two completed one was a grant certification and the other was the Hereford city centre transport package (HCCTP) - link road scheme. The full report for this was presented to the committee in May 2016.

Members raised a point of clarity on the use of technical language in the reports and the over reliance on acronyms.

A discussion was had around the use of the definition non-opinion used within the report with clarification given that this would be when a service area request a report, a report is delivered however no opinion is included within the report.

Clarification was requested by members on the special review requested by the director of economy, communities and corporate. It was agreed that clarification be obtained from the director of economy, communities and corporate.

**RESOLVED:**

**That the report be noted.**

The meeting ended at 5.20 pm

**CHAIRMAN**



<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>28 November 2016</b>
<b>Title of report:</b>	<b>Council constitution</b>
<b>Report by:</b>	<b>Solicitor to the council (monitoring officer)</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose

To consider amendments to the council's constitution proposed by the governance improvement working group, and to agree recommendations to Council.

## Recommendation(s)

**THAT:**

- (a) having regard to the detailed work undertaken by the governance improvement working group, the revised constitution at appendix 1 be recommended to full Council for adoption, with implementation with effect from annual council in May 2017 other than the following designation of posts as statutory officers:
  - governance services manager be designated statutory scrutiny officer to be implemented with effect from 1 January 2017
  - chief finance officer be designated section 151 officer to be implemented once recruitment to the new post is complete;
- (b) authority be delegated to the solicitor to the council to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution at appendix 1;
- (c) the standards working group support the monitoring officer in undertaking a review of the councillor code of conduct and the associated member codes; and
- (d) membership of the standards working group be reviewed and agreed in light of recent changes to the committee membership.

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

## Alternative options

- 1 To reject the proposed amendments and retain the current constitution unamended: this is not recommended because the amendments have been proposed in order to either:
  - a) Improve clarity;
  - b) Ensure compliance with current legislative requirements; or
  - c) Improve the efficiency and effectiveness of the council's governance arrangements
- 2 To propose alternative or additional amendments; it is open to the committee to propose that consideration be given to alternative or additional amendments. However additional time may be required in order for the working group to assess the impacts of any such proposals and to consult with the wider member body as necessary.

## Reasons for recommendations

- 3 The proposed amendments to the constitution reflect the principles agreed by the audit and governance committee and ensure that the council's governance will remain robust, compliant with legislative requirements, and transparent.
- 4 To ensure arrangements are in place to progress the remaining elements of the constitution review in a timely manner.
- 5 Designation of posts as statutory scrutiny officer and section 151 officer are reserved to full Council.

## Key considerations

- 6 Following a meeting of group leaders in October 2014, a cross-party members' working group, reporting to the audit and governance committee was convened to initiate consideration of how governance arrangements could be improved. Membership of the group includes representatives of all political groups and of those involved in executive, overview and scrutiny and audit and governance functions plus one member not involved with those functions. The working group was tasked with ensuring that the working group effectively engages with the wider membership within their political groups.
- 7 In the run up to the elections in May 2015 the working group focused on identification of the key issues that any review of governance needed to address and the strengths, weakness, opportunities and threats were identified as outlined in the report to audit and governance committee in July 2015.
- 8 The working group developed a set of design principles for a refreshed constitution which were approved by audit and governance committee in November 2015 which sought to ensure that:
  - Members and officers perform effectively in clearly defined functions and roles
  - Member engagement and participation is maximised, including the involvement of all members in the development of key policies
  - Decision making is informed, transparent and efficient

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

- The council welcomes public engagement and makes accountability real

- 9 During the past year the working group has continued to meet regularly and, having regard to the outcome of consultation with members, has identified a number of recommended changes to the constitution. The revised constitution is attached at appendix 1 and the changes are summarised at appendix 2; all members of the council have been given access, via the council's intranet, to a version of the current constitution showing all tracked changes. Many of the changes seek to remove duplication or to clarify existing arrangements; however some are more fundamental and these are outlined below:
- a) Public participation to be strengthened through consistent application of the provision for public questions at public meetings of audit and governance committee, cabinet, employment panel, health and wellbeing board, and overview and scrutiny committees, and through the development of a public guide to participation included in part 5 of the constitution;
  - b) New guide to roles of members;
  - c) Overview and scrutiny committees to be restructured to provide for three committees, but with a greater degree of specialism, and the provisions for overview and scrutiny task and finish groups clarified to maximise engagement across the whole member body;
  - d) Smaller committee sizes to facilitate member engagement;
  - e) Call-in to apply to all executive decisions, and to be extended to all members of the council with a requirement for seven signatories and the call in period extended to four days;
  - f) Formation of a single planning and regulatory committee which in plenary session will fulfil the functions of the existing planning committee and will also form the pool from which licensing sub-committee can be drawn with a member of planning and regulatory committee taking on the role of standing chairman of the licensing sub-committee;
  - g) Removal of the requirement for annual reports from committees at Council given the availability online of all meeting papers and the ability to ask questions of committee chairmen;
  - h) Member questions to be limited to one at any meeting given the opportunities existing for members to raise matters in other ways;
  - i) Officer decisions with a financial implication of less than £50k to have no requirement to be formally documented;
  - j) Removal of the petition scheme which is no longer a statutory requirement, but retention of the ability for petitions containing a certain number of signatories registered to vote in the county to be debated at full Council;
  - k) Political groups to be consultees on key decisions;
  - l) Delegate approval of finance and contracts procedure rules to the audit and governance committee and employee code confirmed as head of paid service function.
- 10 It is intended that, subject to the views of the audit and governance committee, the revised constitution be recommended to full Council for approval in December 2016. To provide sufficient time to enable all members and officers to be given training on the provisions of the new constitution, and for the independent remuneration panel to review the councils scheme of allowances in light of the changes and make recommendations to full Council accordingly, it is proposed that the implementation date be annual council 2017.
- 11 When approving the design principles the committee noted that a number of other actions would assist in meeting the principles and an update on those actions is

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

provided at appendix 4 for information.

- 12 The reason for the recommendation in (b) is to enable live links, cross referencing and formatting and grammatical errors to take place once the council has approved.
- 13 Some elements of the constitution have yet to be reviewed and it is proposed these remaining elements be progressed as outlined below:
- Finance and contracts procedure rules –section 151 officer and head of law and governance to lead a review, scheduled for consideration by audit and governance committee in January 2017
  - Councillor code of conduct – monitoring officer to lead a review in consultation with the standards working group, and parish councils, for consideration by audit and governance committee on 8 May 2017 and adoption at annual council
  - Employee code of conduct – head of human resources and organisational development to lead a review, in consultation with employee representative bodies, for approval by the chief executive, following consultation with the employment panel, by May 2017
  - Member and officer relations; gifts and hospitality, and member use of resources codes – monitoring officer to lead a review in consultation with the standards working group, for consideration by audit and governance committee on 8 May 2017 and adoption at annual council
- 14 It is a Council function to designate certain posts to fulfil specific statutory functions. During the review it was proposed that the statutory scrutiny officer function should not rest with a director if officer decisions were to be subject to call in and it is therefore proposed that the governance services manager post be designated to fulfil this function. Additionally, recruitment is underway to the permanent new post of chief finance officer (replacing the previous director of resources post) and it is recommended that this post be designated as the council's section 151 officer once recruitment and selection has been completed.

## **Community impact**

- 15 The constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The format and content of the revised constitution should help make these arrangements clearer to understand, and show how the public can effectively engage with them.

## **Equality duty**

- 16 Legislation requires that the council must, in the exercise of its functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct prohibited by law;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 17 The recommended changes to the constitution seek to ensure that, in its decision-making and its operations, the council fully complies with the public sector equality duty.

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



## **Financial implications**

- 18 None arising from the recommendations. The council already makes provision within its existing budgets to enable publication of the constitution on its website and to ensure that members and officers have the training necessary to ensure awareness and understanding of the requirements within the constitution.

## **Legal implications**

- 19 The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which have been complied with when preparing the amendments. A checklist has been produced to demonstrate how the draft constitution complies with these minimum requirements, and is attached at appendix 5.

## **Risk management**

- 20 If the council's constitution is not accurate, up to date and understood then there is a risk that governance arrangements are not clear and robust leaving the council open to judicial review, contractual challenge or financial risk. The proposed amendments and adoption of the revised constitution seek to mitigate that risk. In addition the audit and governance committee will continue to maintain oversight of the constitution, once adopted, and should any further amendments be necessary will make recommendations to full Council accordingly.

## **Consultees**

- 21 The governance improvement working group has consulted with all members by way of questionnaires, through focus sessions held with members listed below and a seminar open to all members.
- Planning and regulatory committee members
  - Overview and scrutiny committee members
  - Cabinet members
  - Audit and governance committee members

- 22 The outcome of the consultations is summarised at appendix 3

## **Appendices**

Appendix 1 – revised draft constitution (excluding those elements to be addressed in phase 2)  
Appendix 2 – summary of amendments  
Appendix 3 – summary of consultation  
Appendix 4 – design principles (actions update)  
Appendix 5 – The Local Government Act 2000 (Constitutions) (England) Direction 2000 checklist

## **Background papers**

None identified



# **Herefordshire Council**

## **Constitution**

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- 1. Cabinet portfolios
- 2. Scrutiny Committee Remits
- 3. Membership of Committees
- 4. Council’s Management Structure

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# PART 1

## INTRODUCTION AND SUMMARY

### Introduction and summary

#### **1.1 Our constitution**

- 1.1.1 Herefordshire Council, which is a unitary authority operating executive arrangements through a leader and cabinet, has agreed this constitution which sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the council to choose.

The constitution is divided into different parts which set out the basic rules governing the council's business as well as some of the detailed rules.

- 1.1.2 Article 1 of the constitution commits the council to providing clear community leadership and operating in a way which is transparent, efficient and accountable and upholds the values of the council. The remaining articles and parts of the constitution explain the rights of the public and how the key parts of the council operate:
- a Part 2 explains how key parts of the council work;
  - b Part 3 says who does what;
  - c Part 4 contains detailed rules about how particular things operate;
  - d Part 5 provides more details and guidance about how councillors and council staff work together and how the public can participate;
  - e Part 6 sets out the allowances that councillors are paid;
  - f Part 7 explains the cabinet and scrutiny committee roles and the council's management structure; and
  - g Part 8 is a glossary explaining meanings of particular words and phrases used in the constitution.

#### **1.2 How the council operates**

- 1.2.1 The council comprises 53 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community of Herefordshire, but they have a special duty to their constituents, including those who did not vote for them.

1.2.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The monitoring officer trains and advises on the code of conduct, including in relation to parish councils.

1.2.3 All councillors meet together as full Council. Meetings of full Council are normally open to the public and the councillors decide the council's overall policies and set the revenue budget and capital programme each year. At its annual meeting, full Council appoints one councillor to be the leader of the council.

### **1.3 How decisions are made**

1.3.1 Most day to day service decisions are taken by the staff of the council and in particular by their managers. Elected councillors sitting as the full Council will decide an overall framework of policies governing how services are to be provided.

1.3.2 The leader of the council approves the scheme of delegation of executive functions. The council's cabinet of councillors will make recommendations to the council about the policy framework and will itself take decisions that ensure services are provided within that framework.

1.3.3 For most "key" decisions to be made by the cabinet or by cabinet members the council is required to publish in advance information about the matter to be decided; who will be making the decision, the date or timescale for the decision, and the place where the decision will be made.

1.3.4 The cabinet can only make decisions which are in line with the council's overall budget and policy framework. If it wishes to make a decision which is contrary to the budget and policy framework, this must be referred to full Council to decide.

1.3.5 Full Council will appoint committees with power to carry out its non-executive and other functions (e.g. planning and licensing). Non-executive functions are those which the cabinet does not have the power to carry out.

1.3.6 The cabinet is held to account by the overview and scrutiny committees appointed by full Council.

### **1.4 The council's staff**

1.4.1 The council has people working for it (called 'officers') to give professional advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the council. This protocol is included within the constitution.

### **1.5 Citizens' rights**



- 1.5.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Article 3. Some of these are legal rights, while others are given at the discretion of the council, depending on the council's own processes.
- 1.5.2 Where members of the public use specific council services, for example as a parent of a school pupil or as a social care user, they may have additional rights. These are not covered in this constitution. Details of such rights may be obtained directly from the service concerned or from the council's customer services.
- 1.5.3 The council welcomes participation by its citizens in its work. A guide to public participation is included in part 5.

## Part 2 – The articles

# Article 1 - The council and the constitution

This article explains the council's priorities and values, and the constitution which is published on the council's website. The council has decided to operate a leader and cabinet model of governance.

### **Strategic priorities and values of the council**

#### **2.1.1 Priorities**

- 2.1.1.1 The council has a [corporate plan](#) that sets out its priorities in order to improve the quality of life of the people in the county and the measures used to show how far those priorities have been met. The corporate plan is reviewed every four years. A delivery plan that sets out what actions the council will take to achieve the priorities of the corporate plan is agreed each year by the cabinet and progress is reported on a quarterly basis. .

#### **2.1.2 Values**

- 2.1.2.1 The council is committed to maintaining high standards of conduct by its staff and councillors and has adopted the following values that underpin its work:
- People:** treating people fairly, with compassion, respect and dignity
  - Excellence:** striving for excellence, and the appropriate quality of service, care and life in Herefordshire
  - Openness:** being open, transparent and accountable
  - Partnership:** working in partnership, and with all our diverse communities
  - Listening:** actively listening to, understanding and taking into account people's views and needs
  - Environment:** protecting and promoting our outstanding natural environment and heritage for the benefit of all
- 2.1.2.2 Everyone who is elected or appointed to public office, works for the council, or provides services on the council's behalf is required to follow general principles of ethical conduct. These principles are described in more detail in [part 5 section 1](#) of the constitution.
- #### **2.1.3 Powers of the council**
- 2.1.3.1 The council's duties and powers are set out in the law of England. A duty requires the council to act in a particular way. A power gives the council discretion to act. The arrangements are complex and detailed.

2.1.3.3 The council must meet high ethical and other standards in everything it does; it must comply with legal requirements; and it must use public money and other resources economically, efficiently and effectively, accounting fully for its actions. In order to discharge these responsibilities, members and senior officers must ensure the proper governance of the council's affairs and the stewardship of its resources. The council has therefore adopted a code of corporate governance (Part 5 section xx) which sets out how this will be done.

2.1.3.4 Powers are exercised by the council and its functions carried out in accordance with the [functions scheme](#) (part 3). The council operates the "leader and cabinet" model of executive arrangements. A description of these executive arrangements is set out [in a schedule to this part 2](#).

#### **2.1.4 The constitution**

2.1.4.1 This constitution and all its appendices form the constitution of the County of Herefordshire District Council (known as Herefordshire Council).

#### **2.1.5 Purpose of the constitution**

2.1.5.1 The purpose of the constitution is to set out in a single place and clear language how the council works and how it makes decisions to

- a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- b) support the active involvement of citizens in the process of council decision-making
- c) help councillors represent their constituents more effectively
- d) enable decisions to be taken efficiently and effectively
- e) create a powerful and effective means of holding decision-makers to public account
- f) ensure that no one will review or scrutinise a decision in which they were directly involved
- g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- h) provide a means of improving the delivery of services to the local community

#### **2.1.6 Meaning of the constitution**

2.1.6.1 If the constitution gives the council a choice about what to do, the council must choose the option that it thinks is closest to the purpose of the constitution [in paragraph 2.1.5](#).

#### **2.1.8 Review and changes to the constitution**

2.1.8.1 Reviews and changes to the constitution will be in accordance with the functions scheme.

#### **2.1.9 Suspension of the constitution**

- 2.1.9.1 The only power to suspend the constitution is in accordance with the council procedure rules.

## Article 2 - Councillors

This article explains who councillors are, what they must do and how long they serve.

You can find out who your councillor is and how to stand for election as a councillor on our website and at council contact centres.

### **2.2.1 Number of councillors and areas they represent**

- 2.2.1.1 The council has 53 elected members called councillors. Each councillor represents an area of the county known as a ward. The voters of each ward elect a councillor to represent them.

### **2.2.2 Who can be a councillor**

- 2.2.2.1 Anybody may stand for election as a councillor provided they are
- a registered to vote in local government elections in the county, or have lived or worked there for the 12 months preceding the day of election, and are
  - b not stopped by law from holding office as a councillor

### **2.2.3 Elections**

- 2.2.3.1 Anyone over 18 residing in the county is entitled to vote and be included on the electoral register.
- 2.2.3.2 The running of the elections is the responsibility of the returning officer. Electoral registration is the responsibility of the electoral registration officer.
- 2.2.3.3 The chief executive of the council is the electoral registration officer and returning officer. The council has an elections office that helps the chief executive discharge these functions.
- 2.2.3.4 Electoral registration and elections are subject to strict rules and further information can be obtained from the council's elections office or the Electoral Commission.

### **2.2.4 When elections happen and how long councillors are elected for**

- 2.2.4.1 Elections for all wards will usually take place on the first Thursday in May every four years with effect from 2003. People elected as councillors start being councillors on the fourth day after being elected and finish on the fourth day after the next election.

### **2.2.5 Roles and functions of all councillors**

- 2.2.5.1 All councillors must:

- a together be the makers of overall policy for the county in relation to its functions
- b contribute to plans and policies jointly with partners in matters that require co-operation and collaboration between those partners
- c represent, and speak up for their communities
- d deal with individual casework and speak up for citizens
- e balance different interests within their ward and represent it as a whole
- f be involved in council decision making
- g be available to represent the council on other bodies; and
- h maintain the highest standards of conduct and ethics
- i together be the corporate parents for children looked after by the council.

#### **2.2.6 Rights to information**

- 2.2.6.1 Councillors have rights of access to council information in accordance with the [article 13](#) and the [access to information rules \(part 4 section 2\)](#).

#### **2.2.7 Responsibilities**

- 2.2.7.1 Councillors must follow the [councillor code of conduct \(part 5 section 1\)](#) and must follow this constitution and the rules, principles and codes within it whilst conducting council business.

#### **2.2.8 Allowances**

- 2.2.8.1 Councillors will be entitled to receive allowances in accordance with the [councillors' allowance scheme \(part 6\)](#).

#### **2.2.9 Ceasing being a councillor**

- 2.2.9.1 A councillor will cease being a councillor if:-
- a they resign by giving written notice, or
  - b they fail to attend meetings of the council for a period of six months without prior approval of the council meeting, or
  - c if they are stopped by law from holding office, or
  - d the period for which they were elected has come to an end and they have not been re-elected.

#### **2.2.10 Political or other groups**

- 2.2.10.1 Councillors may join a political group of two or more councillors who belong to the same political party or have some other common interest. Political groups are recognised by law and in the constitutional arrangements within the council.

- 2.2.10.2 The number of places that each political group has on the council determines how many places are allocated to members of that political group on council committees and other bodies.
- 2.2.10.3 There is no constitutional or legal requirement that a member of a group must vote on any matter in the same way as their political group. Usually on policy matters a political group will have a collective view and will vote together on the issue.
- 2.2.10.5 There are certain functions of the council that are regulatory or quasi-judicial e.g. planning. A political group may not direct its members how to decide such matters.

## Article 3 – Citizens and the council

Herefordshire Council is keen to engage with citizens living or working in the county and involve them in council activities. This article describes how Herefordshire citizens' can take part.

### **Citizens' rights**

#### 2.3.3.1 Citizens have the right:

- a to take part in question time at any meeting of the council where the agenda includes public question time;
- b to speak during public speaking time at meetings of the planning and regulatory committee;
- c to contribute to investigations by overview and scrutiny committees;
- d to be consulted or in some other way participate in council decision making in accordance with the arrangements the council has for such consultation and participation; and
- e to information in accordance with the access to information rules
- f to attend any public meeting

### **2.3.5 Citizens' responsibilities**

2.3.5.1 A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community. In particular, citizens are encouraged to:

- (a) vote at every opportunity;
- (b) respect the expression of differing opinions in public debate;
- (c) promote tolerance and respect between their fellow citizens; and
- (d) seek information about the decision-making role of councillors and respecting the council procedures which give effect to a representative democracy.

The rights and responsibilities of citizens is set out in more detail in the public participation guide (part 5).



## Article 4 - The Council meeting

This article explains the role of the Council meeting (which is when all councillors attend a formal meeting) and the role of the chairman.

### **2.4.1 Council meetings**

#### **Types of Council meetings**

2.4.1.1 There are three types of Council meeting:-

- a The annual meeting
- b Ordinary meetings
- c Extraordinary meetings

### **2.4.2 Rules applying to Council meetings**

2.4.2.1 The [council rules \(in Part 4 section 1\)](#) will apply to Council meetings.

### **2.4.3 Functions of the council meeting and functions scheme**

2.4.3.1 The functions of the Council meeting are set out in the [functions scheme \(part 3\)](#)

### **2.4.4 Chairman of Council Election**

2.4.4.1 The chairman of the council and the vice-chairman are elected by Council annually.

#### **Functions**

2.4.4.2 The chairman of the council and, in their absence, the vice-chairman will have the following roles and functions:

- a to uphold and promote the purpose of the constitution;
- b to decide what the constitution means if there is a dispute, on advice from the monitoring officer;
- c to chair Council meetings so that decisions can be taken efficiently and with regard to the rights of councillors and the interests of the community;
- d to make sure that Council meetings are a place for debating matters of concern to the local community and the place at which members who are not on the cabinet are able to hold the cabinet to account;

- e to promote public involvement in the council's activities and in the democratic process;
- f to be the conscience of the council;
- g to attend those civic and ceremonial functions which they or the council consider appropriate; and
- h to approve, as urgent, decisions which will not be subject to call in, when no chair of a scrutiny committee is available.

### **Roles**

The chairman of the council fulfils several roles:

- 2.4.4.3
- a **Ceremonial role** - The chairman is the ceremonial head of the whole council and its countywide representative at civic and social occasions. The chairman has considerable discretion in exercising the ceremonial aspects of the office.
  - b **Apolitical role** - It is important that the chairman maintains an apolitical stance especially when chairing Council meetings. The chairman must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to any relevant procedure rules.
  - c **Chairman's announcements** - Any group leader or committee chairman may approach the chairman before a Council meeting to suggest items for the chairman to use in making announcements to Council. The chairman has complete discretion as to which items they may think appropriate to announce.
  - d **Rules of debate** - The chairman's role in conducting meetings is to enforce the council rules at the Council meeting as set out in [part 4](#).
  - e **Casting vote** - If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

## Article 5 - The Leader and the cabinet

The leader of the council is the councillor who is the political head of the council. This article explains how the leader is elected and what they do. It also explains how the cabinet works and what it does. The leader and cabinet model are part of the council's executive arrangements.

### **2.5.1 Leader of the council**

#### **Election**

- 2.5.1.1 At the annual meeting Council will elect a councillor to be the leader of the council ("the leader")

#### **Role**

- 2.5.1.2 The leader is the political leader of the council who, together with the chief executive, provides overall leadership of the council and its staff.
- 2.5.1.3 The leader will normally chair meetings of the cabinet, will lead in the formulation, co-ordination and presentation of the cabinet's policies and will work closely with the chief executive on the carrying out of policies by the council.

#### **Ceasing being leader of the council**

- 2.5.1.4 The leader will stay as the leader of the council until:
- a the date of the council's next annual meeting; or
  - b they resign from office; or
  - c they are suspended from being a councillor, although they may resume office at the end of the period of suspension; or
  - d they are no longer a councillor; or
  - e they are removed from office by resolution on notice at a Council meeting; or
  - f by simple resolution of a motion without notice at a meeting of Council following a change in political control of the council, as signalled to the monitoring officer, a change in political control being a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the council.

If Council passes a resolution to remove the leader as outlined in (e) or (f) above, it will elect a new leader at that or a subsequent meeting.

### **2.5.2 The cabinet**

#### **Role**

- 2.5.2.1 The cabinet has responsibility for all functions of the council which are not by law, or under the [functions scheme set out in part 3 section 3](#), the responsibility of another part of the council.

#### **Membership**

- 2.5.2.2 The cabinet must consist of a minimum of the leader and two other councillors up to a maximum of 10 councillors including the leader. The leader appoints the cabinet members and shall designate one of the cabinet members as deputy leader.

#### **Functions of individual members of the cabinet**

- 2.5.2.3 The leader will decide what functions will be carried out by individual cabinet members. The leader will notify the chief executive and the monitoring officer of these functions in writing. The monitoring officer will make sure that they are set out in [part 7](#) of the constitution and Council be informed at its next meeting. Changes to the functions of individual cabinet members will only take effect when the leader has notified the monitoring officer.

#### **Meetings of the cabinet**

- 2.5.2.4 Meetings and other activities of the cabinet must comply with the [cabinet rules \(part 4 section 4\)](#).

### **2.5.3 Cabinet support members**

- 2.5.3.1 The leader may appoint cabinet support members to provide informal support to one or more portfolio areas, subject to the total special responsibility allowance budget allocated for cabinet members not being exceeded. Cabinet support members are not members of the executive, have no delegated executive authority, and may not take executive decisions.

### **2.5.4 Description of executive arrangements**

- 2.5.4.1 The following parts of the constitution comprise the executive arrangements:-
- [Article 5 in part 2 of the constitution – the leader of the council and the cabinet,](#)
  - [the cabinet rules \(part 4 section 4\)](#)
  - [Article 6 in part 2 of the constitution – scrutiny, and the scrutiny rules \(part 4 section 5\)](#)
  - [Article 9 in part 2 of the constitution – joint arrangements](#)
  - [Article 11 in part 2 of the constitution – decision making](#)
  - [The functions scheme in part 3](#)
  - [Cabinet portfolios scheme in part 7](#)
  - [Budget and policy framework rules in part 4 section 3](#)
  - [Access to information rules in part 4 section 2](#)

## Article 6 – Overview and scrutiny

Scrutiny is a statutory role fulfilled by councillors who are not members of the cabinet.

The role of the overview and scrutiny committees is to help develop policy, to carry out reviews of council and other local services, and to hold decision makers to account for their actions and decisions.

### **2.6.1 The overview and scrutiny committees**

- 2.6.1.1 Council has decided that there will be three overview and scrutiny committees. The remit of those overview and scrutiny committees is set out in part 6 of the constitution, and how they operate is in accordance with the functions scheme and scrutiny rules

#### **Composition**

- 2.7.2.4 Each committee will comprise **seven/nine** members of the council. The committee with responsibility for education will have additional educational appointees in accordance with the scrutiny rules.

#### **Role**

- 2.6.1.2 Between them the scrutiny committees oversee and scrutinise the work of the leader and cabinet and the council as a whole. This allows members outside the cabinet and citizens to have a greater say in council matters by investigating issues of local concern. This can include questioning cabinet members, committee chairmen, or senior officers of the council, and inviting people from outside the council to give opinions and expert advice.
- 2.6.1.3 The scrutiny committees also have the power to scrutinise the services provided by organisations outside the council e.g. NHS services and the work of the community safety partnership.
- 2.6.1.4. The scrutiny committees can make reports and recommendations to the leader, Council and some partner organisations. The decision takers are not required to implement the recommendations but do have to consider any recommendations made.
- 2.6.1.5. The scrutiny committees can ‘call-in’ an executive decision which has been made but not yet implemented. This enables them to consider whether the decision has been taken in accordance with the principles of good decision making. They may recommend that the decision taker reconsiders the decision. They may also be

consulted by the leader, other cabinet members or Council on forthcoming decisions and the development of the budget and policy framework.

2.6.1.6. The council appoints a statutory scrutiny officer with statutory responsibilities to promote the role of the council's scrutiny committees within the council, support the work of the scrutiny committees by providing help and advice to scrutiny members and also those being scrutinised. (This role cannot be held by the head of paid services, the chief finance officer or the monitoring officer.)

2.6.1.8 The public can be involved in the scrutiny process and help shape and inform decision making and policy by:

- a. asking questions on a matter that is the function of the committee or is on a committee agenda;
- b. submitting evidence for consideration by a scrutiny committee or one of its task and finish groups
- c. suggesting items for inclusion in the work programme of the committee.

## Article 7 - The audit and governance committee

This article explains the audit and governance committee which has been established by council

### **Role**

- 2.7.2.3 The audit and governance committee is responsible for proving assurance on the council's audit, governance (including risk management and information governance) and financial processes in accordance with the functions scheme

### **Composition**

- 2.7.2.4 The audit and governance committee comprises seven members of the council and may also include an independent person who is not a councillor but is appointed by council and has the same voting rights as other members of the committee.

## Article 8 - Planning, licensing and other functions

This article describes the following committees which council has established:

- a The planning and regulatory committee
- b Health and wellbeing board
- c Employment panel
- d Standards panel

### **2.8.1 Planning and regulatory committee**

#### **Composition**

2.8.1.1 The committee comprises 15 councillors, one of whom will be appointed by Council to be the standing chairman of the licensing sub-committee.

#### **Role**

2.8.1.2 The committee determines:

applications for planning and listed building consents which are not decided by an officer; and

as a licensing sub-committee it fulfils the council's licensing duties not undertaken by an officer.

2.8.1.3 The committee may establish one or more sub-committees consisting of three members of the planning and regulatory committee to fulfil functions delegated to the licensing sub-committee as set out in the [functions scheme at part 3 section 6](#).

### **2.8.2 Health and wellbeing board**

#### **Composition**

2.8.2.2 The following shall be members of the health and wellbeing board:

- Cabinet member health and wellbeing,
- Cabinet member young people and children's wellbeing,
- Director for adults and wellbeing,
- Director for children's wellbeing,



- Director of public health
- Three representatives of Herefordshire clinical commissioning group (one to be a lay member)
- Two representatives of Herefordshire Healthwatch
- One representative of the NHS local area team (to be non-voting member of the board)

2.8.x.x Council will appoint the chairman of the board annually who will be one of the cabinet members; a board member representing Herefordshire clinical commissioning group will be appointed vice chairman annually by the board.

### **Role**

2.8.x.x The board will carry out the statutory functions as required by the Health and Social Care Act 2012, and any other functions delegated to it, as set out in [part 3 section x of the constitution](#).

### **Standards panel**

#### **Composition**

The standards panel will consist of an independent person (who will chair the panel); a Herefordshire councillor appointed by the audit and governance committee and a parish councillor nominated by Herefordshire Association of Local Councils

#### **Role**

To consider complaints under the code of conduct that cannot be resolved informally.

## Article 9 - Joint arrangements

This articles explains how the council works with other bodies.

### **2.9.2 Joint arrangements generally**

#### **Joint arrangements for Council functions**

- 2.9.2.1 The council may establish joint arrangements with one or more local authorities to exercise Council , or a mixture of Council and executive functions, or to advise the council on any matter. These arrangements may involve the appointment of a joint committee with these other local authorities, including the determination of terms of reference.

#### **Joint arrangements for cabinet functions**

- 2.9.2.3 The cabinet may establish joint arrangements with one or more councils to exercise executive functions. These arrangements may involve the appointment of joint committees, including the determination of terms of reference.
- 2.9.2.4 Joint executive arrangements have been made in respect of:
- West Mercia Energy (with Shropshire Council, Telford & Wrekin Council, and Worcestershire County Council), and the
  - the Marches Local Enterprise Partnership (with Shropshire Council and Telford & Wrekin Council)
- 2.9.2.5 A discharge of functions agreement is in place with Shropshire Council for the provision of director of public health services.

### **2.9.3 Appointments to joint committees**

- 2.9.3.1 a Except as in (b) below, the cabinet may appoint only members of the cabinet to a joint committee dealing solely with cabinet functions, and those members need not reflect the political composition of the council as a whole.
- b Councillors who are not members of the cabinet may only be appointed to a joint committee where the relevant functions do not extend to more than two-fifths of the county by area or population. In such cases, the cabinet may appoint a councillor who represents a ward wholly or partly in the area covered by the joint committee.

### **2.9.4 Access to information**

- 2.9.4.1 The rules on access to information and confidentiality as set out in article 13 will apply to members of joint committees in the same way as they do to members of the council.

## **2.9.5 Delegation to and from other local authorities**

- 2.9.5.1 Full Council or the cabinet may delegate their respective powers and functions to another local authority or the executive of another local authority.
- 2.9.5.2 The decision whether or not to accept such delegation from another local authority will be taken by full Council or the cabinet as appropriate.
- 2.9.5.3 The council has made no such delegations to date.

## **2.9.6 Contracting out**

- 2.9.6.1 Full Council, for functions it is responsible for, and the leader or cabinet members, for executive functions, may contract out to another body or organisation functions which may be carried out by an officer subject to the relevant legislative requirements.

## **2.9.7 Consultative committees**

### **Standing advisory council on religious education (SACRE)**

- 2.9.7.1 In accordance with the Education Act 1996 (as amended) the council has established a Herefordshire SACRE to provide advice on matters concerned with the provision of religious education and collective worship as set out in the.
- 2.9.7.2 The council appoints the membership in accordance with the legislation, in four groups, as follows:

- |           |   |
|-----------|---|
| Group (A) | One Roman Catholic representative (nominated by the Roman Catholic hierarchy);<br>One Free Church representative (nominated by Churches together in Herefordshire);<br>One representative of other faiths as a whole;<br>One representative of the Bahá'í faith;<br>One representative of the Muslim faith;<br>One representative of the Sikh faith.<br>One representative of the Jewish faith.<br>One representative of the Buddhist religion. |
|-----------|---|

Other than for the Roman Catholic and Free Church representatives the representatives should, as far as possible, be nominated by the appropriate local faith group.

Group (B) Three Church of England representatives (nominated in consultation with the Diocesan Education Authority).

Group (C) Three teachers' representatives, with one drawn from each of the primary, secondary and special education sectors (nominated through recommendation of recognised teacher associations) and one co-opted member.

Group (D) Three Herefordshire Council members as local education authority representatives

## **2.10 Other bodies**

### **Safeguarding boards**

2.10.7.3 In accordance with legislative requirements the council has established both an adults and a children's safeguarding board. Each is chaired by an independent person accountable to the chief executive of the council for the effective operation of their respective boards; and working closely with the director for children's services and the director for adults and wellbeing.

### **Community safety partnership board**

2.10.7.4 In accordance with legislative requirements the council has established a community safety partnership, chaired by the cabinet member with responsibility for community safety.

### **Other partnerships**

2.10.7.5 The council may, from time to time, work in partnership with one or more organisations in order to achieve a shared objective or aim, or in accordance with statutory requirement. The council has an agreed framework for partnerships' governance and maintains a register available for public inspection of such partnerships which are considered strategic.

## Article 10 - The chief executive and other staff

This article sets out that the council will have a chief executive, who is in charge of the council's staff and works with councillors to carry out the aims and objectives of the council. The article also sets out other senior staff posts and indicates which senior staff posts also have additional roles as the head of paid service, the monitoring officer and the chief finance officer.

### **2.10.1 Chief executive**

2.10.1.1 The council employs a chief executive who carries out the functions in the [functions scheme at part 3](#) on behalf of the council and the cabinet.

### **2.10.3 Senior officers**

2.10.3.1 The council will employ people in senior posts (directors and assistant directors) who will assist the chief executive. The functions of the chief executive can be exercised by senior officers are set out in the functions scheme.

### **2.10.4 Designation of statutory officers**

2.10.4.1 Council is required by law to designate senior officers as the head of paid service, the monitoring officer, the chief finance officer (herein referred to as S151 officer) and the statutory scrutiny officer. The head of paid service, statutory scrutiny officer and chief finance officer cannot also be the monitoring officer; the head of paid service, chief finance officer and monitoring officer cannot also be the statutory scrutiny officer.

2.10.4.2 The chief executive is designated as the head of paid service and is responsible for the way in which the discharge of the council's functions by officers is co-ordinated, the number and grade of officers needed and how they are organised and deployed in the council, and reporting to Council as necessary.

2.10.4.3 The solicitor to the council is designated as the monitoring officer and is responsible for maintaining the constitution, ensuring decision-making is fair and lawful and reporting any actual or potential breach of a legal requirement to the Council meeting or cabinet, and for dealing with complaints that councillors have breached the councillor code of conduct and reporting as necessary to the audit and governance committee. The solicitor to the council is authorised to issue, defend, settle or take part in any legal proceedings on the council's behalf where such action is necessary to give effect to decisions of the council or where they considers that such action is necessary to protect the council's interests.

2.10.4.4 The chief finance officer is designated as the section 151 officer appointed to fulfil the role set out in that section of the Local Government Act 1972 and is responsible

for the proper administration of the council's financial affairs including reporting the actual spending or potential misspending of money to the Council meeting or cabinet.

2.10.4.5 The governance services manager is designated as the statutory scrutiny officer and is responsible for promoting the role of the council's overview and scrutiny committees, providing support to the council's overview and scrutiny committees and their members, and for providing support and guidance to all members and officers of the authority in relation to functions of the authority's overview and scrutiny committees.

2.10.4.6 The council will provide the statutory officers with such officers, accommodation and other resources as are in the opinion of each of those officers sufficient to allow their individual duties, as specified in law, to be performed.

## **2.10.6 Conduct**

2.10.6.1 Officers will comply with the [code of conduct for employees \(part 5 section 12\)](#) and will follow the [protocol on member/officer relations \(part 5 section 4\)](#).

## **2.10.7 Employment**

2.10.7.1 The recruitment, selection and dismissal of officers will comply with the [employment rules \(part 4 section 9\)](#).

## Article 11 - Decision-making

This article sets out how the council takes decisions.

### **2.11.1 Principles of decision making**

#### **2.11.1.1** When the council takes a decision it will:

- a be clear about what the council wants to happen, how it will be achieved, who is accountable for the decision and who is accountable for implementing it and monitoring implementation;
- b consult properly and have regard to the professional advice from its officers;
- c have regard to the public sector equality duty and respect for natural justice and human rights;
- d make the decision public unless there are good reasons for it not to be;
- e give due weight to all material considerations, only take relevant matters into account, and make sure the action is proportionate to what the council wants to happen;
- f explain what options were considered and give the reasons for the decision; and
- g follow proper procedures

### **2.11.2 Responsibility for decision making**

#### **2.11.2.1** The council's activities are described in law as functions. The council as a whole cannot make every decision. The council has adopted the leader and cabinet executive arrangements and therefore unless stated all functions are exercised by the cabinet.

How the council and cabinet discharge those functions are set out in the functions scheme.

### **2.11.5 Decision rules**

#### **2.11.5.1** The decision making procedures for all council, cabinet and committee meeting decision making is set out in part 4. **2.11.10**

#### **Codes**

#### **2.11.10.1** In making decisions and conducting its business the council and the bodies and person(s) exercising functions on its behalf will have regard to the codes and guidance set out in [part 5](#) of this constitution.

## Section 1 - Council Functions

The table below details the functions that are the responsibility of the council and the delegation arrangements

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Adopting and changing the constitution including standing orders	<a href="#">Council meeting</a> only  Audit and Governance committee (finance procedure rules and contract procedure rules. Chief executive employee code of conduct (in consultation with employment panel) Monitoring officer (technical changes or those required by law only)
	Budget and policy framework <ul style="list-style-type: none"> <li>• Policy</li> </ul> The adoption of the following plans and strategies Annual library plan (if secretary of state requests) under s1(2) of the Public libraries and museums Act 1964  Children and young people's plan under the Children and young peoples Plan (England) regulations 2005  Crime & disorder reduction strategy under S 5 & 6 of the Crime and Disorder Act 1998  Development plan documents under s15 of the Planning and Compulsory Purchase Act 2004  Licensing authority policy statement under s349 of the Gambling Act 2005	Council meeting only



	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	<p>Local transport plan under s108(3) of the Transport Act 2000</p> <p>Youth justice plan under s 40 of the Crime and Disorder Act 1998</p> <p>Pay policy statement under s38 of the Localism Act 2011</p> <p>And additionally</p> <p>Corporate plan</p> <p>Economic development strategy</p> <ul style="list-style-type: none"> <li>• Budget</li> </ul> <p>Approve the a balanced Revenue Budget and specifically</p> <ul style="list-style-type: none"> <li>• Approve the Council Tax Base</li> <li>• Approve the rate of Council Tax and relevant precepts</li> <li>• Approve the Gross Revenue Budget</li> <li>• Approve the net spending limit for each major service element (Directorate)</li> </ul> <p>And in doing so adopt the following plans or strategies to support the delivery of council budget -</p> <ul style="list-style-type: none"> <li>• Revenue Budget for the next financial year</li> <li>• Capital Investment Budget for the next financial year</li> <li>• Medium Term Financial Strategy</li> <li>• Reserves Strategy</li> <li>• Statutory council tax calculations</li> <li>• Treasury Management Policy, Treasury Management Practices and prudential indicators including the Minimum Revenue Provision</li> </ul>	<p>Pay policy statement Monitoring officer, following consultation with the chief executive, to make in year technical updates to the statement to reflect changes to post holder details or approved changes to local or national pay policy</p>

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Amending these budget and policy framework can be executive if council agree see 2000/2853 reg 4 a (ii) which requires a specific delegation per adoption	When approving a policy or strategy Council will specify the degree of in-year changes to the document which may be undertaken by Cabinet
	Approving or amending any application to the secretary of state in respect of any <a href="#">housing land transfer</a>	Council meeting only
	Consider the review of the effectiveness of the system of internal control required and approve the annual governance statement	Audit and Governance committee
	Subject to the urgency procedure in the <a href="#">access to information rules</a> , making a decision contrary to the policy framework or the budget, or part of it	Council meeting only
	Electing the chairman of council	Council meeting only
	Appointing the vice chairman of council, committee chairmen and committee vice-chairmen	Council meeting, Health and well being Board appoints vice chair
	Appointing the <a href="#">leader of the council</a>	Council meeting only
	Setting the terms of reference of committees, deciding on their size, composition and allocating seats proportionately to political groups	Council meeting only
	The appointment by the authority of at least one independent person under the Localism Act 2011	Council meeting only
	Discharge of a council functions by another authority	Council meeting only
	Arrangements for joint exercise of council functions or a mix of council and executive functions	Council meeting
	Agreeing the <a href="#">members' allowances scheme</a>	Council meeting only
	Functions relating to name and status of Herefordshire council or parish councils within the county as listed in schedule 1 section E of the regulations	Council meeting only

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Functions relating to community governance reviews as listed in schedule 1 section EB of the regulations	Council meeting only
	Confer title of honorary alderman or to admit to be an honorary freeman	Council meeting only
	Functions relating to town and country planning and development control as listed in schedule 1 section A of the regulations including enforcement	See appendix 1
	Powers relating to the protection of important hedgerows and preservation of trees	Chief executive
	Rights of way functions as listed in schedule 1 section I i of the regulations	chief executive
	Licensing and registration functions as listed in schedule 1 section B of the regulations	see appendix 1
	Functions relating to smoke free premises as listed in schedule 1 section FA of the regulations	/chief executive
	Health and safety at work enforcement functions as listed in schedule 1 section C of the regulations	Chief executive
	Elections functions as listed in schedule 1 section D of the regulations	Chief executive Employment panel for appointment of returning officer and electoral registration officer
	Make, amend, revoke, re enact or enforce byelaws	Council meeting
	Power to promote or oppose local or personal bills	Council meeting only
	Approval of the appointment of chief executive	Council meeting only
	Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Chief executive for all staff other than those within the remit of the employment panel. Employment panel will also be a consultee for all terms and conditions (including policies) Employment panel for officers listed within their remit
	Approval of pay and severance packages in excess of £100,000	Council meeting only

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Duty to make arrangements for the proper administration of financial affairs	s.151 officer
	Power to appoint officers for particular purposes (otherwise called the appointment of proper officers)	chief executive
	Duty to designate posts to fulfil the functions of: the head of paid service, the monitoring officer, the s151 officer, statutory scrutiny officer, and to provide staff etc	Council meeting only
	To adopt revise or replace a members code of conduct	Council meeting only
	Power to make a limestone pavement order	chief executive
	Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments	Audit and governance committee
	Power to make closing order in respect to take away food shops	chief executive
	Permit a co-opted member of an overview and scrutiny committee to vote at meetings of the committee	Council meeting only
	Recruitment of panel members to Independent remuneration panel	solicitor to the council
	Powers relating to complaints about high hedges	chief executive
	Powers to make an order identifying a place as a designated public place in relation to alcohol consumption	chief executive
	Power to make or revoke an order designating a locality as an alcohol disorder zone	chief executive
	Power to apply for an enforcement order against unlawful works on common land	chief executive
	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference including instituting proceedings	chief executive
	The appointment of a local auditor under Section 7 of the Council meeting only Local Audit and Accountability Act 2014	Council meeting only

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Power to make payments or provide other benefits in cases of maladministration	chief executive
	Functions relating to pensions as listed in schedule 1 section H of the regulations	Chief executive
	All other matters which by law, must be the responsibility of the Council	Council meeting only unless a specific delegation given from council.

## Section 2 - Local Choice Functions

The table below details who has the responsibility for these functions and the delegation arrangements

### 3.4.1 Allocation of functions

These are functions which in law may be, but need not be the responsibility of the Cabinet and it is for full Council to decide by whom they shall be exercised. The local choice functions are for convenience listed in the table below and any changes to the local choice functions prescribed from time to time shall be taken to be incorporated below.

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
1 Any function under a local act other than a function specified or referred to in regulation 2 or schedule 1 of the Local authority (functions and responsibilities) (England) Regulations 2000.	Cabinet	In accordance with the cabinet delegation arrangements
2 The determination of an appeal against any decision made by or on behalf of the authority.	Cabinet	Chief executive
4 The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools pursuant to section 52 of the Education Act 2002 and the subordinate legislation made under that section.	Cabinet	Chief executive
5 The making of arrangements pursuant to sections 94(1) (1A) and (4) of the 1998 School Standards and Framework Act (admissions appeals)	Cabinet	Chief executive

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
6 The making of arrangements pursuant to section 95(2) of, and schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Cabinet	Chief executive
10 Any function relating to contaminated land.	Cabinet	Chief executive
11 The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Chief executive
12 The service of an abatement notice in respect of a statutory nuisance.	Cabinet	Chief executive
13 The passing of a resolution that schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Cabinet	Chief executive
14 The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Chief executive
15 The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Chief executive
16 The obtaining of information under section 330 of the Town and Country Planning Act 1990.	Cabinet	Chief executive
17 The obtaining of particulars of persons interested in land under section 16 of the Local Government	Cabinet	Chief executive

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
(Miscellaneous Provisions) Act 1976.		
18 The making of agreements for the execution of highways works.	Cabinet	Chief executive
19 The appointment of any individual (a) to any office other than an office in which he is employed by the authority; (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	(a) Cabinet  (b & c) council where allocation of seats is politically proportionate (b & c) cabinet	(a) Chief executive  (b & c) Chief executive
20 The making of agreements with other local authorities for placing staff at the disposal of those other authorities	Cabinet	Chief executive



## Section 3 - Cabinet Functions

This section details the responsibilities of the cabinet and the delegation arrangements.

### **3.3.6 The leader**

#### **3.3.6.2 The leader of the council determines:**

- a the size of the cabinet
- b the appointment of a deputy
- c the appointment of cabinet members
- d the appointment of cabinet support members
- e the appointment of champions
- f the allocation of portfolios and responsibility to cabinet members
- g the cabinet functions that can be carried out by cabinet members individually (paragraph 3.3.4.6)
- h the cabinet function that can be carried out by the chief executive (section 8 of this part)

where cabinet member portfolios cut across the various functions of the council and in cases of uncertainty as to which cabinet member is responsible for any function, the leader shall decide which cabinet member(s) will deal with it.

### **3.2 Cabinet functions**

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3.3.2.1 The cabinet shall make decisions in relation to all of the council's areas of responsibility other than those specified as:

- a Council functions, or
- b Overview and scrutiny functions
- c Functions cabinet has arranged to be exercised by or with another council's cabinet

Cabinet shall also formulate or prepare the documents consisting of the budget and policy framework and shall make recommendations to Council on their implementation.

In relation to the budget documents once the overall budget has been agreed at the beginning of the year by full council, subsequent decisions of cabinet that may impact on that budget need only be recommended back to full council:

- If the decision is likely to cause the authority's overall budget envelope to be exceeded,
- or • If it is contrary to the authority's borrowing or capital expenditure budget;

## **Cabinet Meeting**

A cabinet meeting will be convened for decisions that are:

- a key and relate to more than one cabinet portfolio
- b of sufficient public interest that a decision at a public meeting is required
- c reserved to cabinet by virtue of the financial procedure rules (see part 4 section 7).

## **3.3.4 Delegation of cabinet functions**

3.3.4.1 The leader has decided to delegate to individual cabinet members key decisions that relate to their portfolio. There are also certain decisions reserved to an individual cabinet member by virtue of the financial procedure rules (part 4 section 7)

A cabinet member cannot take a decision contrary to the advice of the chief executive, monitoring officer, s.151 officer or relevant director(s) such a decision must be referred to a cabinet meeting.

- 3.3.4.4 The leader has decided to delegate to the chief executive all functions that fall outside the definitions above. The chief executive can only take non key decisions under this general delegation. Key decisions can only be taken by the chief executive following a specific decision containing an officer delegation. The monitoring officer is responsible for consulting with the leader and if applicable, the relevant cabinet member to assist the leader in determining whether any matter is one that should be determined at a cabinet meeting, an individual cabinet member or by the chief executive.

### **3.3.5 Key decisions**

- 3.3.5.1 A key decision is a decision:-

taken at a cabinet meeting, by an individual cabinet member, or a joint committee of the executive;

and is:

- i Any decision in relation to an executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned.

A threshold of £500,000 is regarded as significant.

- ii Any other executive decision which in the opinion of the monitoring officer is likely to be significant having regard to
- the strategic nature of the decision and or
  - whether the outcome will have an impact, for a better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected.
- iii Any substantive decision to bring forward proposals to Council to approve or amend an item within the budget and policy framework (not being subject to call-in).
- iv Any substantive decision made to approve or amend a policy framework where Council has granted the executive power to do so (being subject to call-in)

## Section 4 - Overview and Scrutiny Functions

The council is required to appoint one or more overview and scrutiny committee. This section details those arrangements.

### 3.4.1 Scrutiny functions

The committees have the power;

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to council or the cabinet with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to council or the cabinet on matters which affect the authority's area or the inhabitants of that area
- (f) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and to make reports or recommendations to the council with respect to the discharge of those functions. In this regard crime and disorder functions means (a) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and (b) a strategy for combatting the misuse of drugs, alcohol and other substances in the area; and (c) a strategy for the reduction of re-offending in the area
- (g) to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and make reports and recommendations to a responsible person on any matter it has reviewed or scrutinised. In this regard *health service* includes services designed to secure improvement—
  - (a) in the physical and mental health of the people of England, and
  - (b) in the prevention, diagnosis and treatment of physical and mental illnessAnd any services provided in pursuance of arrangements under section 75 in relation to the exercise of health-related functions of a local authority.
- (h) to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area

### **Scrutiny rules**

- 3.5.1.1 When the overview and scrutiny committees are exercising overview and scrutiny functions the scrutiny rules in part 4 section 5 must be followed.

## **Section 5 - Other functions**

This section contains a description of the committees who have functions delegated to them by Council.

Those functions are those carried out as follows:

- Town and country planning, development control (the planning functions) and licensing functions
- Audit and governance functions
- Standards panel functions
- Employment functions
- Health and wellbeing board

### **3.6.1 Planning and regulatory committee**

3.6.1.2 When the committee carries out its planning functions it will follow the planning rules (part 4 section 8) and the planning code (part 5 section 12)

3.6.1.3 The committee functions are detailed in appendix one to the council functions scheme.

The committee will determine applications for planning permission and listed building consent in those cases where:

- a the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- b the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- c the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- d the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- e the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- f the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature

that a planning committee determination of the matter would represent the most appropriate course of action, or

- g in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

### **3.6.2 Licensing functions**

- 3.6.2.1 The functions of the licensing authority (contained in appendix 1) are to be taken or carried out by the licensing sub committee. The licensing sub committee has delegated some of these functions to the chief executive as also detailed in appendix 1.

The licensing sub committee determines the following;

Applications for personal licences (if police objection);

Applications for personal licences with unspent convictions;

Applications for premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);

Applications for provisional statements (if relevant representation are made as specified in the Licensing Act 2003);

Applications to vary premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);

Applications to vary designated premises supervisor (if police objection);

Requests to be removed as a designated premises supervisor

Applications for transfer of premises licence (if police objection);

Applications for interim authorities (if police objection);

Applications to review premises licences/club premises certificate;

Deciding whether to object when the authority is a consultee and not the relevant authority considering an application;

Determination of objections to temporary event notices;

Determination of application to vary premises licence at community premises to include alternative licence condition (if police objection)

Revocations of licences where convictions come to light

### **3.6.3 Audit and governance functions**

The purpose of an audit committee is to provide independent assurance on the adequacy of the risk management framework together, the internal control of the financial reporting and annual governance processes.

#### **Internal Audit**

- To consider the Head of Internal Audit's annual report and opinion, and a summary of internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary..
- To consider reports dealing with the management and performance of the providers of Internal Audit Services.
- To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- To be able to call senior officers and appropriate members to account for relevant issues within the remit of the Committee.
- The Committee will not receive detailed information on investigations relating to individuals. The general governance principles and control issues may be discussed, in confidential session if applicable, at an appropriate time, to protect the identity of individuals and so as not to prejudice any action being taken by the Council.

#### **External Audit**

- Review and agree the External Auditors annual plan, including the annual audit Fee and annual letter and receive regular update reports on progress.
- To consider specific reports from the External Auditor
- To meet privately with the external auditor once a year if required
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To recommend appointment of the Council's local (external) auditor
- Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.

#### **Governance**

- To maintain an overview of the Council's Constitution and recommend any changes to council other than changes to the contract procedure rules, finance procedure rules which have been delegated to the committee for adoption.
- To monitor the effective development and operation of risk management and corporate governance in the Council.
- To maintain an overview and agree changes to the council policies on 'Raising Concerns at Work' and the 'Anti fraud and corruption strategy'.
- To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.



To annually conduct a review of the effectiveness of the council's governance process and system of internal control which will inform the Annual Governance statement

- The Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance.
- To annually review the council's information governance requirements
- To agree the annual governance statement (which includes an annual review of the effectiveness of partnership arrangements together with monitoring officer, s151 officer, caldicott guardian and equality and compliance manager reviews).
- To adopt an audit and governance code

### **Waste contract**

- to review, in conjunction with external advisers advising the council as lender, the risks being borne as a result of the funding provided by the council to Mercia Waste Management Ltd and consider whether the risks being borne by the council, as lender, are reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice.
- to monitor the administration of the loan to the waste project in line with best banking practice having regard to any such external advice, including the terms of any waivers or amendments which may be required or are desirable.
- consider what steps should be taken to protect the interests of the council as lender in the event of a default or breach of covenant by Mercia Waste Management Ltd, and make recommendations as appropriate to Council, the council's statutory officers or cabinet as appropriate to ensure the appropriate enforcement of security and litigation in relation to the loan to Mercia Waste Management Ltd.
- consider and recommend appropriate courses of action to protect the position of the council as lender to the waste project.
  - a make recommendations as appropriate to Council with regard to its budget and policy framework and the loan to the waste project.
  - b generally to take such other steps in relation to the loan within the scope of these terms of reference as the committee considers to be appropriate.

### **Code of conduct**

- To promote and maintain high standards of conduct by members and co-opted members of the Council.
- To support Town and Parish Councils within the county to promote and maintain high standards of conduct by members and co-opted members of the Council.
- To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Council.

- To keep the code of conduct under review and recommend changes/replacement to Council as appropriate.
- To publicise the adoption, revision or replacement of the Council's Code of Conduct.
- To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment.
- To annually review code of conduct complaints
- To grant dispensations under Section 33 (2)(b)(d) and (e) Localism Act 2011 or any subsequent amendment
- To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer
- To decide what action to take on the recommendations from the standards panel referred by the standards panel

#### **Accounts**

- To review and approve the Statement of Accounts, external auditor's opinion and reports on them and monitor management action in response to the issues raised by external audit.

### **3.6.4 Standards Panel**

Council has agreed that the arrangements for determining breaches of the code of conduct for members will include, where the matter cannot be resolved informally, the consideration of the complaint by this panel.

The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the Monitoring Officer and produce a report.

### **3.6.5 Employment functions**

- 3.6.5.1 Council has agreed that an employment panel be established and will fulfil the following functions:
- a) Be the appropriate body to fulfil the employment functions as set out in part 4.9 of the procedure rules in relation to: the head of paid service (to include returning officer and electoral registration officer functions), director for adults and wellbeing, director of children's wellbeing; director for economy, communities and corporate, director of public health, monitoring officer and s151 officer.
  - b) Review the annual pay policy statement and make recommendations to Council
  - c) As a consultee on all terms and conditions including policies for all staff

### **3.6.6 Health and wellbeing board functions**

#### **The health and wellbeing board**

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- 3.6.5.1 Herefordshire Council has established a health and wellbeing board in accordance with the provisions of the Health and Social Care Act 2012
- 3.6.5.2 The functions of the board are:
- Developing a joint strategic needs assessment (Understanding Herefordshire)
  - Preparing a joint health & wellbeing strategy
  - Reviewing whether the commissioning plans and arrangements for the NHS, public health and social care (including Better Care Fund submissions) are in line with and have given due regard to the health and wellbeing strategy
  - Reporting formally to the council's executive, the Herefordshire Clinical Commissioning Group and the NHS Commissioning Board if commissioning plans affecting Herefordshire have not had adequate regard to the health & wellbeing strategy
  - Formally signing-off required submissions and direct the use of any performance related funding received on achievement of targets

## Section 6 - Additional arrangements

### **3.7.1 Establishment of working groups**

3.7.1.1 [Council](#), the [cabinet](#) and any committee may from time to time establish working groups which include in their membership councillors and/or officers..

3.7.1.2 Working groups have no formal decision making responsibilities but may provide advice or recommendations

### **3.7.3 Independent remuneration panel**

Before the council makes or amends a scheme for member's allowances, it shall have regard to the recommendations made in relation to it by an independent remuneration panel. This panel comprises of at least three members none of whom–

- (a) is also a member of an authority in respect of which it makes recommendations or is a member of a committee or sub-committee of such an authority; or
- (b) is disqualified 1 from being or becoming a member of an authority

The independent remuneration panel shall produce a report;

- (a) as to the responsibilities or duties in respect of which the following should be available—

- (i) special responsibility allowance;
  - (ii) travelling and subsistence allowance; and
  - (iii) co-optees' allowance;

- (b) as to the amount of such allowances and as to the amount of basic allowance;

- (c) as to whether dependants' carers' allowance should be payable to members of an authority, and as to the amount of such an allowance;

- (d) as to whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated);

- (e) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;

- (f) as to which members of an authority are to be entitled to pensions in accordance with a scheme; and

- (g) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

The report will be published and considered at a council meeting when deciding the scheme of allowances.

### **Political management**

- 3.7.5.1 The council comprises councillors who may be members of political or other groups, as referred to in article 2 (2.2.10). Those groups are an important part of the way the council operates and are formally recognised in the appointment of committees. The leader of the council, who is elected by Council, is usually from the political group comprising the majority of councillors and the leader usually appoints members from their political group to be cabinet members.

- 3.7.5.2 Each political group appoints a group leader. The group leaders have an important informal role to play in relation to the functions scheme. This role is separate and distinct from any role or function that any councillor who is a leader of a political group has under the functions scheme. Other than those functions allocated to any political group leader under the functions scheme, the political group leaders have no authority to take decisions on behalf of the council but do fulfil important informal political management functions.
- 3.7.5.3 In particular, the political group leaders have the following roles:
- a to provide leadership to the respective groups on all matters related to council business
  - b to act as a link between the political and other groups and to meet regularly with other group leaders to discuss matters relating to the political management of the council
  - c to ensure that the views of his or her group are made known to Council, the cabinet and the chief executive
  - d to help identify whether there is any consensus or other ways that the groups can work together on matters related to Council functions
  - e to attend Council and other meetings as set out in the constitution as a recognised group leader for the purpose of fulfilling these functions.
- 3.7.6 Champions**
- 3.7.6.1 The leader of the council may from time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.
- 3.7.6.2 Such appointments will be made following consultation with political group leaders and the chief executive.
- 3.7.6.3 Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.

## Section 7 - Officer Functions

The intention of the Council is that decision taking should be delegated in the interests of speed where that is consistent with the democratic process in terms of accountability and openness.

The various levels of decision making are:-

Council – Committees – delegations to officers.

Leader - Cabinet (either collectively or by individual Cabinet member) – delegations to officers.

A purpose of this Constitution is to encourage delegation of decision making to individual officers. This constitution delegates decisions to the chief executive. Where such decisions have been delegated it remains open to the officer making the delegation to call back for their own decision, issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.

The chief executive has the ability to take six types of decisions.

1. Operational decisions.

An operational decision involves the day to day management of the council. They are usually incidental to a function being exercised by the council. Such decisions are taken by the chief executive, in accordance with the scheme of delegation and any financial or contracting requirements specified in the finance or contracts procedure rules and will be classed as operational so long as :

- Is within an approved budget;
- Is not in conflict with the council's policies, strategies or relevant service plans
- Does not amend existing or raise new policy issues

Such operational decisions will not be recorded unless they relate to:

- The letting of contracts with a value (over the lifetime of the contract) of £50k or more
- The disposal of land or assets with a value of £50k or more
- The granting or revoking of a permission or license
- A change to an individual's legal rights
- A change to a service (eg opening hours, location or service level)

2. Executive decisions.

The cabinet has delegated non key decisions to the chief executive. These will be decisions concerning a function being exercised by the council which is below the key decision threshold. As these are executive functions the requirements to publish the decision, reports and call in provisions apply.

3. Council decisions

The council has decided that some of its decision can be taken by the chief executive. Where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or awards a contract (above £50k) or incurs expenditure (£50k) which in either case materially affects the Council's financial position there is a requirement to publish the decision.

4. Local choice decisions

The council has delegated certain further functions to the chief executive. As a result these become executive or council decisions and will follow the procedures for those type of decisions.

5. All necessary decisions in cases of emergency.  
For the purposes of this scheme, 'emergency' shall mean any situation in which the chief executive believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual, or that the interests of the council may be compromised. 'All necessary decisions' includes decisions to take such action as is necessary within the law to protect life, health, safety, the economic, social or environmental wellbeing of the county, its communities and individuals living, working or visiting, and to preserve property belonging to the council or others;

#### 6. Implementing decisions

There is implied authority for the chief executive to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary. There will also be express authority within certain decisions, delegating further decisions to a named officer, usually a Director, to take certain actions within the parameters of the recommendation from Council, Committee or Cabinet decisions.

All of these six types of decisions can be taken by the chief executive without consultation with elected members, however where executive decisions are being taken by officers cabinet members are normally briefed by a director before taking the decision as the cabinet member can decide to take the decision themselves.

The chief executive is unable to make all of these decisions on behalf of the council and therefore he has a sub delegation scheme which provides for his decision to be taken by a senior officer.

- 3.8.7 Any officer of the council who has been authorised by the chief executive to carry out any of the chief executive's functions of the council may delegate those functions to other officers. In the case of executive decisions, it is not appropriate for those delegations to be given to any officer below the level of assistant director in the organisation structure.
- 3.8.8 The chief executive will maintain a chief executive's scheme of delegation detailing all relevant delegations, including the delegation of any proper officer functions as required in a number of statutes and statutory provisions relating to the functions of the council which require that one of the council's officers is the "proper officer" for the purposes of that statutory provision.

3.9.2 The council designates the chief executive as its proper officer for all such purposes other than the s151 officer, monitoring officer and scrutiny officer and unless otherwise stated where the chief executive has delegated the responsibility for fulfilling any proper officer function to another officer.

3.8.9 The chief executive's scheme of delegation will be regularly reviewed and updated to ensure that it contains all relevant delegations.

3.8.10 The chief executive's scheme of delegation will be published on the council's website.



Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Town and country planning and development control		
Power to determine application for planning permission.	Planning and Regulatory committee and chief executive	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
Power to determine applications to develop land without compliance with conditions previously attached.	Chief executive	Section 73 of the Town and Country Planning Act 1990
Power to grant planning permission for development already carried out.	Chief executive	Section 73A of the Town and Country Planning Act 1990
Power to decline to determine application for planning permission.	Chief executive	Section 70A of the Town and Country Planning Act 1990
Duties relating to the making of determinations of planning applications.	Chief executive	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder
Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Planning and regulatory committee	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Chief executive	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)
Power to enter into agreement regulating development or use of land.	Chief executive	Section 106 of the Town and Country Planning Act 1990
Power to issue a certificate of existing or proposed lawful use or development.	Chief executive	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
Power to serve a completion notice.	Chief executive	Section 94(2) of the Town and Country Planning Act 1990
Power to grant consent for the display of advertisements.	Chief executive	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666)
Power to authorise entry onto land.	Chief executive	Section 196A of the Town and Country Planning Act 1990
Power to require the discontinuance of a use of land.	Chief executive	Section 102 of the Town and Country Planning Act 1990
Power to serve a planning contravention notice, breach of condition notice or stop notice.	Chief executive	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to issue a temporary stop notice.	Chief executive	Section 171E of the Town and Country Planning Act 1990
Power to issue an enforcement notice.	Chief executive	Section 172 of the Town and Country Planning Act 1990
Power to apply for an injunction restraining a breach of planning control.	Chief executive	Section 187B of the Town and Country Planning Act 1990
Power to determine applications for hazardous substances consent, and related powers.	Planning and regulatory committee and chief executive	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Chief executive	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act
Power to require proper maintenance of land.	Chief executive	Section 215(1) of the Town and Country Planning Act 1990
Power to determine application for listed building consent, and related powers.	Planning and regulatory committee and chief executive	[Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Duties relating to applications for listed building consent.	Chief executive	[Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519)] 9and [paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01] 10 . ]
Power to serve a building preservation notice, and related powers.	Chief executive	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to issue enforcement notice in relation to demolition of [listed] 11 building in conservation area.	Chief executive	[Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Powers to acquire a listed building in need of repair and to serve a repairs notice.	Chief executive	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to apply for an injunction in relation to a listed building.	Chief executive	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to authorise stopping up or diversion of highway.	Chief executive	Section 247 of the Town and Country Planning Act 1990

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to execute urgent works.	Chief executive	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Licensing and registration		
Power to issue licences authorising the use of land as a caravan site ("site licences").	Chief executive	Section 3(3) of the Caravan Sites and Control of Development Act 1960
Power to license the use of moveable dwellings and camping sites.	Chief executive	Section 269(1) of the Public Health Act 1936
Power to license hackney carriages and private hire vehicles.	Chief executive	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
	Chief executive	(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
Power to license drivers of hackney carriages and private hire vehicles.	Chief executive	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
Power to license operators of hackney	Chief executive	Sections 55 to 58, 62 and 79 of the Local Government

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
carriages and private hire vehicles.		(Miscellaneous Provisions) Act 1976.
Power to register pool promoters.	Chief executive	Schedule 2 to the Betting, Gaming and Lotteries Act 1963
Power to grant track betting licences.	Chief executive	Schedule 3 to the Betting, Gaming and Lotteries Act 1963
Power to license inter-track betting schemes.	Chief executive	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963
Power to grant permits in respect of premises with amusement machines.	Chief executive	Schedule 9 to the Gaming Act 1968
Power to register societies wishing to promote lotteries.	Chief executive	Schedule 1 to the Lotteries and Amusements Act 1976
Power to grant permits in respect of premises where amusements with prizes are provided.	Chief executive	Schedule 3 to the Lotteries and Amusements Act 1976 14
Power to issue cinema and cinema club licences.	Chief executive	Section 1 of the Cinema Act 1985
Power to issue theatre licences.	Chief executive	Sections 12 to 14 of the Theatres Act 1968
Power to issue entertainments licences.	Chief executive	Section 12 of the Children and Young Persons Act 1933 section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964 , sections 1 to 5 and 7 of,

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
		and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982
Any function of a licensing authority.	Chief executive	Licensing Act 2003 and any regulations or orders made under that Act
Powers and functions relating to late night levy requirements.	Chief executive	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter
Duty to comply with requirement to provide information to Gambling Commission.	Chief executive	Section 29 of the 2005 Act
Functions relating to exchange of information.	Chief executive	Section 30 of the 2005 Act
Functions relating to occasional use notices.	Chief executive	Section 39 of the 2005 Act
Power to resolve not to issue a casino premises licence	Licensing sub committee	Section 166 of the 2005 Act
Power to designate officer of a licensing authority as an authorised person	Chief executive	Section 304 of the 2005 Act

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
for a purpose relating to premises.		
Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Chief executive	Section 284 of the 2005 Act
Power to institute criminal proceedings	Chief executive	Section 346 of the 2005 Act
Power to exchange information	Chief executive	Section 350 of the 2005 Act
Functions relating to the determination of fees for premises licences.	Chief executive	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007
Functions relating to the registration and regulation of small society lotteries.	Chief executive	Part 5 of Schedule 11 to the 2005 Act
Power to license sex shops and sex cinemas.	Licensing sub committee	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
Power to license performances of hypnotism.	Chief executive	The Hypnotism Act 1952
Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Chief executive	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.



Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to license pleasure boats and pleasure vessels.	Chief executive	Section 94 of the Public Health Acts Amendment Act 1907
Power to register door staff.	Chief executive	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995.
Power to license market and street trading.	Chief executive	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994
Power to license night cafes and take-away food shops.	Licensing sub committee	Section 2 of the Late Night Refreshment Houses Act 1969
Power to license dealers in game and the killing and selling of game.	Chief executive	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972
24. Power of register and license premises for the preparation of food.	Licensing sub committee	Section 19 of the Food Safety Act 1990
Power to license scrap yards.	Licensing sub committee	Section 1 of the Scrap Metal Dealers Act 1964

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	Chief executive	The Safety of Sports Grounds Act 1975
Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Chief executive	Part III of the Fire Safety and Safety of Places of Sport Act 1987
Power to issue fire certificates.	Chief executive	Section 5 of the Fire Precautions Act 1971
Power to license premises for the breeding of dogs.	Chief executive	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999
Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Chief executive	Section 1 of the Pet Animals Act 1951 ; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
Power to register animal trainers and exhibitors.	Chief executive	Section 1 of the Performing Animals (Regulation) Act 1925
Power to license zoos.	Licensing sub committee	Section 1 of the Zoo Licensing Act 1981 .

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to license dangerous wild animals.	Chief executive	Section 1 of the Dangerous Wild Animals Act 1976
Power to license knackers' yards.	Licensing sub committee	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999
Power to license the employment of children.	Chief executive	Part II of the Children and Young Persons Act 1933 , byelaws made under that Part, and Part II of the Children and Young Persons Act 1963
Power to approve premises for the solemnisation of marriages.	Chief executive	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995
Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—	Chief executive	Regulation 6 of the Commons Registration (New Land) Regulations 1969
(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or		
(b) an order under section 147 of the Inclosure Act 1845	Chief executive	

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to register variation of rights of common.	Chief executive	Regulation 29 of the Commons Registration (General) Regulations 1966
Power to license persons to collect for charitable and other causes.	Chief executive	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
Power to grant consent for the operation of a loudspeaker.	Chief executive	Schedule 2 to the Noise and Statutory Nuisance Act 1993
Power to grant a street works licence.	Chief executive	Section 50 of the New Roads and Street Works Act 1991
Power to license agencies for the supply of nurses.	Chief executive	Section 2 of the Nurses Agencies Act 1957
Power to issue licences for the movement of pigs.	Chief executive	Article 12 of the Pigs (Records, Identification and Movement) Order 1995
Power to license the sale of pigs.	Chief executive	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
Power to license collecting centres for the movement of pigs.	Chief executive	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
Power to issue a licence to move cattle from a market.	Chief executive	Article 5(2) of the Cattle Identification Regulations 1998
Power to grant permission for provision, etc of	Chief executive	Sections 115E, 115F and 115K of the Highways Act 1980

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
services, amenities, recreation and refreshment facilities on highway, and related powers.		
Power to permit deposit of builder's skip on highway.	Chief executive	Section 139 of the Highways Act 1980
Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Chief executive	Section 115G of the Highways Act 1980
Power to license planting, retention and maintenance of trees etc. in part of highway.	Chief executive	Section 142 of the Highways Act 1980.
Power to authorise erection of stiles etc. on footpaths or bridleways.	Chief executive	Section 147 of the Highways Act 1980.
Power to license works in relation to buildings etc. which obstruct the highway.	Chief executive	Section 169 of the Highways Act 1980.
Power to consent to temporary deposits or excavations in streets.	Chief executive	Section 171 of the Highways Act 1980.
Power to dispense with obligation to	Chief executive	Section 172 of the Highways Act 1980.

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
erect hoarding or fence.		
Power to restrict the placing of rails, beams etc. over highways.	Chief executive	Section 178 of the Highways Act 1980.
Power to consent to construction of cellars etc. under street.	Chief executive	Section 179 of the Highways Act 1980 67.
Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Chief executive	Section 180 of the Highways Act 1980.
Power to sanction use of parts of buildings for storage of celluloid.	Chief executive	Section 1 of the Celluloid and Cinematograph Film Act 1922
Power to approve meat product premises.	Chief executive	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994
Power to approve premises for the production of minced meat or meat preparations.	Chief executive	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995
Power to approve dairy establishments.	Chief executive	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to approve egg product establishments.	Chief executive	Regulation 5 of the Egg Products Regulations 1993
Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Chief executive	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995
Power to approve fish products premises.	Chief executive	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
Power to approve dispatch or purification centres.	Chief executive	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to register fishing vessels on board which shrimps or molluses are cooked.	Chief executive	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to approve factory vessels and fishery product establishments.	Chief executive	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to register auction and wholesale markets.	Chief executive	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Duty to keep register of food business premises.	Chief executive	Regulation 5 of the Food Premises (Registration) Regulations 1991
Power to register food business premises.	Chief executive	Regulation 9 of the Food Premises (Registration) Regulations 1991.
Power to issue near beer licence.	N/a	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.] 71
Power to register premises or stalls for the sale of goods by way of competitive bidding.	N/a	Section 28 of the Greater London Council (General Powers) Act 1984
Power to register motor salvage operators.	Chief executive	Part I of the Vehicles (Crime) Act 2001
Functions relating to the registration of common land and town or village greens.	Chief executive	Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008



## Section 1 - Council and committee meeting rules

**Underlined paragraph numbers denote rules that apply to committees in accordance with rule 4.1.2.1.**

**\* denotes rules which cannot be suspended**

### **4.1.1 Council procedure rules**

- 4.1.1.1\* These rules set out how meetings of full Council, the cabinet, committees and other bodies will be conducted.

### **4.1.2 Application**

- 4.1.2.1\* All of these rules apply to the meetings of full Council. Only rules 4.1.3 – 4, 4.1.9 – 12 and 4.1.16 – 25 apply to meetings of committees, sub-committees and other decision making bodies; they do not apply to meetings of cabinet. For ease of reference the paragraph numbers of those rules applying to all meetings are underlined.
- 4.1.2.2\* Where there is any inconsistency between these council and committee rules and the meeting specific rules that follow in the remainder of part 4 of the constitution, the latter shall prevail.
- 4.1.2.3\* In the application of these rules to meetings other than full Council meetings, greater informality may be exercised at the discretion of the chairman of the meeting.

### **4.1.3 Interpretation**

- 4.1.3.1\* The ruling of the chairman at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

### **4.1.4 Appointment of chairman**

- 4.1.4.1\*** If at any meeting the chairman and vice-chairman appointed by Council are absent, or if no chairman or vice-chairman has been appointed by Council, the meeting shall appoint a chairman for that meeting only. The monitoring officer or his/her representative at the meeting shall at the start of the meeting invite nominations for chairman and will take a vote on a show of hands for those members nominated for chairman.

#### **4.1.5 Council meetings**

- 4.1.5.1\*** There are three types of Council meeting: annual, ordinary, and extraordinary. The table at paragraph 4.1.5.2 below sets out when these may take place.

##### **4.1.5.2\***

<b>Type of meeting</b>	<b>When</b>
The annual meeting	<ul style="list-style-type: none"> <li>• In a year when there have been ordinary elections, within 21 days of the retirement of outgoing councillors</li> <li>• In other years in either March, April or May</li> </ul>
Ordinary meetings	<ul style="list-style-type: none"> <li>• Five meetings a year as set out in a programme decided by Council and, except that one ordinary meeting will take place in February and will be reserved as the budget meeting, with business as outlined in the table at 4.1.6.1 below.</li> </ul>
Extraordinary meetings	<p>The chief executive may be requested to call a meeting by:</p> <ul style="list-style-type: none"> <li>• Council, by resolution;</li> <li>• the chairman of the council;</li> <li>• the monitoring officer; or</li> <li>• any five members of the council if they have signed a requisition stating the grounds for the extraordinary meeting and the business to be conducted at that meeting and presented it to the chairman and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</li> </ul>

	The chief executive will determine whether the stated business can wait until the next ordinary meeting of Council and, if it cannot, will call an extraordinary meeting.
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#### 4.1.6 Business to be carried out

- 4.1.6.1 \* The business to be carried out at meetings of the council is as set out below; those items marked with \* are compulsory items the order of which cannot be altered

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
Elect a person to preside if the <a href="#">chairman and vice-chairman of the council</a> is not present	✓ *	✓ *	✓ *
Elect the chairman of the council	✓ *		
Appoint the vice-chairman of council	✓ *		
Receive any apologies for absence	✓ *	✓ *	✓ *
Receive any declarations of interest	✓ *	✓ *	✓ *
Approve the minutes of the previous meeting(s)	✓ *	✓ *	
Receive any announcements from the chairman and/or chief executive	✓	✓	
Elect the <a href="#">leader of the council</a>	✓ *		

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
Appoint the chairmen and vice-chairmen of committees and other bodies	✓ *		
Appoint at least one <a href="#">scrutiny committee</a> and such other committees as Council considers appropriate to deal with matters which are neither reserved to Council nor are cabinet functions	✓ *		
Decide the size and terms of reference of those committees	✓ *		
Decide the allocation of seats on committees and other bodies to political or other groups in accordance with the political balance rules	✓ *		
Make such appointments to committees or outside bodies as are reserved to Council	✓ *		
Approve a programme of ordinary meetings of Council for the year	✓	✓	
Consider any other business specified in the summons to the meeting	✓	✓	✓
Receive any questions from, and provide answers to, members of the public. In the case of extraordinary meetings and budget questions must relate to items on the agenda.		✓	✓
Receive recommendations on statutory plans or other matters that are reserved to Council.		✓	
Consider and debate any petitions which have reached the threshold for Council consideration		✓	
Receive the following reports from the leader of the council (on which they may		✓	

Item of business	Type of meeting		
	Annual	Ordinary	Extra-ordinary
be questioned and if so, answer questions): <ul style="list-style-type: none"> <li>the work of the cabinet since the last meeting including a summary of those matters decided by the cabinet, cabinet member or any executive joint committee, and any decisions taken under the urgency provisions;</li> <li>the first meeting following the annual meeting an annual report on the priorities of the cabinet and (except in a year when there are ordinary elections) progress made in meeting those priorities; and</li> <li>any report to Council required by a scrutiny committee.</li> </ul>			
Consider motions and debate those motions in the order in which they have been received.		✓	
Receive any questions from and provide answers to members of the council. At the budget meeting questions must relate to items on the agenda		✓	

#### 4.1.7 Time of meetings

4.1.7.1\* Meetings of full Council will usually be at 10.00 am or any other such time as the chairman agrees, and will continue for a maximum of three hours.

4.1.7.2\* At the expiry of three hours, the chairman may determine: that the remaining business to be conducted at the meeting be:

- a that the meeting continue beyond three hours duration; or
- b. that the remaining business to be conducted at the meeting be:
  - i. deferred to the next meeting; or
  - ii. deferred to an extraordinary meeting called for the purpose of dealing with any remaining business; or
  - iii. put to the vote immediately in the order that the business appears on the agenda or in any order determined by the chairman;
  - iv. put some business to the vote immediately defer other in accordance with rules (a) and (b) above; or
- c. The meeting be adjourned to resume later that day after a specified break provided that the remaining business can reasonably be expected to last no more than two additional hours and cannot be deferred until the next meeting.

**4.1.7.3\*** The chairman has discretion to order the adjournment of any meeting, to (following consultation with the leader of the council) alter the date or time of any meeting, or to cancel a meeting if in the event of an emergency or where there is no business requiring Council approval.

#### **4.1.9**      **Notice of meetings**

**4.1.9.1\*** The monitoring officer will, through publication on the council's website, give five clear working days notice to the public of the time and place of any meeting (or otherwise in cases of urgency as in accordance with the **access to information rules (part 4 section 2)**).

#### **4.1.10**      **Conduct of the meeting**

**4.1.10.1\*** The chairman's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. A decision by the chairman on the meaning of the constitution cannot be challenged at a meeting.

#### **4.1.11**      **Quorum**

**4.1.11.1** \* Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of voting members, or three voting members, whichever is the greater.

**4.1.11.2** \* If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

**4.1.11.3** \* During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

**4.1.11.4** \* Subject to 4.1.11.5 remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

**4.1.11.5** \* The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 4.1.11.3 that there are sufficient members present to constitute a quorum.

#### **4.1.12      Variations in order of business**

**4.1.12.1** \* The chairman has discretion to vary the order of business other than where indicated in the table at paragraph 4.1.4.1 above. The compulsory order of business for ordinary meetings of Council apply to all cabinet and committee meetings of the council

**4.1.12.3** \* A proposed variation may be moved by the chairman or any other member. Where moved by the chairman there is no need for it to be seconded. The variation will be put to the vote immediately without debate.

#### **4.1.13      Petitions**

- 4.1.13.1 The chairman will be available 30 minutes before an ordinary Council meeting to receive petitions. During the meeting, as part of chairman's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairman who will respond in writing to the petition organiser. All petitions received, and responses provided will be published on the council's website.
- 4.1.13.2 If a petition has been signed by more than 5% of those registered to vote in Herefordshire, and has not been rejected by the monitoring officer under the [petitions scheme \(in part 5 section 10\)](#) it may be debated at a meeting of Council if the petition organiser wishes. This will normally be at the next scheduled ordinary meeting of Council, other than the February meeting which is reserved for the budget.
- 4.1.13.3 Where a petition is to be debated at full Council, the petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors. A maximum of 30 minutes will be allowed at any meeting to consider up to two petitions. This may be extended at the discretion of the chairman.
- 4.1.13.4 Council will decide how to respond to the petition at this meeting. They may decide to:
- a) take the action the petition requests (if it relates to a matter reserved to Council);
  - b) not to take the action requested for reasons put forward in the debate;
  - c) refer the matter to the relevant scrutiny committee to investigate further and report back (if it relates to a matter reserved to Council); or
  - d) refer the matter to cabinet or a committee to respond (and in doing so may make recommendations they would wish that body to consider).

#### **4.1.14 Questions by the public**

- 4.1.14.1 Questions may be asked by members of the public at the following public meetings of the council:
- Full Council
  - Cabinet (see cabinet rules )
  - Audit and governance committee
  - Health and wellbeing board



- Employment panel
- Overview and scrutiny committees (see scrutiny rules)

4.1.14.2 A period of up to 30 minutes at full Council or 15 minutes at other public meetings of the council where questions are permitted, will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.

4.1.14.2 At meetings of full Council, members of the public may ask questions of members of the cabinet and any chairman of a committee of the council; at other public meetings of the council where public questions are permitted the question should be addressed to the chairman of that committee.

#### **Notice of public questions**

4.1.14.4 A question may only be asked if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Tuesday where the meeting is on a Friday). Each question must give the name and address of the questioner (although only the name and town will be published) and identify who the question is addressed to. Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.

#### **Order of public questions**

4.1.14.5 Questions will be answered in the order in which they are received.

#### **Number of public questions**

4.1.14.6 A member of the public may submit only one question at any meeting of the council, to a maximum of six questions in any municipal year.

#### **Scope of public questions**

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- 4.1.14.7 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- a) it is longer than 70 words;
  - b) it is in multiple parts;
  - c) it is not about a matter for which the council has a responsibility or which affects Herefordshire (or where a question is asked at a meeting other than full Council relating to the function of the committee or an item of the agenda);
  - d) it is defamatory, frivolous or offensive;
  - e) it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
  - f) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - g) it is from a council employee and the question is connected to their employment; or
  - h) it relates to a planning application or licensing application.
- 4.1.14.8 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

#### **Asking the question at the meeting**

- 4.1.14.9 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf.

#### **Supplementary questions**

- 4.1.14.10 A questioner who is present at the meeting may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in 4.1.14.7 above, or if the question takes the form of a statement or more than a minute to ask.

#### **Answers to public questions**

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- 4.1.14.11 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **Reference of question to the cabinet or a committee**

- 4.1.14.12 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question, but any member may move that the matter raised by a question be referred to the relevant cabinet member or committee. Once seconded, such a motion will be voted on without debate.

#### **Restrictions on asking public questions**

- 4.1.14.13 No questions may be asked at the annual meeting of council.
- 4.1.14.14 No questions may be asked at the budget meeting except in relation to reports published with the agenda.

No questions may be asked at an extraordinary meeting of council except in relation to reports published with the agenda.

#### **4.1.15 Questions from councillors**

- 4.1.15.2 A period of up to 30 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the chairman.

A member may ask the chairman of the council, the leader, any member of the cabinet or the chairman of a committee a question about any matter in relation to which the council has powers or duties or which affects the county, in accordance with these council rules.

### **Notice of questions**

4.1.15.3 A member may ask a question only if either:

- a notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Tuesday where the meeting is on a Friday).; or
- b if the question relates to urgent matters, they have the consent of the member to whom the question is to be put, and the the question is delivered to the monitoring officer (as above) by 9.30 on the day of the meeting.

### **Scope of questions**

4.1.15.4 The monitoring officer is authorised to reject a question in accordance with the following criteria:

- a) it is longer than 70 words;
- b) it is in multiple parts;
- c) it is not about a matter for which the council has a responsibility or which affects Herefordshire (or where a question is asked at a meeting other than full Council relating to the function of the committee or an item of the agenda);
- d) it is defamatory, frivolous or offensive;
- e) it is substantially the same as or similar to a question which has been put at a meeting of Council in the past six months;
- f) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
- g) it is related to an employment matter; or
- h) it relates to a planning application or licensing application

- 4.1.15.5 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

#### **Asking the question at the meeting**

- 4.1.15.6 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.

#### **Supplementary question**

- 4.1.15.7 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in [xx](#) above, or if the question takes the form of a statement or more than a minute to ask.

#### **Answers to councillors' questions**

- 4.1.15.8 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for councillors' questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **Restrictions on asking questions**

- 4.1.15.11 No questions may be asked at the annual meeting of Council.

- 4.1.15.12 No questions may be asked at the budget meeting except in relation to those items listed on the agenda.

No questions may be asked at an extraordinary meeting of Council except in relation to those items listed on the agenda.

Members may submit no more than one question at any one meeting.

#### **4.1.16 Motions**

- 4.1.16.1 There are two types of motion: those which can be moved during debate (known as motions without notice), and those for which notice is required. Except for motions which can be moved without notice under these council rules, written notice of every motion, signed by the proposer and the seconder, must be delivered, or submitted electronically to the monitoring officer not later than midday on the seventh working day before the date of the meeting. A member cannot propose more than one motion on notice per meeting.
- 4.1.16.2 Motions on notice may be amended in consultation with the monitoring officer at any time prior to the publication of the agenda by the member(s) who have signed the notice provided that such amendment shall not change the subject matter of the motion.

4.1.16.3

##### **Motions set out in the agenda**

- 4.1.16.4 Motions for which notice has been given will be listed on the agenda in the order in which notice was received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 4.1.16.5 Up to one and a half hours will be allocated for debate on notices of motion but that time may be varied at the discretion of the chairman.

#### **Scope**

- 4.1.16.6 Motions must be about matters for which the council has a responsibility or which affect the county. The chairman may, on the advice of the monitoring officer, refuse a motion which is illegal, scurrilous, improper, (subject to paragraph [xx](#) ) relates to a matter which has been the subject of debate or decision by Council in the previous six months, or is otherwise out of order. The member intending to give notice of the motion should consult the director(s) with responsibility for the matter, or their nominee, and the relevant cabinet member(s) and determine the context and possible consequences for what is proposed prior to submitting the motion.

If the motion requires referral to either cabinet or a commit of the council a report must be at a Council meeting within six months of the date of debate on the motion.

### **Exceptions**

- 4.1.16.7 Where, following publication of the agenda for an ordinary meeting of Council, an urgent matter directly affecting part or all of the county arises and it is not practical to defer consideration of the motion to the next ordinary meeting of Council a motion signed by two members may be accepted by the chairman following consultation with the monitoring officer.

### **Motions without notice**

- 4.1.16.8 The following motions may be moved without notice:

- a to appoint a person to preside at the meeting at which the motion is moved
- b to amend the minutes on a matter of accuracy
- c to change the order of business in the agenda where these procedure rules allow
- d to refer something to an appropriate body or individual to consider or reconsider
- g to withdraw a motion

- h to amend a motion (refer to para xxx below)
- i to proceed to the next business
- j that the question be now put
- k to adjourn a debate
- l to adjourn a meeting
- m that the meeting continue beyond three hours duration
- n to exclude the public in accordance with the access to information procedure rules
- o not to hear a member further or to require a member to leave the meeting
- p to give the consent of Council where its consent is required by this constitution
- q to suspend a specified council rule it is permitted to suspend
- r to request a recorded vote.

#### **Rules of debate**

4.1.16.9 A debate will commence only when a proposal has been made, explained and seconded.

4.1.16.x No member may speak unless called upon by the chairman.

4.1.16.12 Speeches must be directed to the matter being debated.

#### **When a member may speak**

4.1.16.13 Members may speak as detailed in the table below. The flow chart attached at appendix 1 to this section summarises the process of debate:



<b>Purpose of speech</b>	<b>Who can make the speech</b>	<b>Length of speech</b>
Present a report	Leader Cabinet member Committee chairman	5 minutes
Propose original motion	Proposer	5 minutes
Second the motion	Seconder (may reserve their right to speak until the end of the debate)	3 minutes
Propose an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Second an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Speak during debate on an amended motion	Any member other than proposer and seconder of amended motion and proposer of the original motion	3 minutes
Right of reply to debate on amended motion	Proposer of original motion	3 minutes
Respond to specific question	Cabinet member	2 minutes
Propose the budget	Leader	10 minutes
Second the budget	Deputy leader	5 minutes
Respond to budget proposals	Group leaders	5 minutes
Right to reply to budget debate	Leader	5 minutes
Point of order	Any member	2 minutes
Personal explanation	Any member	2 minutes

### **Amendments to motions**

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- 4.1.16.14 An amendment must be relevant to the motion and may alter the wording as long as the effect is not to negate the motion. Unless notice of the amended motion has already been given, the chairman may require it to be written down or in its altered form to be written down and handed to him or her before it is discussed
- 4.1.16.15 Amendments will be considered in the order in which they are received or tabled. No further amendment may be moved until the amendment under discussion has been debated and voted on.
- 4.1.16.16 If an amended motion is not, other amendments to the original motion may be moved.
- 4.1.16.17 If an amended motion is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 4.1.16.18 After an amended motion has been carried, the chairman will read out the substantive motion before accepting any further amendment, or if there is none, it is put to the vote.
- 4.1.16.x1 Members intending to propose an amended motion should normally submit the proposed amendment to the monitoring officer by 9.30am on the morning of the meeting the meeting.
- 4.1.16.x2 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment, in accordance with the budget and policy framework rules.

4.1.16.x3 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is approved by Council the leader, on behalf of the cabinet, may indicate acceptance of the amendment.

#### **Alteration of motion**

4.1.16.19 A member may alter a motion of which they have given notice with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion.

4.1.16.20 A member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

4.1.16.21 Only alterations which could be made as an amendment may be made.

#### **Withdrawal of motion**

4.1.16.22 A member may withdraw a motion which they have moved without the consent of either the meeting and the seconder. .

#### **Right of reply**

4.1.16.23 The proposer of an original motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

4.1.16.24 If an amended motion is proposed, the proposer of the original motion has a right of reply at the close of debate on the amended motion, but may not otherwise speak on the amendment.

4.1.16.25 The proposer of an amended motion shall have no right of reply to the debate on the amendment.

### **Motions which may be moved during debate**

4.1.16.26 When a motion is under debate, no other motion may be moved except the following:

- a to withdraw the motion
- b to amend the motion
- c to proceed to the next business;
- d that the question be now put
- e to adjourn a debate
- f to adjourn a meeting
- g that the meeting continue for a further half hour
- h to exclude the press and public in accordance with the access to information rules
- i that a member be not further heard or to exclude the member from the meeting.

### **Closure motions**

4.1.16.27 A member may move without comment the following motions at the end of a speech of another member:

- a that the question be now put
- b to adjourn a debate
- c to adjourn a meeting.

4.1.16.28 If a motion that the question be now put is seconded and the chairman thinks the item under discussion has been sufficiently discussed, the proposer of the original motion will have a right of reply before the matter is put to the vote. Any member who has reserved their right to speak later in the debate will not be heard.

### **Point of order**

- 4.1.16.31 A member may raise a point of order at any time and the chairman will hear it immediately. A point of order may only relate to the alleged breach of these council rules or the law. The member must indicate the section and the way in which they consider it has been broken. The ruling of the chairman on the matter will be final and there will be no debate on the matter.

### **Personal explanation**

- 4.1.16.32 A member may make a personal explanation at any time. A personal explanation shall only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the chairman on the admissibility of a personal explanation will be final.

### **Conduct of the debate**

- 4.1.16.33 A member may indicate their wish to speak and shall wait to be called by the chairman. If more than one member so indicates the chairman shall call on them individually and in turn to speak.

### **Motion to rescind a previous decision**

- 4.1.16.34 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion to the Council is signed by at least eighteen of the members of Council and sets out evidence of a change in circumstances or position or other information that materially affects the decision taken. The chairman shall, following consultation with the monitoring officer and chief finance officer, make the final determination as to whether the change identified has a material effect.

### **Motion similar to one previously rejected**

4.1.16.35 A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least eighteen of the members of Council.

4.1.16.36\* Once a motion or amendment to which this rule applies has been dealt with, no member can propose a similar motion or amendment within the next six months.

### **Voting majority**

4.1.16.37\* Unless this constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

### **Chairman of the council's casting vote**

4.1.16.38\* If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

### **On the voices and show of hands**

4.1.16.39\* Unless a recorded vote is requested the chairman will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the chairman will take the vote by a show of hands.

### **Recorded vote**

4.1.16.40\* If at least eight members (or pro-rata for other committees to which these rules apply) present at the meeting requested it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and

entered into the minutes. All votes taken at a budget decision meeting and relating to a budget decision are to be recorded votes. Where a recorded vote is taken the record of members voting will be included in the minutes of that meeting.

**4.1.16.41** \* Reference to a “budget decision meeting” for the purposes of 4.1.16.40 means a meeting of Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A , or 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting.

#### **Right to require individual vote to be recorded**

**4.1.16.42** \* Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### **4.1.17 Voting on appointments**

**4.1.17.1** \* Where there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### **4.1.18 Keeping of minutes**

**4.1.18.1** \* Minutes of the proceedings of each meeting of the council will be prepared and will be published on the council’s website.

#### **Signing the minutes**

**4.1.18.2**\* The chairman will sign the minutes at the next available meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. There will be no debate or questioning on matters arising from the minutes; only matters of accuracy may be determined.

**4.1.18.3**\* In the case of any question of the accuracy of the minutes this can only be raised where notice is given to the monitoring officer by 9.30am on the morning of the meeting at which this is to be raised unless the chairman determines otherwise at the meeting.

**No requirement to sign minutes of previous meeting at an extraordinary meeting**

**4.1.18.4**\* Where in relation to any meeting, the next meeting for the purposes of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of signing of minutes.

**4.1.19 Exclusion of the public**

**4.1.19.1**\* The public and press may only be excluded either in accordance with the [access to information rules \(part 4 section 2\)](#) or in the case of disturbance by the public in accordance with these [council rules 4.1.21.1](#).

**4.1.20 Members' conduct**

**4.1.20.1**\* When the chairman stands during a debate any member(s) then speaking must discontinue and the council must be silent.

**4.1.20.2**\* If a member is guilty of misconduct by persistently disregarding the ruling of the chairman of the council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any member may move that that member is not further heard. If seconded, the motion will be voted on without discussion.



**4.1.20.3** \* If the member continues to behave improperly after such a motion is carried, any member may move either that the member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**4.1.20.4** \* If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as they think necessary.

**4.1.20.5** \* The decision as to whether misconduct is taking place shall rest with the chairman who will have due regard to the councillor code of conduct.

#### **4.1.21     Disturbance by the public**

**4.1.21.1** \* If a member of the public interrupts proceedings, the chairman will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

**4.1.21.2** \* If there is a general disturbance in any part of the meeting room open to the public the chairman shall order that part to be cleared and the chairman may for that purpose adjourn the meeting for as long as is needed, and may resume the meeting with or without members of the public being admitted and/or at another location deemed appropriate

#### **4.1.22     Suspension and amendment of council rules**

**4.1.22.1** \* Any of the council rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, [except rules 4.1.1 to 4.1.12, 4.1.16.37 to 4.1.16.42, and 4.1.17 to 4.1.22 and 4.1.25](#) For ease of reference the rules which cannot be suspended are identified by the symbol \*

**4.1.22.2** \* Such a motion cannot be moved without notice unless at least two thirds of the whole number of members of the council is present. Suspension shall be limited

to the duration of the meeting or the determination of a particular item of business if appropriate and as specified in the motion.

#### **4.1.23 Substitution**

4.1.23.1 The monitoring officer on behalf of the chief executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted at a meeting for the member previously allocated to a place on a committee, sub-committee or other body to which the proportionality rules apply for the duration of that meeting. The giving of notice by email no later than 3.00 p.m. on the last working day prior to the date of the meeting is encouraged.

4.1.23.2 The monitoring officer (in consultation with the ungrouped member(s) concerned) may substitute another ungrouped member for an ungrouped member who has notified the monitoring officer in writing that they are unable to attend a meeting for the duration of that meeting. Such notification must be given no later than 3.00 p.m. on the last working day prior to the date of the meeting.

#### **4.1.24 Recording, filming and reporting of meetings**

4.1.24.1 Where meetings of the council are open to the public, any person attending may record, film or report meetings is permitted to do so, provided that in doing so there is no disturbance to the meeting.

#### **4.1.25 Interests under the councillors' code of conduct**

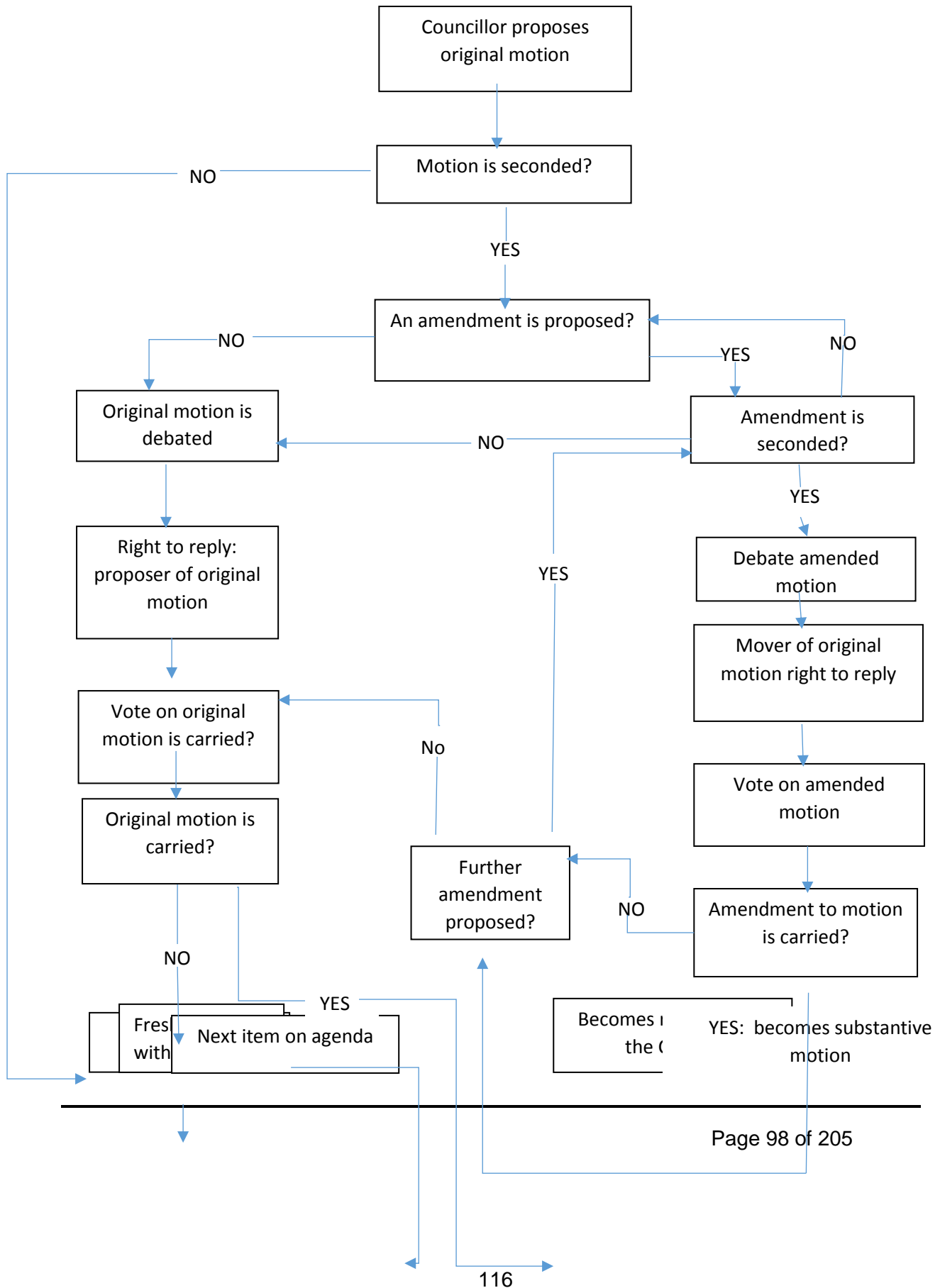
4.1.25.1 \* Members must abide by the [councillors' code of conduct \(part 5 section 1\)](#) adopted by the council and declare all disclosable pecuniary interests and non-registerable interests in accordance with the code. Where a member has identified and declared a disclosable pecuniary interest, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted.

#### **4.1.x Confidentiality**

4.1.x.x \* All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the council's business. Such determination shall ordinarily be made by the

monitoring officer having regard to the access to information rules. Further, all members must comply with the obligations as to confidentiality set out in the [councillors' code of conduct \(part 5 section 1\)](#). Any alleged breaches shall be referred by the chairman of the council to the monitoring officer for consideration and report if not previously referred by some other person. The chairman may require the surrender of such material at the end of discussion of the relevant item.

## Appendix 1 Process for debate



## Section 2 - Access to information rules

### **4.2.1 Meetings covered by these rules**

#### **4.2.1.1 Rules 4.2.2 – 4.2.12 apply to all meetings of:-**

- a Council, or joint committees formed by Council
- b the cabinet, or joint committees formed by the cabinet
- c the audit and governance committee
- d an overview and scrutiny committee
- e the planning and regulatory committee
- f the licensing sub committee
- g the employment panel
- h the health and wellbeing board

all sub-committees except as provided for by law or elsewhere in this constitution.

#### **4.2.1.2 Rules 4.2.13-4.2.21 contain additional rules for meetings of the executive prescribed by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.**

### **4.2.3 Rights to attend meetings**

#### **4.2.3.1 Members of the public and elected members may attend all meetings unless they have been excluded in accordance with the provisions of these rules (paragraph 4.2.11).**

### **4.2.4 Notice of meetings**

#### **4.2.4.1 The council will give at least five clear working days' notice of any meeting by posting details of the meeting on the website and at the designated office (Shire Hall, St Peter's Square, Hereford), unless the meeting is convened at shorter notice in which case such notice will be given from the time that the meeting is convened.**

#### **4.2.5 Access to agenda and reports before the meeting**

##### **4.2.5.1 Copies of:**

- a the agenda, and
- b those reports which are open to the public

shall be made available for inspection at the designated office and on the council's website at least five clear working days before the meeting, unless paragraphs 4.2.5.2 or 4.2.5.3 apply.

4.2.5.2 If a meeting is convened with less notice, copies of the agenda and reports must be open to inspection from the time the meeting is convened.

4.2.5.3 If an item is added to an agenda which is open to inspection, copies of the item and the revised agenda must be open to inspection from the time the item is added to the agenda.

#### **4.2.6 Consideration of items of business**

4.2.6.1 An item of business may not be considered at a meeting unless either:-

- a a copy of the agenda including the item (or a copy of it) is open to inspection by a member of the public for at least five clear working days before the meeting, or if the meeting was convened with less notice, from the time the meeting is convened, or
- b the chairman of the meeting considers that for reasons which should be specified in the minutes, the item should be considered at the meeting as a matter of urgency.

4.2.6.2 Rules in paragraphs 4.2.14 and 4.2.15 apply if the item of business relates to a key decision.

#### **4.2.7 Supply of copies**

4.2.7.1 The council will supply copies of:

- a any agenda and reports which are open to public inspection;
  - b any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - c if the monitoring officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person;
- on payment of a charge for postage and any other costs.

4.2.7.2 The council may first direct a member of the public seeking copies of documents referred to in 4.2.7.1 to the council's website if copies of those documents are available there.

4.2.7.3 Except during any part of the meeting during which the public are excluded, the council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and reports which are accessible to the public.

#### **4.2.8 Access to minutes etc after the meeting**

4.2.8.1 The council will retain for six years and make available copies of the following:

- a the minutes of the meeting, for all meetings covered by these rules as set out by 4.2.1 above, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- b a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- c the agenda for the meeting;
- d reports relating to items when the meeting was open to the public; and
- e records of decisions made by the executive in the form prescribed by regulations.

## **4.2.9 Background papers**

### **List of background papers**

4.2.9.1 When a copy of the whole or part of a report for a meeting is made available for inspection by the public, the proper officer (the director responsible for the report) will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- a disclose any facts or matters on which the report or an important part of the report is based; and
- b which have been relied on to a material extent in preparing the report

but this does not include published documents, or documents which disclose exempt or confidential information (as defined by law and set out at section 4.2.11 below).

### **Public inspection of background papers**

#### **4.2.9.2**

- a The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.
- b In respect of meetings of an executive decision-making body only, at least one copy of each of the background papers included in that list must be available for public inspection at the designated office and on the council's website from the time when copies of the report are made available to the public.



#### **4.2.11 Exclusion of access by the public to meetings**

4.2.11.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Confidential information is either information given to the council by a government department upon terms which forbid the disclosure of the information to the public, or information whose disclosure to the public is prohibited by or under any enactment or by an order of a court.

4.2.11.2 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Exempt information is categorised as:

- 1 Information related to any individual;
- 2 Information which is likely to reveal the identity of an individual;
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice of by virtue of which requirements are imposed on a person ; or
  - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

4.2.11.3 Information falling within category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:

- a. the Companies Acts (as defined in section 2 of the Companies Act 2006)

- b. the Friendly Societies Act 1974
- c. the Friendly Societies Act 1992
- d. the Co-operative and Community Benefit Societies and Credit Unions Act 1965 to 1978
- e. the Building Societies Act 1986
- f. the Charities Act 2011

“Financial or business affairs” includes contemplated, as well as past or current, activities

#### **4.2.12 Exclusion of access to reports**

- 4.2.12.1 If in the opinion of the monitoring officer any report contains confidential information ( as defined at paragraph 4.2.11.1) or exempt Information ( as defined at paragraph 4.2.11.2), and will or is likely to be considered during that part of the meeting from which the public are excluded, those reports will not be published with the agenda for the meeting. Such reports will be marked “Not for publication” and will include a statement of the category of information contained within the report which will or is likely to give rise to the exclusion of the public from the meeting.
- 4.2.12.2 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains confidential information as defined at paragraph 4.2.11.1, the chairman will ask the public to leave the meeting during consideration of that item.
- 4.2.12.3 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains exempt information as defined at paragraph 4.2.11.2, the chairman will invite the members present at the meeting to consider whether in the circumstances the public press and members who are not members of the decision making body should be excluded and, if the meeting agrees, the chairman will ask those in attendance to leave the meeting during consideration of that item..
- 4.2.12.4 No recording devices of any description may be left in the chamber or room when members of the public and press are excluded in accordance with these access to information procedure rules relating to exempt and confidential information.

#### **4.2.13 Application of rules to executive decisions**

- 4.2.13.1 Rules 4.2.13 – 4.2.21 apply to the public meetings of cabinet and its committees or other executive decision maker in addition to rules 4.2.2-4.2.12 above. These are drawn from the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations).
- 4.2.13.2 The requirements in these rules do not apply to meetings whose sole purpose is for officers to brief councillors.

#### **4.2.14 Private meetings of an executive decision-making body**

- 4.2.14.1 Where an executive decision-making body intends to hold a private meeting (meaning a meeting or part of a meeting of that body from which the public are excluded in accordance with paragraph 4.2.11) then subject to paragraphs 4.2.16 (general exception) and paragraph 4.2.17 (special urgency):
- a at least 28 clear calendar days before the private meeting a notice of that intention must be made available at the designated office and on the council's website, including a statement of reasons for the meeting to be held in private;
  - b at least five clear working days before such a meeting a further notice of that intention must be made similarly available, including a statement of reasons for it to be held in private, details of any representations received about why the meeting should be open to the public and a statement of its response to any such representations.
- 4.2.14.2 Where the date by which such a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where agreement has been obtained that the meeting is urgent and cannot reasonably be deferred from:
- a the chairman of the relevant overview and scrutiny committee, or

- b if there is no such person or that chairman is unable to act, the chairman of the council, or
- c in the absence of both, the vice-chairman of the council.

- 4.2.14.3 As soon as reasonably practicable after agreement has been obtained under 4.2.14.2, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the designated office and on the council's website.
- 4.2.14.4 The head of paid service, section 151 officer, and the monitoring officer, and their nominees are entitled to attend any meeting of the cabinet and its committees. The cabinet may not meet formally unless the proper officer has been given reasonable notice that a meeting is to take place in accordance with these rules.
- 4.2.14.5 A private cabinet meeting may only take place in the presence of the monitoring officer or their nominee.
- 4.2.14.6 Notice of private meetings of the cabinet, or a joint executive committee, shall be served on the chairman of the relevant scrutiny committee at the same time as notice is served on members of the cabinet. Where a scrutiny committee does not have a chairman, the notice shall be served on all the members of that committee.
- 4.2.14.7 Where a matter under consideration at a private meeting of the cabinet, or a joint cabinet committee, is within the remit of a scrutiny committee, the chairman of the relevant scrutiny committee or in their absence the vice-chairman may attend and speak at that private meeting with the consent of the person presiding.

#### **4.2.15 Publicity in connection with executive key decisions**

4.2.15.1 Where a decision maker intends to make a key decision, that decision must not be made until a document has been published 28 clear calendar days before the decision and made available for public inspection at the council's designated office and on its website stating:

- a that a key decision is to be made
- b the matter in respect of which a decision is to be made
- c where the decision taker is an individual, their name and title, if any, and where the decision taker is a decision making body, its name and a list of its members;
- d the date on which, or the period within which, the decision is to be made;
- e a list of the documents submitted to the decision taker for consideration in relation to the matter in respect of which the key decision is to be made;
- f the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- g that other documents relevant to those matters may be submitted to the decision maker; and
- h the procedure for requesting details of those documents (if any) as they become available.

#### **4.2.16 General exception**

4.2.16.1 Subject to 4.2.17, where the publication of the intention to make a key decision under 4.2.15 is impractical, the decision may still be taken if:

- a the monitoring officer has informed the chairman of the relevant overview and scrutiny committee, or, if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- b the monitoring officer has made copies of that notice available for public inspection at the designated office and published it on the council's website; and
- c at least five clear working days have elapsed since the monitoring officer complied with (a) and (b).

4.2.16.2 As soon as reasonably practicable after paragraph 4.2.16.1 has been complied with, a notice setting out the reasons why compliance with paragraph 4.2.14 is impracticable must be published on the council's website.

#### **4.2.17 Special urgency**

4.2.17.1 If because of the date by which a decision must be taken, paragraph 4.2.16 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairman of the body making the decision, has obtained the agreement of:

- a the chairman of the relevant scrutiny committee; or
- b if there is no chairman of the relevant scrutiny committee or in his /her absence, the chairman of the council, or
- c in the absence of the chairman of the relevant scrutiny committee or the chairman of the council, the vice-chairman of the council

that the making of the decision is urgent and cannot reasonably be deferred.

4.2.17.2 As soon as reasonably practicable after agreement has been obtained in accordance with paragraph 4.2.17.1 a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the designated office and published on the council's website. Decisions taken by way of special urgency will not be subject to call-in.

#### **Reports to Council on executive decisions**

4.2.17.3 The leader will report to ordinary meetings of Council meeting on executive decisions taken since the preceding meeting of Council. The report will include the number of decisions taken under the provisions of section 4.2.11, 4.2. 16 and 4.2.17 and provide a summary of the matters in respect of which those decisions were taken.

#### **4.2.18 Report to Council where it is considered the key decision procedure has not been followed**

4.2.18.1 If an overview and scrutiny committee thinks that an executive decision has been made which was a key decision but not treated as such the committee may require the cabinet to submit a report to the council meeting within such reasonable time as the committee specifies.

4.2.18.2 The report to the council meeting will set out the decision and the reasons for the decision, the decision maker, and if the cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

#### **4.2.19 Record of executive decisions**

4.2.19.1 As soon as reasonably practicable after an executive decision is made the monitoring officer, or if the monitoring officer was not present at the meeting, the person presiding, will produce a written statement of every such decision.

That statement will include:

- a a record of the decision and date it was made and by whom;
- b the reasons for the decision
- c any alternative options considered and rejected; and
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

#### **4.2.20 Inspection of documents following executive decisions**

4.2.20.1 Subject to 4.2.18, as soon as is reasonably practicable after an executive decision has been made, the monitoring officer will make available for inspection by the public at the designated office and on the council's website the above written statement (and any report or part of a report relevant to the decision and considered by the executive decision-maker). A copy of these documents must be supplied on request to a newspaper on payment of postage, copying and other necessary charge.

4.2.20.2 No written statement, report or document will be made available for public inspection which contains confidential information or where disclosure would give rise to the disclosure of exempt information, both as defined above.

#### **4.2.21 Additional rights of access to documents for members of overview and scrutiny committees**

Subject to paragraph 4.2.23 below, a member of an overview and scrutiny committee (and a member of a scrutiny task and finish group) will be entitled to a copy of any document which is in the possession or control of the cabinet and contains material relating to

- a any business which has been transacted at a public or private meeting of the cabinet or executive decision-making body; or
- b any executive decision made by an individual member of the cabinet,
- c any executive decision made by an officer on behalf of the cabinet.

That copy document must be provided as soon as reasonably practicable and in any event no later than 10 clear days after the request is received on behalf of the cabinet.



There is no entitlement under 4.2.24 to disclose:

- a any document that is in draft form;
- b any document or part of a document that contains exempt or confidential information unless that information is relevant to:
  - (i) an action or decision the scrutiny member is reviewing or scrutinising or
  - (ii) any review contained in any programme of work of an overview and scrutiny committee.; or
- c the advice of a political adviser or assistant (if any).

Where it is determined that a member of an overview and scrutiny committee is not entitled to a copy of a document (or part of one), that committee must be provided with a written statement setting out the reasons for that decision.

#### **4.2.22 Additional rights of access for councillors**

4.2.22.1 Subject to paragraphs 4.2.22.4 and 4.2.22.5 below, any document which is in the possession of the cabinet and which contains material relating to any business to be transacted at a public meeting must be available for inspection by any member of the council.

4.2.22.2 Any document which is required by the preceding paragraph to be available for inspection by any member of the council must be available for inspection for at least 5 clear working days before the meeting except that:

- i. where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and

- ii. where an item is added to the agenda at shorter notice a document that would be required to be available under paragraph 4.2.22.1 in relation to that item must be available for inspection when the item is added to the agenda;
- 4.2.22.3 Subject to 4.2.22.4 and 4.2.22.5 below, any document which is in the possession of the cabinet and which contains material relating to:
  - i. any business to be transacted at a private meeting; or
  - ii. any decision made by an individual cabinet member or officer in accordance with the council's executive arrangements;must be made available for inspection by any member of the council within 24 hours of the conclusion of the meeting or an executive decision having been made by an individual cabinet member or officer;
- 4.2.22.4 Paragraphs 4.2.22.1, 4.2.22.2, and 4.2.22.3 do not require a document to be available for inspection if it appears to the monitoring officer that it discloses exempt information unless the exempt information contained in the document is information of a description falling within:
  - (i) paragraph 3 of Schedule 12A to the Local Government Act 1972 (financial or business affairs)(except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
  - (ii) paragraph 6 of Schedule 12A to the Local Government Act 1972 (notices being given or directions to be made);
- 4.2.22.5 Paragraphs 4.2.22.1 and 4.2.22.3 shall not apply to a document or part of a document where it appears to the monitoring officer that compliance with those rules in relation to that document or part of a document would involve the disclosure of advice provided by a political adviser or assistant;
- 4.2.22.6 The rights of a member to access information as set out in paragraphs 4.2.22.1 and 4.2.22.3 are additional to any common law rights they may have.
- 4.2.24 Inspection and supply of documents**
- 4.2.24.1 Any document required by the regulations to be open to inspection by members of the public must be available for inspection at all reasonable hours at the designated office, and on the council's website.
- 4.2.24.2 Any person entitled to inspect a document may make a copy of it, or require the council to supply a copy on payment of postage, copying or other necessary charge for transmission.

- 4.2.24.4 Any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to a document supplied or made available to that person unless doing so infringes copyright (other than that of the council).

**Additional requirements relating to the recording and availability of council decisions made by officers**

This procedure rule is in addition to and without prejudice to any other requirement for officers to record and make available decisions they make and applies to decisions made by officers of the Council which are made under either:

- (a) a specific delegated authorisation; or
- (b) a general delegation to officers to take such decisions and the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which has a material effect on the budget.

For the purposes of these rules:

- (a) specific express authorisation's are those decisions which contain a delegation from council, , their committees or sub-committees ;
- (b) general authorisations to officers are those set out in the council's scheme of delegation; and
- (c) 'material effect' is deemed to be in excess of £50k.

Officers will reasonably determine whether the decisions they make affect the rights of an individual having regard to all relevant factors including the guidance provided by the government which suggests that this would involve a change to an individual's legal rights and that these decisions do not include decisions taken pursuant to an existing framework of rights.

A record of decision to which this rule applies will, as a minimum, contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken along with reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision is made pursuant to a specific express authorisation, the name of any member who has declared a conflict of interest in relation to the decision.

As soon as reasonably practicable following the record of decision being made it will be available for inspection, along with any background papers, by members of the public:

- (a) at all reasonable hours at the council's principal offices;
  - (b) on the council's web site; and
  - (c) by such other means as the council considers appropriate, if any
- and this extends to any record of decision that falls within the paragraph below.

The requirements of this section do not apply to any decision made by an officer where, other than under the Openness of Local Government Bodies Regulations 2014, there is a statutory obligation to produce a written record of the decision that includes the date of the decision, a record of the decision and the reasons for the decision.

Nothing in this rule requires or authorises the making available of confidential or exempt information.

## Section 3 - The budget and policy framework rules

### **4.3.1 The budget and policy framework**

- 4.3.1.1 Council is responsible for the adoption of items within the budget and policy framework as set out in the [functions scheme \(part 3 section 1\)](#) and the cabinet is responsible for implementing them.

### **4.3.2 Process for developing framework items**

- 4.3.2.1 The cabinet will publicise a timetable for making proposals to Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals.
- 4.3.2.2 The chairmen of the overview and scrutiny committees shall take steps to ensure that the relevant committee work programmes include any such plan, strategy or budget to enable scrutiny members inform and support the process for making cabinet proposals to Council in terms of the adoption of any item that forms part of the framework, including providing constructive challenge to the responsible cabinet member on policy proposals and exploring options for future policy development.
- 4.3.2.x The cabinet shall have regard to such recommendations and other appropriate comments as are made to it in drawing up or amending draft proposals for submission to Council, and its report to Council shall reflect those recommendations and comments and the cabinet's response to them
- 4.3.2.3 The cabinet will determine the methods to be used to publicise the timetable to ensure that the appropriate consultees are informed about the process and the timetable for adoption of any such plan, strategy or budget. The consultation period shall, in each instance, normally be not less than four weeks unless the requirements of any statutory timetable or other council deadline make this impracticable.

- 4.3.2.4 Budget consultees should include parish councils, health partners, the schools forum, business ratepayers, council taxpayers, the trade unions, political groups on the council, the overview and scrutiny committees and such other organisations and persons as the leader shall determine.
- 4.3.2.5 Following consultation and having had regard to the responses to the consultation, the cabinet will draw up firm proposals for the plan, strategy or budget under consideration for recommendation to Council.
- 4.3.2.6 The leader or relevant cabinet member will report the recommendations of cabinet to Council for any such plan, strategy or budget. The report from the cabinet to Council recommending the adoption of any of the strategies and plans that are part of the budget and policy framework will include a summary of the responses to consultation including scrutiny responses.
- 4.3.2.7 In reaching a decision, Council may adopt the cabinet's proposals, amend them, refer them back to the cabinet for further consideration, or in principle, substitute its own proposals in their place. Council should ensure that it takes into account the advice of its officers to ensure that any decision is properly informed by professional advice.
- 4.3.2.x Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment. (see council and committee procedure rules 4.1.16.x1 and x2)
- 4.3.2.x Where an alternative budget is being proposed, the proposing group or member must have presented their proposals to the overview and scrutiny committees (in accordance with paragraph 4.3.2.2 above) and secured confirmation from the chief finance officer that the alternative budget meets statutory requirements at least six clear working days before the meeting of Council at which the item is to be considered.
- 4.3.2.8 If Council accepts the recommendations of cabinet without amendment, Council may make a decision which has immediate effect.

- 4.3.2.9 If Council rejects or amends the cabinet's recommendation or substitutes alternative or additional proposals in place of the cabinet's recommendations, one of the following procedures will be followed:  
Either:
- a) where an amendment to a draft plan or strategy, or to the budget has been submitted, the leader may indicate, on behalf of the cabinet, that they accept the amendment; in these circumstances, the amendment shall be regarded as incorporated in the draft plan or strategy before Council and Council's decision may take immediate effect; or
  - b) immediately prior to the close of the meeting the chairman of the council will adjourn the meeting until a date (not less than 10 working days thereafter) to be agreed by the leader. The leader may agree that the matter be deferred to the next meeting of Council. At the reconvened or next meeting Council will consider the matter again.
- 4.3.2.11 At least five clear working days before the date on which the adjourned or next meeting is to be reconvened, the leader will provide a further report to Council in which he will set out the cabinet's response to the Council's proposals. That report must address all relevant issues and in particular, must include advice on the financial and legal implications.
- 4.3.2.12 The leader may:
- a submit a revision of the draft budget plan or strategy with the cabinet's reasons for any amendments and any advice from officers for Council to consider
  - b inform Council of any disagreement the cabinet has with Council's amendments or substitute proposals and the cabinet's reasons for such disagreement
  - c agree any in principle decisions of Council in whole or in part
- 4.3.2.13 If the leader of the council fails to agree a date for the reconvened meeting of council or that the matter may be deferred to the next meeting, the chairman of the council shall set the date of the reconvened meeting or decide that the matter be deferred to the next meeting.
- 4.3.2.14 At the reconvened or next meeting, Council may approve the cabinet's recommendation or approve a different decision that does not accord with the recommendation of the cabinet.
- 4.3.2.15 The decision shall then be made public and shall be implemented immediately.
-

#### **4.3.3 Decisions outside the budget or policy framework**

- 4.3.3.1 Subject to the virement arrangements in the [financial procedure rules \(section 4.7.18\)](#), the cabinet, a committee of the cabinet, cabinet members, or officers may only take decisions that are in line with the budget and policy framework. If any of these bodies want to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by Council unless it is an urgent decision as defined in these budget and policy framework rules.
- 4.3.3.2 If the cabinet, a committee of the cabinet, a cabinet member or officer want to make such a decision, they shall take advice from the chief executive, monitoring officer and chief finance officer as to whether the decision they want to take would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of any of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body to Council for decision, unless the decision is a matter of urgency in which case the provisions relating to urgent decisions apply as defined in these budget and policy framework rules.

#### **4.3.4 Urgent decisions outside the budget or policy framework**

- 4.3.4.1 The cabinet may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. The decision may only be taken:
- a if it is not practical to convene a quorate Council meeting; and
  - b if it is taken by cabinet collectively; and
  - c if the chairman of the relevant overview and scrutiny committee agrees that the decision is a matter of urgency.
- 4.3.4.2 The reason why it is not practical to convene a Council meeting must be clear and noted on the record of the decision.
- 4.3.4.3 The chairman of the relevant overview and scrutiny committee's agreement must be noted on the record of the decision.



- 4.3.4.4 In the absence of the chairman of the relevant overview and scrutiny committee, the consent of the chairman of the council, and if they are unavailable or unable to act, the vice-chairman of the council, will suffice.
- 4.3.4.5 Following the decision, the cabinet will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **4.3.5 In year changes to the budget and policy framework**

- 4.3.5.1 Any decisions that involve an in year change to the budget and policy framework must be approved or adopted by Council unless:
  - a It is an urgent decision as provided for in these budget and policy framework rules
  - b It will result in the closure or discontinuance of a service or part of service to meet immediate budgetary constraint
  - c It is necessary to ensure compliance with the law, ministerial direction or government guidance
  - d It relates to the policy framework and is in respect of a policy which would normally be agreed annually by Council following consultation, but where the existing policy does not provide for the matter under consideration
  - e It is within the scope of a specific delegation Council has previously agreed
  - f It is otherwise within the financial procedure rules

#### **4.3.6 Call-in of decisions outside the budget and policy framework**

- 4.3.6.1 Where the relevant overview and scrutiny committee is of the opinion that a decision has been taken or is likely to be taken by the cabinet, a committee of the cabinet or a cabinet member that is contrary to or not wholly in accordance with the budget and policy framework, that committee shall seek advice from the chief executive, the monitoring officer and the chief finance officer.
- 4.3.6.2 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was contrary to or not wholly in accordance with the budget and policy framework, a report will be prepared and presented to Council.

- 4.3.6.3 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was not contrary to or was wholly in accordance with the budget and policy framework, a report will be prepared and presented to the relevant overview and scrutiny committee.
- 4.3.6.4 If the decision has yet to be or has been made but not implemented, and a report is presented to council stating that the decision is one that is contrary to or not wholly in accordance with the budget and policy framework, no further action will be taken in respect of that decision or its implementation until Council has met and considered the matter. Council shall meet within 10 days of the submission of a request for advice by the relevant overview and scrutiny committee to the chief executive, chief finance officer or monitoring officer.

## Section 4 - Cabinet rules

### **4.4.1 The cabinet**

- 4.4.1.1 The leader and the cabinet comprise the executive of the council. The leader is also the chairman of cabinet meetings. In his or her absence, the deputy leader chairs meetings of the cabinet.

### **4.4.5 Cabinet meetings – when and where?**

- 4.4.5.1 The cabinet will meet in accordance with a programme of meetings and at a place and time to be agreed by the leader.

### **4.4.6 Public and private meetings of the cabinet**

- 4.4.6.1 There is a presumption that cabinet meetings will be held in public in accordance with the council's principles of openness in decision making set out in [part 2 article 11](#) of this constitution. The [access to information rules in section 2 of this part](#) of the constitution set out the requirements covering public and private meetings.

### **4.4.7 Quorum**

- 4.4.7.1 The quorum of the cabinet is three.

### **4.4.8 Who may attend and speak at cabinet?**

- 4.4.8.1 When a cabinet meeting is held in public any person is permitted to attend. The press, public, and other members in attendance, can be excluded in accordance with the access to information rules (part 4, section 2).

4.4.8.2 In addition the following rules apply:

- a members of the public and elected members who have submitted a question for cabinet in accordance with 4.4.11 have the right to attend to ask their question and a supplementary
- b where relevant to the agenda, the chairmen of the overview and scrutiny committees (or in their absence their vice chairmen) have the right to attend cabinet meetings for the purpose of presenting any recommendations from their committee
- d group leaders have the right to attend cabinet meetings for the purpose of reporting the views of their group on any matter under consideration at the meeting
- e ward member(s) have the right to attend and speak at a cabinet meeting where an item relating to an individual ward or a specified group of wards is included in the agenda
- f other members invited to speak at the discretion of the chairman of the meeting.

4.4.8.3 Reports shall be presented by the relevant lead cabinet member. In addition, such officers as are required to assist in presenting reports or provide support, advice or information required by the cabinet will attend.

4.4.8.4 The chairman shall invite any person in attendance under these rules to speak on an item in order to enable that person to fulfil the purpose of his/her attendance as outlined at [paragraph 4.4.8.2](#) above). Questions from members shall be dealt with in accordance with paragraph XXX. The chairman has responsibility for the conduct of the meeting and the order in which those in attendance will be invited to speak.

4.4.8.5 Members of the cabinet will sit at the cabinet table and all other invitees and attendees will be accommodated separately so as to make it clear to the public and others in attendance which person is fulfilling which role.

4.4.8.6 The chairman of the cabinet meeting will at the commencement of the meeting explain who is attending, in what capacity and for what purpose. The minutes will also reflect this.

- 4.4.8.7 The leader will agree with the monitoring officer who should be invited to which meeting of the cabinet and governance services will manage the process of invitation and attendance.
- 4.4.8.8 In general the meetings of the cabinet are to be used as a means of taking final soundings from those attending on an issue for decision and are not the forum for detailed questioning or scrutiny of decisions being taken.

#### **4.4.9 Decision taking**

- 4.4.9.1. All decisions, notwithstanding the subject matter or who takes them, will be made having regard to the [principles of decision making \(section 2 part 11\)](#) and in accordance with the [access to information rules as they apply \(section 4 part 2\)](#).

[4.4.9.2](#) Where the leader, any member of the cabinet, or an officer taking an executive decision has a conflict of interest (whether a disclosable pecuniary interest or an other interest) such interest will be disclosed and recorded and the individual making the disclosure will take no further part in the decision-making relating to that item.

4.4.9.3 Where an individual is unable to take a decision because of a conflict of interest the decision will be taken by the leader, or if the leader has a conflict of interest, the cabinet. If the cabinet is inquorate because of a conflict of interest then the monitoring officer will be instructed to seek an appropriate dispensation.

4.4.9. The leader, the cabinet and individual cabinet members may meet informally with officers to receive information and briefings but no cabinet decisions will be taken at any such informal meeting.

#### **4.4.10 Form of business**

4.4.10.1 The cabinet will conduct the following business at its meetings:

- a Elect a person to preside at the meeting if the leader and deputy leader are not present
- b Receive any apologies for absence
- c Receive any declarations of interest, if any
- d Consider and approve the minutes of the last meeting (the only part of the minutes which may be discussed is their accuracy; once approved the chairman will sign them as a correct record)
- e Receive and respond to any questions from members of the public submitted in accordance with 4.4.11
- f Receive and respond to any questions from elected members submitted in accordance with 4.4.12
- g Consideration of matters referred to the cabinet or reports from an overview and scrutiny committee or Council
- h Consideration of reports from the statutory officers

Any other matters set out in the agenda for the meeting

4.4.10.2 The agenda for the cabinet meeting shall specify all the business to be conducted in accordance with the [access to information rules \(part 4 section 2\)](#) and shall identify any matter which is a key decision.

4.4.10.3 Reports to the cabinet will normally appear in the name of the cabinet member and incorporate relevant advice from appropriate officers. Exceptions shall include a report from a statutory officer. The author of a report will ensure that draft reports are the subject of consultation with the relevant director, any relevant ward members or other consultees, and in all cases the director of resources and the monitoring officer or their authorised nominee.

4.4.10.4 All reports to the cabinet and the associated record of decisions made (whether on a collective or an individual basis) shall accord with the council's corporate reporting style and associated systems so as to maintain transparency and probity in decision making.

#### **4.4.11 Questions from the public**

- 4.4.11.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.
- 4.4.11.2 A question may only be asked if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Monday where the meeting is on a Thursday). Each question must give the name and address of the questioner (although only the name and town will be published). Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.
- 4.4.11.3 Questions will be answered in the order in which they are received.
- 4.4.11.4 A member of the public may submit only one question at any meeting of the council, to a maximum of six in any municipal year.
- 4.4.11.5 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- i) it is longer than 70 words;
  - j) it is in multiple parts;
  - k) it is not about a matter for which the cabinet has a responsibility or an item on the agenda;
  - l) it is defamatory, frivolous or offensive;
  - m) it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
  - n) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - o) it is from a council employee and the question is connected to their employment; or
  - p) it relates to a planning application or licensing application.
- 4.4.11.6 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

- 4.4.11.7 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf
- 4.4.11.8 A questioner who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in 4.4.11.5 above, or if the question takes the form of a statement, or more than a minute to ask.
- 4.4.11.9 An answer to a question or a supplementary question will be provided by the cabinet member with the relevant portfolio. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.
- 4.4.11.10 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question

#### **4.4.12 Questions from members**

- 4.4.12.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the chairman.
- 4.4.12.2 A member may ask the chairman a question relating to a matter of the agenda or otherwise within the remit of cabinet only if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Monday where the meeting is on a Thursday).



- 4.4.12.3 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- i) it is longer than 70 words;
  - j) it is in multiple parts;
  - k) it does not relate to the remit of cabinet or an item on the agenda;
  - l) it is defamatory, frivolous or offensive;
  - m) it is substantially the same as or similar to a question which has been put at a meeting of Council, cabinet or other committee in the past six months;
  - n) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - o) it is related to an employment matter; or
  - p) it relates to a planning application or licensing application
- 4.4.12.4 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.
- 4.4.12.5 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.
- 4.4.12.6 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in [4.4.12.3](#) above, or if the question takes the form of a statement, or more than a minute to ask.
- 4.4.12.7 An answer to a question or a supplementary question may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, or the time allowed for councillors' questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

#### **4.4.13 Leader's report**

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4.4.13.1 The leader will submit a report from the cabinet to each ordinary meeting of council (other than the budget meeting) on which they may be questioned and if so, answer. This will report the work of the cabinet since the last report and will include:

- a A summary of those executive decisions taken by the cabinet, individual cabinet members, and joint executive committees and other activities of the cabinet since the previous Council meeting;
- b Any recommendations of the cabinet in respect of the budget and policy framework;
- c Any report to Council required by an overview and scrutiny committee; and
- d A summary and particulars of any urgent decision made under paragraph [4.4.15 \(urgent decisions\)](#).

#### **4.4.14 Decisions subject to call in by scrutiny committees**

4.4.14.1 Other than decisions taken under the urgency provisions of the access to information rules (part 4 section 2) and recommendations made to Council on budget and policy framework items, cabinet decisions made but not implemented may be called-in in accordance with the [scrutiny rules \(part 4 section 5\)](#).

#### **4.4.15 Individual cabinet member or officer decisions**

4.4.15.1 Where individual cabinet members or officers make decisions on any matter which is an executive function they must comply with the provisions in the [access to information rules \(part 4 section 2\)](#).

#### **4.4.16 Urgent decisions**

4.4.16.1 There may be an urgent need to take a key decision where 28 days' notice of it is impracticable in the circumstances.

- 4.4.16.2 In that event the key decision may only be made in accordance with the general exception or special urgency provisions in the [access to information rules \(part 4 section 2\)](#).

## Section 5 - Scrutiny rules

### **4.5.1 Arrangements for overview and Scrutiny**

- 4.5.1.1 The scrutiny arrangements for the council are as laid out in part 2 article 6 and part 3 of the functions scheme. The council has decided that it will have three overview and scrutiny committees which will have responsibility for all the overview and scrutiny functions on behalf of the council as set out in part 7.

### **4.5.2 Who may sit on an overview and scrutiny committee?**

- 4.5.2.1 All councillors except cabinet members may be members of an overview and scrutiny committee. No member may be involved in scrutinising a decision in which they have been directly involved, or for a decision in the cabinet portfolio they provide support to as a cabinet support member.

### **4.5.3 Co-option**

- 4.5.3.1 An overview and scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any such co-optees will be agreed by the committee having reference to the agreed workplan and/or task and finish group membership.

- 4.5.3.3 The committee with responsibility for education shall include the following co-opted education representatives, as appointed by Council:

- one representative as nominated by the diocese of Hereford
- one representative as nominated by the archdiocese of Cardiff
- one parent governor as elected from the primary school sector
- one parent governor as elected by the secondary school sector
- one parent governor as elected by the special school sector

These education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote.

#### **4.5.4 Quorum**

- 4.5.4.1 The quorum for an overview and scrutiny committee is one quarter of the voting membership of the committee, or three members, whichever is the greater. If the number is a part number it is rounded up.

#### **4.5.5 Task and finish groups**

- 4.5.5.1 An overview and scrutiny committee may appoint a task and finish group for any scrutiny activity within the committee's agreed work programme. A committee may determine to undertake a task and finish activity itself as a spotlight review where such an activity may be undertaken in a single session; the procedure rules relating to task and finish groups will apply in these circumstances.
- 4.5.5.2 The relevant overview and scrutiny committee will approve the scope of the activity to be undertaken the membership, chairman, timeframe, desired outcomes and what will not be included in the work. It will be a matter for the task and finish group to determine lines of questioning, witnesses (from the council or wider community) and evidence requirements.

In appointing a chairman of a task and finish group the committee will also determine, having regard to the advice of the council's monitoring officer and statutory scrutiny officer, whether the scope of the activity is such as to attract a special responsibility allowance.

- 4.5.5.3 The task and finish groups will be composed of at least two members of the relevant scrutiny committee, other councillors, and may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task. It is unlikely that voting will be necessary in task and finish groups. However, should there be a need to vote, for example on the formation of recommendations within a task and finish group report, for the avoidance of doubt any councillor appointed to a task and finish group will have the right to vote. No co-opted members of task and finish groups will have voting powers (unless they are the education co optees listed in 4.5.3.3 above). Matters put to

the vote will be determined on a simple majority with the task and finish group chair having a casting vote.

4.5.5.4 To assist in the identification of members for task and finish groups, the chairmen of the scrutiny committees will ensure that group leaders are provided with the committee work programme, including potential task and finish activity. Group leaders will advise scrutiny chairmen of those members suitable for such task and finish activity.

4.5.5.5 Task and finish groups, as working groups of the committee, are not subject to the requirements of political proportionality.

4.5.5.6

4.5.5.7 Officer support will be provided to each task and finish group the level of which will be dependent on the matter being considered.

4.5.5.8 As working groups of the committee, the task and finish groups will not be making decisions, and have the discretion to meet either in public or in private. Where meeting in private there is no right of attendance by any member who is not a member of a task and finish group.

If a task and finish groups chooses to meet formally in public they may exclude the press public including other members in attendance from any such meeting in accordance with the Access to Information Rules (Part 4 section 2).

4.5.5.9 Task and finish groups will report their findings/outcomes/recommendations to the relevant overview and scrutiny committee who will decide if the findings/outcomes/recommendations should be reported to the cabinet or elsewhere.

4.5.5.10 At the first meeting of each task and finish project, the task and finish group will finalise:

- expert/specialist support required
- officer input required
- lines of questioning
- evidence requirements
- which aspects of the task are to be undertaken in private or public.

4.5.5.11 Any changes proposed by the task and finish group to the scope, timeframe or outcomes stipulated by the committee must be approved by the statutory scrutiny officer following consultation with the chairman of the relevant scrutiny committee and will be reported to the relevant overview and scrutiny committee.

4.5.5.12 In the event of a task and finish group being unable to agree recommendations or findings on a particular matter, a report will be made to the relevant overview and scrutiny committee for its consideration.

#### **4.5.6 Appointment of chairman and members of the overview and scrutiny committees**

4.5.6.1 The chairmen and vice chairmen of the overview and scrutiny committees are appointed at the annual meeting of Council. Council shall determine the number of members of the overview and scrutiny committees annually or as required from time to time in compliance with the statutory rules on proportionality. The members of the committee shall be appointed by the chief executive on nomination of the group leaders.

#### **4.5.7 Meetings of overview and scrutiny committees**

4.5.7.1 The overview and scrutiny committees will meet in accordance with the council's schedule of meetings, subject to the chairman's power to cancel or postpone meetings in case of emergency or where there is no business. Where an overview and scrutiny committee feels it is appropriate to hold additional meetings it may do so. The chairman of an overview and scrutiny committee may also call additional meetings if they consider it necessary or appropriate. In so doing, the chairman shall have regard to the advice of the council's monitoring officer and statutory scrutiny officer.

#### **4.5.8 Programme of work of overview and scrutiny committees**

- 4.5.8.1 The overview and scrutiny committees will be responsible for setting their own work programmes. In setting their work programme an overview and scrutiny committee shall have regard to the resources (including officer time) available.

#### **4.5.9 Overview and scrutiny committee agendas**

- 4.5.9.1 At each of its ordinary meetings an overview and scrutiny committee shall consider the following business, where appropriate:

- a) minutes of the last meeting
- b) questions from members of the public
- c) questions from members of the council
- d) any matter called-in in accordance with paragraph 4.5.16 below
- e) a review of its work programme, including requests received for inclusion of items from members of the public, ward members, cabinet or Council
- f) consideration of any budget and policy framework items
- g) any response to reports of the overview and scrutiny committee
- h) any item requested to be placed on the agenda by a member of the committee
- i) any councillor call for action
- j) any report from a task and finish group any business otherwise set out on the agenda for the meeting including items as identified in the work programme.

- 4.5.9.2 Any member may give notice to the statutory scrutiny officer that they wish an item relevant to the functions of a committee and not excluded by law to be included in the agenda and discussed at a meeting of that committee. On receipt of such a request the statutory scrutiny officer shall ensure that it is included in the agenda for and discussed at a meeting of the relevant committee.

- 4.5.9.3 An overview and scrutiny committee shall also respond, as soon as its work programme permits, to requests from Council and from the cabinet to review



particular areas of council performance or policy. On receipt of any such request from cabinet an overview and scrutiny committee shall firstly consider whether it wishes to conduct the review as requested. Where it does so, and in response to any request from Council, an overview and scrutiny committee shall conduct the review as requested and report its findings and any recommendations back to the cabinet and/or Council.

#### **4.5.10 Councillor call for action**

- 4.5.10.1 Any member of the council shall be entitled to give notice to the statutory scrutiny officer if they wish an item relating to a councillor call for action to be included on the agenda for discussion at the next available meeting of the relevant overview and scrutiny committee.
- 4.5.10.2 On receipt of such a request and subject to it falling within the statutory definition of a matter that can be the subject of a councillor call for action and it meeting the procedural and other requirements set out in the councillor call for action code (Part 5 section 9) the statutory scrutiny officer shall ensure that it is included on the next available agenda of the committee.
- 4.5.10.3 Further guidance in respect of the councillor call for action is contained in Part 5 section 9.

#### **4.5.11 Policy review and development**

- 4.5.11.1 The role of an overview and scrutiny committee in relation to the development of the council's budget and policy framework is found in the rules (part 4 section 3).
- 4.5.11.2 In relation to the development of the council's approach to other matters not forming part of its budget and policy framework, an overview and scrutiny committee may make proposals to the cabinet for developments in so far as they relate to matters within its terms of reference.

- 4.5.11.3 An overview and scrutiny committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. A committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the chairman of a committee should consult with the statutory scrutiny officer.

#### **4.5.12 Reports from the overview and scrutiny committees**

- 4.5.12.1 Following any investigation or review, the committee or task and finish group shall prepare a report. Any report from a task and finish group will first be considered by the relevant overview and scrutiny committee and if adopted will be dealt with in accordance with the following rules.
- 4.5.12.2 If any review is in response to a request from Council, in accordance with paragraph 4.5.9.3 above, the overview and scrutiny committee shall report its findings to Council.
- 4.5.12.3 In all other cases the report will be submitted to the chief executive for consideration by the executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3 Section 3), the chief executive shall arrange for that cabinet member(s) to consider the report.
- 4.5.12.4 If the recommendations in an overview and scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the cabinet shall consider the scrutiny recommendations and report the matter with its response to the scrutiny recommendations to Council.
- 4.5.12.5 If the recommendations in the scrutiny report are in line with the budget and policy framework, the cabinet or the cabinet member shall consider the scrutiny

recommendations and report their decision to the relevant overview and scrutiny committee.

#### **4.5.13 Making sure that scrutiny reports are considered by the executive**

- 4.5.13.1 On receipt of a report from an overview and scrutiny committee (other than on budget and policy framework items) the chief executive will arrange for the report to be considered either by cabinet or an individual cabinet member as appropriate.
- 4.5.13.2 If any individual cabinet member is minded to reject all of the recommendations in a report from an overview and scrutiny committee, then the matter must be referred to the next meeting of the cabinet to decide its response.
- 4.5.13.3 The chief executive will notify the relevant scrutiny committee of the response of the executive within two months of receipt of the scrutiny report, with the exception of matters relating to statutory health scrutiny and issues relating to crime and disorder scrutiny which require a response from the relevant body within 28 days. If the cabinet or cabinet member wishes to extend the deadline a report will be made to the relevant overview and scrutiny committee explaining why this is considered necessary. Decisions of the executive or Council on any scrutiny recommendations will be recorded in the usual way.
- 4.5.13.4 Recommendations from scrutiny committee in relation to a budget and policy framework item will be reported to the executive who will have regard to that report, and provide a response to any recommendations within it, in making their recommendation to Council.

#### **4.5.14 Rights and powers of overview and scrutiny committee members**

- 4.5.14.1 Where an overview and scrutiny committee or task and finish group conducts investigations or reviews and people attend to give evidence or otherwise assist the committee the following principles will apply:
  - a that the investigation be conducted fairly and all members of the committee or group be given the opportunity to ask questions of attendees, and to contribute and speak

- b that those assisting the committee by giving evidence be treated with respect and courtesy
- c that the investigation be conducted so as to maximise the efficiency and value of the investigation or analysis.

#### **4.5.15 Members and officers giving account**

4.5.15.1 An overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions, or as provided by statute certain other bodies. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the cabinet, the chief executive, committee chairman, and/or senior officers carrying out functions on the chief executive's behalf to attend before it to explain in relation to matters within its remit regarding:-

- a any particular decision or series of decisions
- b the extent to which the actions taken implement council policy; and/or
- c their performance.

4.5.15.2 It is the duty of those persons to attend if so required.

4.5.15.3 Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chairman of the committee will inform the statutory scrutiny officer. The statutory scrutiny officer shall inform the member or officer in writing normally giving at least ten working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.

4.5.15.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then an overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance and/or a substitute as appropriate.

- 4.5.15.5 Unless in exceptional circumstances, any witnesses required to attend any meetings called under paragraphs 4.5.15.1 to 4.5.15.3 and 4.5.16 will be restricted to:-
- a any cabinet member involved in the decision the subject of the call in
  - b any officer who in the view of the chairman of the meeting would be able to supply evidence materially able to assist at the meeting.
- 4.5.15.6 The council has designated the governance services manager as the statutory scrutiny officer who is required to discharge the following functions:
- a to promote the role of the council's overview and scrutiny committees
  - b to provide support to the council's overview and scrutiny committee and the members of the committees
  - c to provide support and guidance to (i) members of the council, (ii) members of the executive of the council, and (iii) officers of the council – in relation to the functions of the council's overview and scrutiny committees

#### **4.5.16 Call in**

- 4.5.16.1 "Call in" is a statutory right for members of council to call in a decision of cabinet an individual cabinet member an officer with delegated authority or under joint arrangements after it is made but before it is implemented subject to the following provisions (4.5.15.5, 4.5.16.2, 4.5.16.3 and 4.5.16.8).
- 4.5.16.2 Call in does not apply to cabinet decisions that make recommendations to Council because those decisions will not be implemented in any event until the matter has been considered and agreed by Council.
- 4.5.16.4 When a call in has been triggered, the call in process will be managed by the monitoring officer in consultation with the chairman of the relevant overview and scrutiny committee and the members who have triggered the call in. The chairman of the relevant overview and scrutiny committee will maintain

responsibility for the conduct of any meeting at which the decision called in is considered.

4.5.16.5 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:

- a) that there has been inadequate consultation with stakeholders prior to the decision being made;
- b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
- c) that the decision materially departs from the budget and policy framework;
- d) that the decision is disproportionate to the desired outcome;
- e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
- f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the monitoring officer and the chief finance officer, as appropriate, or has failed to have sufficient regard to that advice;
- g) that the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision; or
- h) that the access to information rules have not been adhered to.

4.5.16.6 Advice should be sought from the monitoring officer on these matters.

4.5.16.7 When a decision is made by the cabinet or an individual cabinet member that decision will be published widely by electronic means. This includes:-

- a displaying it at on the website of the council
- b sending a copy of the decision electronically to all members of the council identifying which scrutiny committee's remit the decision falls within

4.5.16.8 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of four working days after the date of publication, unless it is called in under these call in rules.

4.5.16.9 To call the decision in a call in notice must be received by 5.00pm on the working day before the implementation date specified on the notice of decision by the monitoring officer (or their nominated officer) in writing or electronically which:

- a clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
- b clearly states the grounds for the call in as laid out in rule 4.5.16.5 above as applied to each decision being called-in and the evidence on which the grounds are based
- c is signed by seven elected members of the council (not including co-optees) who are not all members of the same political group. If electronic notification is being used an email in accordance with the requirements of 4.5.16.9 must be submitted by each member supporting the call in.

#### **4.5.17 Limitations of call in**

4.5.17.1 The call in procedure is restricted to any cabinet or individual cabinet member decisions, decisions made by joint committees and decisions made by officers.

4.5.17.2 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4 section 2), that decision will not be subject to call in.

4.5.17.3 The call-in procedure will also not apply where the decision taken needs to be implemented urgently. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public interest.

4.5.17.4 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the monitoring officer should confirm that as such it is not subject to call in.

4.5.17.5 The chairman of the relevant overview and scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.

4.5.17.6 The consent to the decision being taken as a matter of urgency will be recorded on the published notice of the decision.

4.5.17.7 Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.

#### **4.5.18 Post call in**

4.5.18.1 The monitoring officer will determine the validity of the call in as soon as possible. The monitoring officer may, if appropriate, reject a request for call in if, in their opinion, it fails to meet any of the grounds listed in 4.5.16.9 above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:

- a) the cited grounds bear no relevance to the decision that is identified for call-in;
- b) the requisition cites grounds for which no relevant evidence is produced in support;
- c) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance or emailed consent without detailing the grounds and evidence);
- d) the call-in includes material which could be defamatory;
- e) the requisition is being used for improper purposes (e.g. to admonish an officer); or
- f) the decision is in accordance with the advice or recommendations provided to the decision maker by the overview and scrutiny committee.

If the call in is determined not to be valid, the monitoring officer will inform those members submitting the notice of the call in of the reasons for that determination.

4.5.18.2 If accepted as valid, the monitoring officer will then advise the original decision maker of the call in.

4.5.18.3 The monitoring officer shall then call a meeting of the relevant overview and scrutiny committee on such a day as they shall determine in consultation with the relevant chairman and in any event within ten working days of the monitoring officer accepting the validity of the call In notice, subject to paragraph 4.5.19.



- 4.5.18.4 If, having considered the decision in light of the grounds and evidence for the call in, the relevant overview and scrutiny committee is still concerned about it, then it may refer the decision back to the decision-maker for reconsideration, setting out in writing the nature of its concerns.
- 4.5.18.5 The decision maker shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant Overview and Scrutiny Committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.
- 4.5.18.6 If it is alleged that the decision appears to be contrary to or not in accordance with the budget and policy framework, the monitoring officer shall advise the cabinet on that or any other relevant legal issues raised by or in relation to the called in decision. The cabinet shall consider that advice and shall re-consider its decision. If the matter is outside the budget and policy framework the monitoring officer shall refer the matter to the next Council meeting for consideration or convene an extraordinary meeting of Council whichever may be sooner and in any event within ten working days of the meeting of cabinet.
- 4.5.18.7 Having been referred to the next Council meeting the Council has two options:
- i. amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately; or
  - ii. require the decision maker to reconsider the decision again and refer it to a meeting of the cabinet to be held within five working days of the Council meeting. The cabinet may choose to amend or confirm the decision and there will be no further right of call in.
- 4.5.18.9 If an overview and scrutiny committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed in accordance with paragraph 4.5.19, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the meeting or expiry of the period in which the meeting should have been held, whichever is the earlier.

#### **4.5.19 Extension of time limit**

- 4.5.19.1 In exceptional circumstances the time limit of ten working days for convening a meeting of an overview and scrutiny committee to consider the called in decision may be extended as agreed by the original decision maker and/or the leader where practical considerations or any unforeseen factor make such an extension appropriate.

#### **4.5.20 Pre decision call in and the forward plan**

- 4.5.21.1 The overview and scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions.
- 4.5.21.2 An overview and scrutiny committee may identify a forthcoming decision on the forward plan relevant to the remit of the committee and examine the issues around it.
- 4.5.21.3 In order not to obstruct the council in its business, the overview and scrutiny committee may call in an executive decision in advance of its actually being taken. In such a situation all the time-limits apply as above, except that a key decision cannot actually be implemented any sooner than it would have been had the overview and scrutiny committee not called it in.
- 4.5.21.4 Where the overview and scrutiny committee has called-in a key decision from the forward plan before its due date, the decision cannot be called-in again after the final decision has been taken.

#### **4.5.21 Party whip**

- 4.5.21.1 Government guidance views party or group “whipping” as incompatible with overview and scrutiny functions. Whipping arrangements should not be applied to scrutiny committees and members should be free to comment and vote on matters under consideration.

#### **4.5.22 Public questions**

- 4.5.22.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the public who live or work in Herefordshire. This period may be varied at the discretion of the chairman.

- 4.5.22.1 A question may only be asked if notice has been given by delivering it in writing or by email (councillorservices@herefordshire.gov.uk ) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g. 5.00pm on Thursday where the meeting is on a Tuesday). Each question must give the name and address of the questioner (although only the name and town will be published). Copies of all accepted questions shall be published on the council website before the start of the meeting and shall be made available to the public attending the meeting.
- 4.5.22.3 Questions will be answered in the order in which they are received.
- 4.5.22.4 A member of the public may submit only one question at any meeting of the council, to a maximum of six in any municipal year.
- 4.5.22.5 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- q) it is longer than 70 words;
  - r) it is in multiple parts;
  - s) it does not relate to the remit of the committee or an item on the agenda;
  - t) it is defamatory, frivolous or offensive;
  - u) it is substantially the same as or similar to a question which has been put at a meeting of Council, a committee of council, or cabinet in the past six months;
  - v) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - w) it is from a council employee and the question is connected to their employment; or
  - x) it relates to a planning application or licensing application.
- 4.5.22.6 If a question is rejected, the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.
- 4.5.22.7 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf.
- 4.5.22.8 A questioner who is present at the meeting may, at the discretion of the chairman, also put one supplementary question without notice. A supplementary

question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in 4.4.11.5 above, or if the question takes the form of a statement or more than a minute to ask.

- 4.5.22.9 Where more than one person wishes to raise the same issue or question, they shall be asked to agree a spokesperson to speak on that issue. If they cannot reach such an agreement, the chairman may restrict the number of questions on that issue.

### **Answers to public questions**

- 4.5.22.10 An answer to a question or a supplementary question will be provided by the chairman of the committee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the question is asking for an item to be considered for future inclusion in the work programme the questioner will be advised that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.
- 4.5.22.11 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question

### **Questions from members**

- 4.5.22.12 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the council who are not members of the committee. This period may be varied at the discretion of the chairman.
- 4.5.22.13 A member may ask the chairman a question relating to a matter of the agenda or otherwise within the remit of the committee only if notice has been given by

delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Thursday where the meeting is on a Tuesday).

- 4.5.22.14 The monitoring officer is authorised to reject a question in accordance with the following criteria:
- q) it is longer than 70 words;
  - r) it is in multiple parts;
  - s) it does not relate to the remit of the committee or an item on the agenda;
  - t) it is defamatory, frivolous or offensive;
  - u) it is substantially the same as or similar to a question which has been put at a meeting of Council, cabinet or other committee in the past six months;
  - v) it requires the disclosure of confidential or exempt information or relates to an identifiable individual;
  - w) it is related to an employment matter; or
  - x) it relates to a planning application or licensing application
- 4.5.22.15 If a question is rejected, the member who submitted it will be notified in writing before the meeting and given the reasons for the rejection.
- 4.5.22.16 The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the chairman will put the question on their behalf.
- 4.5.22.17 A member who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in [4.5.22.14](#) above, or if the question takes the form of a statement, or more than a minute to ask.
- 4.5.22.18 An answer to a question or a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, or the time allowed for councillors' questions has expired, a written answer will be provided. If the question is asking for an item to be considered for future inclusion in the work programme the

questioner will be advised that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

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procedure rules

## Section 8 - The planning rules

### Councillor involvement in planning applications

#### 4.8.1 Initial submission of applications

- 4.8.1.1 All members will be informed by e-mail on the submission of a new planning application in their ward.
- 4.8.1.2 All applications will proceed and will be determined under delegated powers unless they fall within the category of applications automatically to be referred to committee or are redirected as provided for under the redirection arrangements in these rules.
- 4.8.1.3 In addition:
  - a the case officer will telephone the ward member (and/or where necessary arrange a meeting) to update the ward member on the processing of the application and any comments received.
  - b as part of this initial conversation the case officer will also identify to the ward member whether an application triggers the need for a section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document.
  - c in the case of applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure that local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by Circular 5/05, the council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the Planning Obligations Manager.
- 4.8.1.4 The ward member(s) for the purpose of this rule is/are the member or members in whose ward the application is located, or whose wards are materially affected by the application.



#### **4.8.2 Determination of Application at Committee**

4.8.2.1 Councillors at Planning Committee will determine those matters which under the Functions Scheme are to be determined by the Committee including those matters redirected under the redirection arrangements set out in these Rules.

4.8.2.2 At Committee the ward member will have an automatic right to start and close the member debate on the application concerned. In multi-member wards each, any or every ward member may speak at the start and close of the debate, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 14 paragraph 5.14.6). In the case of the ward member not being a member of the Committee they would be invited to address the Committee for that item. [In the case of the ward member being a member of the appropriate Committee they will not vote on that item, and act as the ward member as set out above.] To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned. The ward member would initially address the Committee immediately after the public speaking.

#### **4.8.3 Post Decision**

4.8.3.1 Ward members would be advised where appropriate by the case officer, the enforcement team, or the Planning Obligations Manager of the following events:-

- a any evolving inconsistencies between a planning permission and development taking place
- b any appeal against the refusal of planning permission
- c the receipt/apportionment of Section 106 Agreement monies
- d any proposed variations to the Section 106 Agreement.

#### **4.8.4 Redirection of Delegated Planning Decisions**

##### **The Redirection Arrangements**

- 4.8.4.1 Many planning applications are delegated to the Chief Executive and determined by planning officers acting under the Chief Executive's Scheme of Delegation in accordance with the Functions Scheme (Part 3).
- 4.8.4.2 Ward Councillor(s) may choose to ask that sensitive or controversial applications be redirected for a decision by the Planning Committee. Ward Councillor(s) for the purpose of this redirection procedure are the Ward Councillor or any one of the Ward Councillors for a multi-member ward or Members whose wards are materially affected by the application.
- 4.8.4.3 Redirection needs to be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications.
- 4.8.4.4 Redirections should normally be made within 3 weeks of the application being notified to the relevant ward members, subject to 4.8.7 below.
- 4.8.4.5 A redirection will apply in the following circumstances:
- a the application raises unusual or sensitive planning issues which would benefit from the consideration of the Committee, or
  - b the application has attracted an unusually high level of public interest in the relevant area. This might be reflected in the number of letters or e-mails or a petition received in connection with the application, or
  - c there has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.

#### **4.8.5 Conditional Redirection**

- 4.8.5.1 In some cases, Councillors may be content that the application be redirected only if planning officers are intending to grant or refuse planning permission. In that case a Councillor can ask that the matter only be redirected in accordance with this procedure if it is either the intention of the planning officer to grant or refuse the application.

#### **4.8.6 Other Circumstances**

- 4.8.6.1 Any other reasons for requesting a redirection other than those set out above will be considered on their individual merits and circumstances.

#### **4.8.7 Referrals requested after the 3 week period**

- 4.8.7.1 Any of the circumstances set out above could justify a late redirection provided the reasons for the lateness of the request are explained when the request is made. In these circumstances, the Assistant Director Environment, Planning and Waste will make a judgement based on the issues raised, and the stage reached in the processing of the application.

#### **4.8.8 Exceptions to redirection**

- 4.8.8.1 A redirection will occur unless the request is made:
- a in order to “resolve” a disagreement between an applicant and the objector(s) to an application.
  - b where the applicant considers that there is more likelihood of a grant of planning permission if the application is referred to the Committee for a decision.
  - c where the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to Committee for a decision.

#### **4.8.9 Procedure**

- 4.8.9.1 A Councillor requesting the redirection of an application should always provide sound planning reason(s) for doing so based on the circumstances and material planning considerations of the proposal.

- 4.8.9.2 Any such request should be made in writing to the case officer and the Development Control Manager.
- 4.8.9.3 All requests for redirections will be discussed by the assistant director environment and place (or their delegate) with the Chairman of Planning Committee and a decision whether to accept the redirection will be made by the assistant director environment and place (or their delegate) on the basis of guidance set out in these rules and the circumstances and material planning consideration of the case. In the Chairman's absence, the Vice Chairman will be consulted.
- 4.8.9.4 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the application by the case officer, statutory consultees or local residents. In the event that the issue(s) which caused the application to be redirected to the Committee by the Ward Member (and supported by the appropriate officers and the Chairman of the Committee) is/are resolved the Ward Member will be at liberty to withdraw his or her request for a Committee determination. Thereafter the decision will revert to a delegated decision.

#### **4.8.11 Delegations to officers**

- 4.8.11.1 If the assistant director environment and place is unavailable or unable to fulfil any of their functions in these rules, they may nominate a substitute to exercise those functions on their behalf.

#### **4.8.12 Public speaking at planning committee**

- 4.8.12.1 In the case of the planning committee the public will be permitted to speak at meetings when the following criteria are met:
- a the application on which they wish to speak is for decision at the planning committee

- b the person wishing to speak has already submitted written representations within the time allowed for comment
- c once an item is on an agenda for planning committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning committee
- d if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f speakers may not distribute any written or other material of any kind at the meeting
- g speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h on completion of public speaking, councillors will proceed to determine the application
- i the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.



## Section 9 - Employment rules

### **4.9.1 Employment and dismissal of senior officers**

- 4.9.1.1 Subject to paragraphs 4.9.1.1 to 4.9.1.4, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the council must be discharged, on behalf of the council, by the head of paid service or his nominees.
- 4.9.1.2 Paragraph 4.9.1.1 shall not apply to the appointment or dismissal of, or disciplinary action against :
- a head of paid service
  - b section 151 officer
  - c monitoring officer
  - d director for adults and wellbeing
  - e director for children's wellbeing
  - f director for economy, communities and corporate
  - g director of public health
- 4.9.1.3 Where a committee is discharging, on behalf of Council, the function of the appointment or dismissal of an officer designated as the head of paid service, or the dismissal of the council's monitoring officer or section 151 officer Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given. The designation of a post, but not the appointment of an individual to that post, as monitoring officer or section 151 officer must be approved by Council.
- 4.9.1.4 Where a committee of Council is discharging, on behalf of Council, the function of the appointment or dismissal of any officer referred to in paragraph 4.9.1.2 at least one member of the cabinet must be a member of that committee or sub-committee.
- 4.9.1.5 In paragraph 4.9.1.6 "appointor" means, in relation to the appointment of a person as an officer of the council, Council or where a committee, is discharging the function of appointment on behalf of Council, that committee, as the case may be.
- 4.9.1.6 An offer of an appointment as an officer referred to in paragraph 4.9.1.2 must not be made by the appointor until:

- a the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - b the proper officer has notified every member of the cabinet of:
    - i the name of the person to whom the appointor wishes to make the offer;
    - ii any other particulars relevant to the appointment which the appointor had notified to the proper officer; and
    - iii the period within which any objection to the making of the offer is to be made by the leader on behalf of the cabinet to the proper officer; and
    - iv the leader has, within the period specified in the notice notified the appointor that neither s/he nor any other member of the cabinet has any objection to the making of the offer;
  - c the proper officer has notified the appointor that no objection was received by him/her within that period from the leader; or
  - d the appointor is satisfied that any objection received from the leader within that period is not material or is not well-founded.
- 4.9.1.7 In paragraph 4.9.1.8, “dismissor” means, in relation to the dismissal of an officer of the council, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.
- 4.9.1.8 Notice of the dismissal of an officer referred to in paragraph 4.9.1.2 must not be given by the dismissor until:
- a the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - b the proper officer has notified every member of the cabinet of:
    - i the name of the person who the dismissor wishes to dismiss;
    - ii any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
    - iii the period within which any objection to the dismissal is to be made by the leader on behalf of the cabinet to the proper officer; and either:
  - c the leader has, within the period specified in the notice notified the dismissor



that neither s/he nor any other member of the cabinet has any objection to the dismissal;

- d the proper officer has notified the dismisso that no objection was received by him/her within that period from the leader; or
- e the dismisso is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.1.9 The employment panel shall be the appropriate body for the purposes of the functions set out in paragraphs 4.9.1.3 to 4.9.1.8 of these rules.

#### **4.9.2 Interim senior officer arrangements**

4.9.2.1 The head of paid service will make such interim arrangements under contracts for services for senior officers named in 4.9.1.2 above as may be necessary from time to time to ensure that the statutory functions of the council are adequately fulfilled.

#### **4.9.3 Appointment of officers**

4.9.3.1 All jobs will be open to competition and appointments will be made on merit except as provided for in the council's employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.

4.9.3.2 Where the council propose to appoint an officer to any post the head of paid service or his nominee will:

- a draw up a statement specifying:
  - the duties of the officer concerned; and
  - any qualifications or qualities to be sought in the person to be appointed.
- b make arrangements for the post to be advertised in such a way that is likely to bring it to the attention and attract the maximum interest of persons who are qualified to apply for it; and
- c make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.

4.9.3.3 The head of paid service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.

4.9.3.4 Where the appointment is to a post specified in paragraph 4.9.1.2 above, the

head of paid service or his nominee will carry out all steps related to the appointment following consultation with the leader of the council or his nominee.

4.9.3.5 Where the appointment is to the post of head of paid service, the leader of the council will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.

4.9.3.6 The short-listing and interview of candidates for posts specified in paragraph 4.9.1.2 above will be carried out by the employment panel.

4.9.3.7 Every appointment of any officer specified in paragraph 4.9.1.2 above shall be made by the employment panel, save that the appointment of a head of paid service must be approved by full Council.

4.9.3.8 The employment panel shall be advised by the head of paid service or in the event of the appointment of the head of paid service by the officer nominated for that purpose by the leader of the council.

4.9.3.9 The leader of the council (in relation to the appointment of the head of paid service) and the head of paid service in consultation with the leader in relation to those officers to be appointed by the employment panel may appoint external recruitment consultants to assist or advise the employment panel.

#### **4.9.4 Disciplinary action – head of paid service, section 151 officer and monitoring officer**

4.9.4.1 The head of paid service, section 151 officer and monitoring officer may not be dismissed unless the procedure set out in the following paragraphs is complied with. The head of paid service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the head of paid service in which case the leader of the council will nominate an officer to carry out these steps.

4.9.4.2 The council has established a panel (being the employment panel with the addition of such independent persons as set out at 4.9.4.3 below) which will meet at least 20 working days before the full Council meeting which will consider whether to dismiss.

4.9.4.3 A “*independent person*” means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;

- (c) a relevant independent person who has been appointed by another authority or authorities.
- 4.9.4.4 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Localism Act.
- 4.9.4.5 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, Council must take into account, in particular -
  - (a) any advice, views or recommendations of the panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- 4.9.5 The employment panel**
- 4.9.5.1 The employment panel consists of five members of the council and must include at least one member of the cabinet.
- 4.9.6 Terms and conditions of employment**
- 4.9.6.1 The employment panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.1.2 above, and will be a consultee on overall employment terms and conditions (including policies) to be determined by the head of paid service.
- 4.9.7 Voting on appointments**
- 4.9.7.1 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the employment panel in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.
- 4.9.8 Declarations and member involvement**
- 4.9.8.1 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or head of paid service as appropriate

- 4.9.8.2 No member will seek support for any person for any appointment.
- 4.9.8.3 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council

## **Code of Corporate Governance**

### **Introduction**

1. Herefordshire Council must meet high ethical and other standards in everything it does; it must comply with legal requirements; it must serve the people of Herefordshire well; and it must use public money and other resources economically, efficiently and effectively, accounting fully for its actions.
2. This code of corporate governance sets out how this will be done.

### **Responsibilities**

3. All councillors and officers have a responsibility to ensure the proper governance of the council's affairs and the stewardship of its resources. In particular, under the overall responsibility of the chief executive, the council's chief financial officer is responsible for the effective application of this code in matters of financial probity, performance and risk; and the monitoring officer is responsible for the effective application of the code in respect of legal obligations and ethical standards.

### **Reporting**

4. The annual governance statement reported to audit and governance committee will take account of annual reviews undertaken by the chief finance officer, monitoring officer and caldicott guardian on the council's compliance with this code.

### **The principles of this code**

5. This code adopts the following five principles of good governance:
  - a) To provide the best possible service to the people of Herefordshire
  - b) To define the roles of councillors and officers, ensuring that they work together constructively, and improving their effectiveness
  - c) To require high standards of conduct
  - d) To take sound decisions on the basis of good information
  - e) To be transparent and open, responsive to Herefordshire's needs and accountable to its people.
6. The rest of this code demonstrates how the council will put these principles into action.

7. To- provide the best possible service to the people of Herefordshire, the council will
  - Set out a strategic plan to improve the quality of life for the people in the county, and be clear about its intended outcomes for citizens
  - Provide high quality services representing excellent value for money;
  - Develop and sustain effective partnerships where there are benefits in doing so
  - Encourage public participation in Herefordshire local government
  - Identify and manage risk
  - Measure performance rigorously and improve it where necessary
8. To define the roles of councillors and officers, ensuring that they work together constructively, and improving their effectiveness, the council will
  - Encourage and support effective leadership, and constructive working relationships, at all levels
  - Make clear the roles of councillors and officers, the way in which decisions are taken, and the nature and limits of delegated authority
  - Determine remuneration in a transparent and open way, with recommendations on councillors' allowances made independently
  - Ensure that councillors and officers have the training and support they need to be effective; that their performance is appraised; and that development needs are addressed
9. To require high standards of conduct, the council will:
  - Create and maintain a climate of openness, mutual support and respect
  - Ensure that councillors and officers display consistently high standards of conduct
  - Be punctilious in ensuring that governance and decision-making reflect these high standards
  - Take effective action to investigate any concerns raised and take appropriate action if we fall short of the standards set.
10. To take sound decisions on the basis of good information the council will
  - Be open about how and why decisions are taken
  - Demonstrate and record the evidence and analysis underpinning decisions
  - Enable and support effective scrutiny of those decisions
  - Guard against any conflict of interest
  - Ensure that the principles of good decision making are upheld
11. To be transparent and open, responsive to Herefordshire's needs and accountable to its people the council will:
  - Be open about its actions and plans, subject to the requirements of the law or of personal or commercial confidentiality
  - Give a high priority to communicating and explaining its policies

- Respond readily to public needs and aspirations
- Take prompt and effective action on complaints
- Publish a comprehensive annual report on compliance with this code ensuring it is kept under appropriate review.

Left blank for:

- Councillor code of conduct
- Employee code of conduct
- Use of council resources by members
- Member and officer relationships
- Code on gifts and hospitality



## Section 3 - Whistleblowing code

### 5.3.1 Introduction

- 5.3.1.1 People working for an organisation are often the first to realise that there may be something seriously wrong within it. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to the organisation or they may fear harassment or victimisation. In these circumstances they may feel it easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 5.3.1.2 The council is committed to the highest possible standards of openness, probity and accountability. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of without fear of victimisation, subsequent discrimination or disadvantage.
- 5.3.1.3 The code, comprising the policy and procedure that follow, applies to all employees of the council (excluding those employed at a school by a school governing body where separate arrangements will apply), temporary employees, trainees and independent contractors. The code also applies to those engaged through an external agency. For ease throughout the code the term 'employees' is used.
- 5.3.1.4 Even where safeguards are already in place, poor practice can still exist and an employee may have a concern about an aspect of service provision or the conduct of officers, members of the council or others acting on behalf of the council. This may be about something that:
- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the council subscribes to; or
  - is against the council's standing orders and policies; or
  - falls below established standards of practice; or
  - amounts to improper conduct.
- 5.3.1.5 As a safeguard for the council and in keeping with our legal duties and obligations, this policy and procedure sets out a framework within which

employees can make a “protected disclosure” without fear that they will be subjected to victimisation or dismissal (and selection for redundancy) provided that the disclosure is made in accordance with the Public Interest Disclosure Act 1998 (“The Act”) and (amendments in accordance with the Enterprise Regulatory Reform Act 2013). It is important for employees to be aware that they can only make a protected disclosure in certain circumstances. A “protected disclosure” must be of a certain type of information known as a “qualifying disclosure” and the disclosure must be made in a way which is described in the Act.

### **5.3.2 Policy**

- 5.3.2.1 A qualifying or protected disclosure is a disclosure of information made in the public interest which in the reasonable belief of the employee making the disclosure tends to show one or more of the following:
- illegal practices (for example, a criminal offence).
  - a failure to comply with a legal obligation.
  - the health and safety of an individual, whether this is a member of the public or staff being endangered.
  - damage to the environment.
  - miscarriage of justice.
  - deliberate concealment of any of the above.
- 5.3.2.2 This policy is intended to cover concerns that fall outside the scope of other existing procedures and policies of the council. Where an employee has a concern which is personal and relates only to themselves rather than wrongdoing of a more general nature this will be treated as a grievance and the grievance policy will apply. The anti-fraud, bribery and corruption policy which states the council's zero-tolerance position on such matters is also to be observed in conjunction with this policy.
- 5.3.2.3 Any matter raised under this policy will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.
- 5.3.2.4 All concerns will be treated in confidence and every effort will be made not to reveal their identity if an individual wishes. At the appropriate time, however, the individual may need to come forward as a witness. This should be discussed

with the individual early on to establish if this is possible, but should not be regarded as a barrier to investigating the matter.

- 5.3.2.5 Concerns expressed anonymously will be considered at the discretion of the council, but by their nature may not be regarded as "protected" under the Public Interest Disclosures Act 1998.
- 5.3.2.6 All reasonable steps will be taken to ensure that no employee will be victimised or suffer any detriment for raising a matter under this procedure. This means that continued employment and opportunities for future promotion or training of the employee will not be prejudiced because they have raised a legitimate concern.
- 5.3.2.7 In exceptional circumstances, and in order to protect someone who has raised a qualified disclosure, or to facilitate thorough investigation, a whistle blower may be redeployed. This may be on a permanent or a temporary basis and will always be subject to mutual agreement with clear terms, under which there will be no detriment to that individual.
- 5.3.2.8 Harassment or victimisation of an employee for raising a qualified disclosure will be a disciplinary offence. Co-employees who victimise whistle blowers can be made personally liable for their own conduct, and the council could be held vicariously liable if it has not taken all reasonable steps to prevent victimisation.
- 5.3.2.9 If misconduct is discovered as a result of any investigation under this procedure the council's disciplinary procedure will be used, in addition to any appropriate external measures.
- 5.3.2.10 No action will be taken if an allegation is made but is not confirmed by an investigation.
- 5.3.2.11 Maliciously making a false allegation is a disciplinary offence. Allegations made in similar spirit for personal gain may also be treated similarly and neither action would be protected.

- 5.3.2.12 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter to the monitoring officer.

### **5.3.3 Procedure**

- 5.3.3.1 In the first instance, anyone with a concern should normally raise this with their line manager. If the seriousness and sensitivity of the issues involved and who is suspected of the malpractice mean that the employee is reluctant to approach their line manager, as an alternative, a concern may be raised with:
- The chief executive (Tel: 01432 260044; email: [alistair.neill@herefordshire.gov.uk](mailto:alistair.neill@herefordshire.gov.uk))
  - The monitoring officer (Tel: 01432 260657; email: [claire.ward@herefordshire.gov.uk](mailto:claire.ward@herefordshire.gov.uk) )
  - The chief finance officer (Tel: 01432 383514; email: )
  - Internal audit manager (Tel: 01432 260294; email: [jacqui.gooding@southwestaudit.co.uk](mailto:jacqui.gooding@southwestaudit.co.uk))
- 5.3.3.2 A concern may be made orally or in writing and the earlier it is raised, the easier it is to take action. Advice and guidance may be sought from:
- Monitoring Officer; or
  - A trade union; or
  - Public Concern at Work – an independent charity  
<http://www.pcaw.org.uk/adviceline> Tel 020 7404 6609
- 5.3.3.3 It is not the role of the whistleblower, or elected members to attempt to investigate any suspected malpractice.
- 5.3.3.4 Any person identified in 5.3.3.1 above receiving a concern should immediately inform the monitoring officer. The monitoring officer will inform internal audit of the concern, and identify an appropriate lead (ordinarily the relevant line manager) who, within five working days of the concern being raised, should write to the person raising the concern to:
- acknowledge that the concern has been received;

- indicate how it is proposed that the matter will be dealt with;
- give an estimate of anticipated timescales;
- advise of any initial actions or enquiries thus far;
- explain if further investigations will take place, including any possible interviewing of the whistle blower as a witness, and if not, why not;
- reassure of support and safeguards in place to protect them;
- signpost to further support e.g. employee assistance programme.

5.3.3.5 It may be possible to resolve some concerns without the need for investigation. If an investigation is required, it may be investigated through the following channels, as appropriate:

- by management, internal audit or through the disciplinary process;
- by the monitoring officer as a standards matter under the councillor code of conduct;
- referral to the police;
- referral to the external auditor;
- an independent inquiry
- Concerns or allegations which fall within the scope of specific procedures, such as safeguarding, would normally be referred for consideration under those procedures.

Any urgent action, if required, will be actioned before an investigation commences.

5.3.3.6 The outcome of any investigation will be unique to each case and subject to determination by the requirements of any specific procedure followed. Outcomes may include, but not be exclusive to, reviews of policy and practice, or formal disciplinary action against one or more officers. If it is found that the concern was found to be unfounded and raised with malicious or mischievous intent, then formal action will be taken against the person raising that concern.

5.3.3.7 The identified lead will, at the conclusion of any investigations, write to the person to let them know the outcome. Depending on the nature of the matter, there may be limitations to what may be disclosed. If the whistleblower considers the outcome to be unsatisfactory, they may raise the matter with appropriate/relevant external statutory or regulatory bodies e.g.:

- Health and Safety Executive

- Ofsted
- Care Quality Commission
- External audit
- Local Government Ombudsman
- The police

## Section 12 - The Planning Code

This Code supplements the Councillor Code of Conduct.(Part 5 Section1) Where the provisions of this Code conflict with or are inconsistent with the Councillor Code of Conduct, the latter shall prevail. However, following this Planning Code should assist Councillors in complying with the Councillor Code of Conduct. Councillors should ensure that they are familiar with both Codes and take advice from the Monitoring Officer where necessary to ensure compliance.

The obligations and responsibilities of this Code apply to all Councillors of the Planning Committee and in similar ways to all other Councillors.

The Council's planning policies are adopted in the public interest for the benefit of the whole community rather than for any particular individual or interest group. Decisions are required to be taken in accordance with the current development plan and having regard to all material considerations. Each planning application is considered on its merits. However, planning decisions by their very nature are often contentious, with strong contrary views being expressed. Any decision can be the subject of detailed scrutiny or challenge. Failure to follow the requirements of this Code may result in sanctions under the Councillor Code of Conduct, or may be regarded by the Local Government Ombudsman as incompatible with good administration.

This code covers the conduct of both Councillors and Officers. It relates to the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The code is designed to promote greater mutual support and understanding between Councillors and Officers to the benefit of all involved in the planning process. It is also designed to give the public greater confidence that Herefordshire Council discharges its planning responsibilities fairly and openly.

This code is set out in the form of a series of headings with a brief outline of the issues involved, followed by practical advice.

This code consists of three principal parts. The first relates to Members of the Committee. The second relates to all other Members of the Council and the third relates to Council officers

### **PART 1 - THE ROLE OF COUNCILLORS WHO ARE MEMBERS OF THE COMMITTEE**

5.12.1.1 In making decisions on planning applications, **you will:**

- a act fairly and openly and without prejudice**
- b approach each application with an open mind**
- c carefully weigh up all the material planning considerations**
- d avoid inappropriate contact with interested parties**

**e ensure that valid reasons for decisions are clearly stated.**

5.12.1.2 **You will** be free to vote on planning applications as you consider appropriate (that is, without a Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, **you will** base your decisions on the provisions of the Herefordshire Local Plan Core Strategy 2011 - 2031 and all material planning considerations.

5.12.1.3 **You must not** give instructions to officers nor may you place pressure on officers in order to secure a particular recommendation on an application.

5.12.1.4 **You will not** use your position improperly to confer or secure for yourself, or for any other person, an advantage or disadvantage.

**5.12.2 Discussions with applicants**

5.12.2.1 **Pre-application meetings** with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They **will normally involve officers**, and will follow the guidance in the following paragraph.

5.12.2.3 It will be made clear at pre-application meetings that:

- a Member or officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Local Plan Core Strategy and other adopted Council policies
- b no decisions may be made or advice given which would bind or otherwise compromise any planning decision
- c Members should avoid giving separate advice on the development plan, material considerations, or planning obligations

A written note is made of the discussion and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted.



- 5.12.2.5 **You may, following discussion with the appropriate planning officer, take part in organised post-submission meetings with applicants or other parties.** A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. It is recommended that at least one Planning Officer will be present at all such meetings.

### **5.12.3 Lobbying**

- 5.12.3.2 Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, **members will:**

- a** take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have taken into account all relevant considerations . **direct lobbyists or objectors to the planning officer, and**
- b** **advise the head of regulatory and development management services as soon as possible of the existence of any substantial or abnormal lobbying activity.**

### **5.12.4 Site Inspections**

- 5.12.4.1 Site Inspections by the committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision. This is true particularly when the issues concern, for example, visual impact, the character of an historic building or the effect of development on local amenity. However, site inspections are costly, cause delay to decisions and are an unsuitable place for holding a reasoned debate.

The criteria for holding site inspections are:

- a** the character or appearance of the development itself is a fundamental planning consideration; or

- b a judgement is required on visual impact; or
- c the setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.

The chairman of the planning committee and the assistant director Environment and place will determine which applications will be the subject of a prior site inspection. This does not prevent any member of the committee requesting a site inspection of a site at the committee meeting when it has not already been visited by this procedure.

5.12.4.2 Site Inspections should not be held when inspection of the site is irrelevant to the material conditions. Any member of the committee may request a site inspection, but reasons based on the above criteria must be stated, and will be minuted.

5.12.4.3 **The purpose of the site visit is fact finding.** Officers will be able to point out relevant features of the site and surroundings. You will be able to see the physical features of the site and ask questions through the chairman or the officers to seek clarification. Neither the applicant/agent nor third parties will be allowed to participate in the site inspection. The input of these parties is made at the committee meeting itself. At the discretion of the chairman of the planning committee the appropriate parish or town council may be invited to observe the inspection. In these circumstances the parish or town council may not contribute to the opportunity to ask questions of officers on site.

5.12.4.4 **No discussion of the merits of the case is permitted at site inspections and all questions from you will be put through the chairman.**

5.12.4.5 The visiting party will stay together as a group. Wherever possible the party should arrive at and leave the site together.

5.12.4.6 As a member of the planning committee when on site visits you should not make any comments that could create an impression that you had already formed a view on the merits of the application. No decision on the application should be made until the meeting of the planning committee at which the application is to be

considered, when they will have before them all necessary information to be able to make an informed decision, including any material facts arising from the site visit which the assistant director environment and place considers should be reported to the committee.

#### 5.12.4.7 Conduct of visits

- a visits will be conducted in a formal manner.
- b the chairman or vice-chairman will open the visit ~~meeting~~, and remind members of its purpose and conduct.
- c Officers will highlight issues **relevant to site inspection**. If issues are raised which necessitate consultation with the applicant or his agent, this should be done after the close of the ~~meeting~~-visit and the outcome reported to the subsequent committee.
- d Ward members will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
- e the chairman or vice-chairman will close the ~~meeting~~ visit.

#### 5.12.4.8 General matters

- a No decision will be made concerning the application on site.
- b no formal notes will be made.
- c no hospitality will be accepted.

5.12.4.9 **If you find it necessary to visit a site alone (perhaps because it was not possible for you to attend a committee visit), you should view the site only from public vantage points, seek to avoid any discussion with interested parties, and, if there is such discussion, make it clear that no decision on the application will be taken until it has been discussed at committee.**

#### 5.12.5 Material submitted to committee

5.12.5.1 If you receive material from or on behalf of an applicant or third party in connection with an application before a committee you should establish from the planning officers whether the material has been received by them. If it has not,

you should make it available as soon as possible to the assistant director environment and place

- 5.12.5.2 Documents in connection with an application should all be dealt with in the officer's report to committee. Any additional information received after the preparation of that report up to noon on the day before the committee meeting will also be brought to the attention of the committee if it raises new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their accuracy or to give consideration to their implications. A printed committee update will be published to the council's website the evening before the meeting.

#### **5.12.6 Declaration of interests at committee**

- 5.12.6.1 Interests need to be considered and declared as necessary in accordance with the code of conduct.
- 5.12.6.3 **If you declare a disclosable pecuniary interest, or an “other interest which relates to a financial interest** then under the code , you may attend a Planning Committee meeting only for the purposes of making representations, **provided** that the public are also allowed to attend the meeting for the same purpose. You must declare the nature of your interest at the start of the meeting. If you have such an interest you should notify the monitoring officer before the meeting that you wish to speak.
- 5.12.6.4 If you have such an interest the procedure in committee will be as follows. The planning officer will present the report. If you want to make representations, you take your place in the space allocated to public participation. You may make representations for no longer than three minutes (the time allocated to public participants at planning committee). Thereafter, you may take no further part in the debate or decision-making of the planning committee, and must immediately leave the meeting. You may not stay in the meeting or listen to any other public participation in respect of the application.
- 5.12.6.5 Withdrawal from the meeting involves physically leaving the meeting room. Moving to the public gallery is not sufficient. The chairman of the committee should suspend the proceedings of the committee briefly while you leave the committee room.

- 5.12.6.6 Where you have a dispensation granted by any appropriate person or body allowing you to speak and/or vote on a matter in respect of which a prejudicial interest has been declared, that dispensation applies also to this code, but you still need to declare the interest.

#### **5.12.7 Cabinet members**

- 5.12.7.1 There will be occasions when a cabinet member will wish to express comments on a particular application. This may include where the council is the applicant. Cabinet members are permitted to **speak at the planning committee meeting to speak for the item, but must then withdraw from the meeting while the application is discussed and determined.**

- 5.12.7.2 Where a cabinet member has a ward representation role, they may, at the discretion of the chairman, also speak as local member.

#### **5.12.8 Planning committee members who serve on parish and town councils**

- 5.12.8.1 Some councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances members may express their views and vote at the respective meetings of both councils having regard to the information available to them at that time. Having voiced a view and/or voted at a parish council meeting will not of itself prevent involvement in decision making at planning committee. Prior indication of a view on matter does not amount to predetermination. Similarly members on the planning committee can attend parish meetings in their ward and speak about planning applications. Talking to constituents be they applicants or objectors is permitted it does not mean you have a closed mind. A committee member will not be taken to have a closed mind just because they may previously have done anything that directly or indirectly indicated what view they had, would have or might take. .

#### **5.12.9 Voting at committee**

- 5.12.9.1 **You will only be able to vote on an application before a committee if you have been present for the whole of the presentation of and discussion on the application.**

#### **5.12.10 Decisions contrary to officer recommendations or to development plan policies**

5.12.10.1 From time to time, there will be occasions when you or the planning committee disagree with the professional advice on an application given by the assistant director environment and place

5.12.10.2 The law requires that decisions should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compensation Act 2004)

5.12.10.3

5.12.10.5 If the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file. In this context Members should be prepared to explain in full their reason for not agreeing with the officers' recommendation. In so doing, Members should observe the 'Wednesbury principle' which requires all relevant information (i.e. material considerations) to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored.

#### **5.12.11 Applications in which a member of the council has an interest**

5.12.11.1 All applications which are submitted by or on behalf of a member of the council in their private capacity, by their partner, a member of their family or a close association must be drawn to the attention of the assistant director environment and place by the member in writing. If the member has a material interest in the outcome of the application or if the application is submitted by their partner, it will be determined by the planning committee and if you are a member of that committee **you must take no part in the determination of the application. You must declare a prejudicial interest and may only speak as the applicant or appoint an agent to speak on your behalf in accordance with the Planning Rules (Part 4 Section 8 paragraph 4.8.12 (Public Speaking at Planning Committees) f.**

#### 5.12.11.3

- 5.12.11.4 If the application is from a member of your family or a close association, or you otherwise have a conflict of interest, then the chairman of the planning committee will appoint another member of the council to provide procedural and other advice and information to the applicant, and to the town or parish council concerned. If the application is also in your ward this member will speak at committee.

#### 5.12.12 Hospitality

- 5.12.12.1 As a member of the council **you are strongly discouraged from receiving hospitality from people with an interest in any planning proposals.** If receipt of hospitality is unavoidable, you will ensure that it is of the minimum level and, if it exceeds the level to which the requirement for declarations of gifts and hospitality applies. You must declare the offer as soon as possible, in the register kept by the monitoring officer.

#### 5.12.13 Training

- 5.12.13.1 As a member of the planning committee you are required to undergo training in planning procedures. This will normally take place within three months of appointment to the committee and at appropriate intervals thereafter. A record will be kept by the monitoring officer of the training you undertake. Members who have not undertaken the training, may not participate in meetings of the committee until such training has been completed.

### **PART 2 - THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

#### 5.12.14.1

- 5.12.14.2 Non-committee members who are members for wards affected by an application represent their own views or that of their constituents as a consultee and will be consulted on the application invited to speak at the planning committee and attend any site inspections that take place in their ward.

5.12.14.3 Non-committee members should not lobby planning committee members in order to secure the outcome on a planning application that either they or their constituents seek. The ward member, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning Committee in accordance with the council's procedure for public speaking at the planning committee.

5.12.14.4 All council members may attend meetings of the council's planning committee even if they are not a member of the committee. You should not sit in the public gallery, but in the place reserved in the committee room for members of the council who are not Members of the Planning Committee.

### **PART 3 - THE ROLE OF OFFICERS**

5.12.15.1 In making delegated decisions on applications, officers will:

- a act fairly and openly
- b approach each application with an open mind
- c carefully weigh up all the material planning considerations
- d avoid inappropriate contact with interested parties
- e ensure that reasons for decisions are clearly stated

5.12.15.2 In reporting to committee, officers will:

- a provide professional and impartial advice
- b make sure that all information necessary for a decision to be made is given
- c set the application in the context of the development plan documents and all other material considerations
- d include the substance of objections and the views of people who have been consulted
- e provide a clear and accurate written analysis of the issues
- f give a clear recommendation



5.12.15.3 Record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. Particular care is to be taken with delegated decisions, which should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.

5.12.15.4 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in paragraph 5.13.5.2 above will be presented orally to the Planning Committee by officers.

5.12.15.5 The assistant director environment and place in discussion with the Chairman of the Planning Committee, may withdraw any item from the agenda of the Planning Committee after the preparation of the report but before discussion by the Planning Committee if the circumstances of the consideration of an application change within that period.

5.12.15.6 Officers are responsible for carrying out the decisions of the Planning Committee, whether or not those decisions are in line with officer recommendations.

#### **5.12.16 Discussions On Planning Applications**

5.12.16.1 All officers taking part in pre-application or post-submission discussions with applicants, supporters or objectors should make it clear that decisions on planning applications are taken either:

- a by the elected Members in Committee, or
- b in specific circumstances by the assistant director environment and place or by an officer to whom they have the power to delegate.

5.12.16.2 A written note will be made of all such meetings and may be distributed. The meeting note and any follow-up correspondence must be placed on the planning application file, in case an application is made following initial discussions.

#### **5.12.17 Disclosures of Interest**

- 5.12.17.1 Officers must play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal or financial interests, those of their families or friends, and their professional duty. They must openly declare the existence of any such conflict in writing to the assistant director environment and place. Any interest the assistant director environment and place has in an application must be declared to the Monitoring Officer.

#### **5.12.18 Applications Submitted by Officers**

- 5.12.18.1 All applications submitted from officers who are employed in the planning service or work closely with it or is a senior manager as defined in the councils pay policy statement, or by a close family member such that the officer has a material interest in the application, must be reported to the Planning Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to officers. If the officer concerned is present at the meeting of the Planning Committee at which such an application is determined, they must leave the room during consideration of the application.

#### **5.12.19 Hospitality**

- 5.12.19.1 Officers may not receive gifts or hospitality beyond usual refreshment (such as tea or coffee) at a meeting, from people with an interest in a planning proposal.

#### **5.12.20 Action on Decisions Taken Contrary to Professional Advice**

- 5.12.20.1 In cases where an officer recommendation for approval has been overturned by Committee and an appeal is lodged:
- a officers will give full support to Members and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and
  - b officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached; and

- c where a hearing is to be held, with no cross-examination, officers may give evidence themselves, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation ;and
- d officers must give full support to Member decisions which are appealed using the written representations procedures.

# **Left blank for: Councillor call for action**

## Public guide to participation

A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community, and this guide gives an overview of the ways in which you can do that.

### Attending meetings

We encourage the public to attend meetings of the council and its committees, and anyone attending is able to record or film what takes place at them provided that doesn't disrupt the meeting. Details of what meetings are coming up are published on the council's website at [xx](#), and also published in public offices of the council.

The agenda and papers are normally published on our website at least five working days in advance of the meeting and a small number of copies are available for members of the public at the meeting. Draft minutes of the meeting are also published on the website as soon as possible after the meeting.

*Include paragraph on web/audio casting when available.*

### Why are some meetings private?

Nearly all meetings of the council and its committees are held in public. However on rare occasions an agenda item includes information which may be personal to an individual, which would compromise the commercial position of the council or another individual or organisation or which there are other particular legal or employment reasons for considering asking the public to leave the meeting for discussion of that item. When this is the case we will explain the reasons why and, as far as is legally possible, will afterwards provide a public summary of the decision taken.

### Asking questions at meetings of the council

#### Which meetings can the public ask questions at?

Questions can be asked at public meetings of:

- Full Council
- Audit and governance committee
- Cabinet
- Employment panel
- Health and wellbeing board
- Overview and scrutiny committees

#### Who can ask questions?

Questions can be put by anyone living or working in Herefordshire.

### **What notice is required for questions?**

A question must be delivered by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) by no later than 5pm two working days before the date of the meeting. Each question must provide the name and address of the questioner.

### **How many questions can be asked?**

A member of the public may ask one question at any public meeting of the council as listed above, subject to a maximum of six questions in any one municipal year.

### **What is the scope for questions?**

Questions should relate to the function of the committee where they are being asked. A question at full Council can be addressed to any chairman or cabinet member and must relate either to something that the council is responsible for or that affects the county.

We will not consider any question that is defamatory, offensive or frivolous. Additionally, we will reject a question which is substantially the same as a question which has been put at any meeting of the council in the last six months, is in multiple parts, is longer than 70 words, or requires the disclosure of confidential information or relates to an identifiable individual, is from a member of staff and relates to their employment, relates to a planning or licensing application or if at a meeting other than full Council does not relate to the function of the committee or a matter on the relevant agenda. If your question is rejected, you will be told before the start of the meeting and given the reasons why.

### **What happens at the meeting?**

Time is made available early on the agenda for any accepted questions to be dealt with. Copies of any questions will be published on the council's website before the start of the meeting, and will be made available to members of the public who attend the meeting.

The chairman will invite the questioner to put the question to the councillor named in the notice. If the questioner is unable to attend the meeting, the chairman will state that a written reply will be given.

A questioner who has put a question in person can also ask one supplementary question, without notice, in response to the reply to their question. A supplementary question must

arise directly out of the original question or the reply given. The chairman can reject a supplementary question on any of the grounds detailed in the section above.

### **What form will the reply take?**

The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided.

There cannot be any discussion on questions but any matters raised by a question can be referred to the relevant cabinet member or the appropriate committee to consider.

### **Petitions**

We welcome petitions from those who live or work in Herefordshire and recognise that petitions are one way in which people can let us know their concerns or the strength of public feeling.

### **What is the scope for petitions?**

Petitions must relate to a matter over which the council has powers or duties and may be rejected if they: contain language or statements which are defamatory, frivolous, vexatious, discriminatory, false, or otherwise offensive; disclose confidential or exempt information; name individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies; make criminal accusations; contain advertising statements; refer to an issue which is currently the subject of a formal council complaint, Local Government Ombudsman complaint or any legal proceedings; or relate to a matter where there are other statutory processes in place for dealing with these matters (such as planning or licensing application matters or statutory petitions for a referendum).

### **How can a petition be submitted?**

Petitions may be paper based or online and an online facility for running a petition is provided on the council's website. There is no standard format for a petition but it must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish us to take;
- the name and address and signature of any person supporting the petition, which must be not fewer than 15 people; and
- contact details, including an address, for the petition organiser who will be the person we will contact to explain how we will respond.

The chairman of the council is available to receive petitions before the start of each ordinary meeting of full Council; if you wish to arrange this please contact:

[councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk) . During the meeting, as part of chairman's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairman who will respond in writing to the petition organiser. You may ask your ward councillor to present the petition on your behalf. Petitions may also be sent in to XXX

### **What happens once a petition has been submitted?**

All petitions sent or presented to the council will receive an acknowledgement within 10 working days of receipt explaining how we will respond.

Details of all petitions received, and of our response, will be published on the website. The contact details of the petition organiser or signatories to a petition will not be placed on the website.

If your petition has been signed by a certain number of people who are registered to vote in the county then you may request that the petition is scheduled for debate at the next ordinary meeting of full Council. If that is the case up to 30 minutes will be allowed for the debate and the petition organiser will have the opportunity to briefly present the petition at the start of the debate. In order to be debated at a meeting of full council the number of Herefordshire electors who have signed the petition must be at least 5% of those on the electoral roll for the county.

### **What do councillors and officers do?**

#### **What councillors do....**

Councillors are directly elected to represent the people and therefore have to consider not just the interests of their ward, but those throughout the whole county.

Your councillors are responsible for making sure that the services that the council provides meet the needs of residents and those who work in Herefordshire. They do this by setting the overall policies and strategies for the council and by monitoring the way in which these are implemented. Councillors have a complex role and act in a number of capacities: as committee member, constituency representative and party activist.

The full Council of 53 members is responsible for agreeing the main policies and priorities for all services, including the council's budget. The cabinet have responsibility for all decisions which the law, or the Council, does not require to be taken by others and agrees policies and actions to implement the budget and policies set by full Council. Councillors who are cabinet portfolio holders have more specialised roles in agreeing particular policies, representing the council while at the same time working with other agencies to tackle issues such as improving overall health and wellbeing, social care and safeguarding, education, housing, transport, and promoting economic growth within the county.



## **What council officers do....**

Council officers are the professional people who work for the council and who are paid to deliver the services agreed by councillors.

Officers help councillors to develop policies and objectives through providing professional expertise and advice but they must remain impartial and serve the council as a whole. Their main role is to provide the public with the highest possible standards of service within the budget that the councillors set and in accordance with the priorities agreed by the councillors.

## **What can my councillor do for me?**

### **Your councillor can:**

- be contacted to discuss your problem or ideas to improve the ward or county
- help you if you need information or are dissatisfied with a council service by advising or directing you to someone who can help sort out your problem, and can sometimes progress the case on your behalf
- as a community leader, put forward proposals to improve the ward they represent which may include bringing together different community groups to develop a case for change
- campaign on local issues
- represent your community within the council and to other organisations
- speak at planning committee on matters affecting the ward they represent
- ask questions or put forward views on your behalf at public meetings of the council
- present petitions on your behalf
- get an issue (either within the remit of the council or on a matter affecting the county) debated at full Council by submitting a motion.

## **Decisions**

### **How do I know what decisions are being taken about matters that affect me or where I live?**

We provide on our website ([Forward Plan](#)) summary information about future significant decisions to be taken by the cabinet, together with contact details so that you can find out more information or provide your views. You can also contact your ward member and ask them to put forward your views on your behalf.

Planning or licensing applications which have been submitted are also published on the council's website so that those who may be affected are able to make comments on the proposal.

The agendas and minutes of meetings are published on the website, and where a decision has been taken by a cabinet member or officer, the decision report and notice of the decision are published on the website.

### **Are all decisions recorded and published?**

Many are, but there are lots of day to day decisions which are not published. The council has decided that officer decisions with a financial value of less than £xxx will not be published unless there is a legal requirement to do so. This is because the number of such decisions would make it impractical to publish.

### **Why is some information kept confidential?**

We aim to publish information unless there is good reason not to. Sometimes a decision takes into account information which may be personal to an individual, or which would compromise the commercial position of the council or another individual or organisation. There may be particular legal or employment reasons for not making the information public. When this is the case we will explain why the information cannot be made public, and will periodically review whether those reasons remain valid. If they do not we will then release the information.

### **How long is information about decisions kept?**

Generally the law requires information to be available for public inspection for six years from the date of the decision.

### **How do I find out about decisions taken by partnerships?**

Herefordshire Council works with a wide range of partners to achieve shared objectives in an efficient and effective way. We keep a register of strategic partnerships on our website which includes information about where decisions taken by those partners is recorded and how you can find out more about them.

### **What if I can't find the information I am looking for?**

The Freedom of Information Act 2000 gives you a general right of access to all types of recorded information that we hold. More information about how to make a request, and about your other legal rights to information, can be found at: xxx

### **Other ways of getting involved**

#### **Planning**

Information about planning applications submitted is available on the council's website and public notices are displayed in the area affected. You may submit comments on a planning

application which will be considered by the decision-maker. If the application raises unusual or sensitive planning issues you can ask your ward member to request that the application is considered by the planning committee rather than a single officer.

If you have provided comments on a particular planning application which is considered by the planning committee you will be asked whether you wish to register to speak at the committee to present your views. Three minutes is generally set aside for public speaking in objection to an application. Registration is on a first come first served basis. The time can be shared with the agreement of the person who has registered first.

## **Consultations**

The council encourages as many people as possible to give their views on decisions which affect them. Details of live consultations and how to get involved are available at xxx. You can also find information about past consultations there.

## **Overview and scrutiny reviews**

You may request that a matter or concern be considered for inclusion in the future work programme of an overview and scrutiny committee. The committees cannot include every suggestion but prioritise items taking into account: the significance and impact of the issue; the ability of scrutiny input to add value; the need to avoid any duplication; the timeliness of scrutiny involvement and the resources available to undertake the work.

The committee may invite members of the public to submit their views or evidence to inform its work; when they do this the call for evidence will be publicised.

## **Vote**

Elections take place for Herefordshire Council and all the town and parish councils in the county every four years as well as national elections, and police and crime commissioner elections. Your vote in all these elections and any other referendums that take place is important, but in order to vote you must be on the electoral register. Information about how to register is available at xxx

## **Stand for election**

If you are interested in standing for election as a parish councillor or as a Herefordshire councillor you can find out more at XXX.

## **Volunteer**

We provide a wide variety of services to people in Herefordshire, particularly to those who are vulnerable and have complex needs. As more pressure is placed on our budget, and on the budgets of partner organisations, different ways of delivering these services are being

developed. Individuals and communities are doing more to help each other and themselves. If you are interested in volunteering or have an idea for your community you would like to develop more information is available at Xxx.

### **Give feedback**

We want to hear what you think about our services. What you say is important and will help us improve our services. More information can be found at:

### **Find out more...**

The council's website provides lots of advice and information as well as access to online services and you can sign up to receive updates on particular matters of interest. If you can't find what you are looking for some useful contacts are below:

Customer services.....

Freedom of information.....

Governance.....

Your councillor.....

Your parish council.....

## Guide to roles and responsibilities of councillors

### **1. Summary**

- 1.1 To serve all constituents within the ward, and the citizens of Herefordshire as a whole by acting as an effective advocate, campaigner and representative.
- 1.2 To promote the economic, social and environmental wellbeing of ward constituents and the those who live and work in the county as a whole, and to act in accordance with the high standards of probity in public life, seeking to serve the community without personal gain.
- 1.3 To be a corporate parent to looked after children and young people in the county.

### **2. Being effective**

- 2.1 To be effective councillors should:
  - fully understand and act in accordance with the councillors' code of conduct and the general principles that govern councillors' conduct.
  - have a knowledge and understanding of the council's constitution.
  - have a knowledge and understanding of the council's organisation and management structure and who to ask for information and advice.
  - attend all meetings of bodies on which they serve together with seminars and training sessions on subjects of relevance to them and their particular areas of involvement and interest.
  - accept personal responsibility to take up opportunities for training and development that may be provided and generally to extend and broaden their knowledge of local government affairs through reading, discussion and enquiry.

### **3. Different roles for some councillors**

- 3.1 Some councillors will undertake markedly different roles (e.g. the leader, cabinet member, committee chairman, scrutiny member etc). These differing roles are outlined in the role profiles at appendix 1 to this section.

### **4. Standards of conduct and probity**

- 4.1 All councillors must agree to abide by the councillor code of conduct. Councillors will be given suitable training on taking office and receive ongoing support and briefings on this subject during their time in office.
- 4.2 Councillors must also abide by all the requirements of the council's own constitutional arrangements. Any breach of the codes in the constitution may constitute a breach of the councillor code of conduct and councillors should be aware of the procedures for dealing with complaints.
- 4.3 Councillors are expected to behave at all times in accordance with the high standards of personal conduct and in a manner that is consistent with the values of the council to achieve best value for residents and maintain public confidence in Herefordshire Council.

### **5. Working as part of the council**

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- 5.1 At meetings of the council and as a member of one or more of the different council bodies, councillors will be expected to contribute to the formulation and review of policies and strategies and the review and development of services and programmes as appropriate.
- 5.2 Councillors should be constructive and forward looking. An innovative and questioning approach is required.
- 5.3 The work of the council is conducted in a political environment. As a councillor, who may have been elected with the endorsement and backing of a political party, or who may be a member of a political group within the council, members will naturally wish to secure aims and objectives that match their political affiliation. A political approach is legitimate, however, councillors should guard against pursuing political objectives to the point that it impedes the effective management of the council's affairs and undermines peoples' confidence in the council's ability to exercise a leadership role in the wider community.
- 5.4 Councillors should have regard to the council's corporate plan and other council policies and strategies, especially when considering the quality and scope of services and weighing the merits of competing interests and demands upon the council budget.
- 5.5 When participating in overview and scrutiny activity councillors should have regard to the council's scrutiny procedure rules and in particular the requirement to take an independent approach, seek consensus on outcomes, be constructive and not judgmental.

## **6. Community representative and advocate**

- 6.1 Councillors should be aware of the needs, priorities and aspirations of their local community. To do this, they should make yourself known to those who live and work in their ward (your constituents). Councillors may wish to hold regular surgeries, publish newsletters or otherwise make themselves accessible. Liaise/consult extensively and meet with local groups and organisations including parish councils.
- 6.2 Councillors should represent the views of ward constituents and local groups. In doing so councillors should take careful note of the different, often conflicting, interests, and attempt to represent the community as a whole. Councillors should act as an advisor or advocate to local groups with a special interest, or generally provide advice and assistance on matters within their ward and the implications of particular courses of action.
- 6.3 Such a representational role must be undertaken responsibly. As politicians, councillors will naturally want to have regard to the views of voters and avoid, or at least minimise criticism by political opponents. Councillors do, however, have a wider responsibility to protect the council's interests and reputation and help reach the best decision.
- 6.4 Councillors should encourage constituents to raise matters of importance or personal concern and take appropriate action, either responding personally or ensuring a response is provided. Where necessary councillors should seek advice on any response made as they may be seen to be acting on behalf of the council as a whole.
- 6.5 Councillors should seek to foster a sense of civic pride within the community and encourage all citizens to develop and maintain a personal commitment to civic responsibility, and should avoid statements and actions that serve to undermine confidence in the institutions of local government without justification or good cause.

## **7. Working with others in the local community**

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- 7.1 Councillors are expected to work with partners and other organisations with which the council is actively involved.
- 7.2 If a councillor is appointed by the council representative on any outside bodies they will have a responsibility to explain the council's policies and position where appropriate and to listen to the views of others and report back to the council.
- 7.3 Councillors should play a leading role in explaining to others outside the council how the decision making process operates and the respective roles of members and officers have.
- 7.4 Councillors may also be involved in other local organisations, such as those in the voluntary sector, and should recognise that as an elected councillor others may regard statements they make as having council backing. Councillors should always make it clear when they are speaking in an individual capacity, and follow the council's approved communication protocols.

## **8. Accountability**

- 8.1 The roles, duties and responsibilities outlined in this guide relate to the political or member level activities of the council. Accountability for a councillor's performance is through the political and electoral process.

## Appendix 1: Member role profiles

### **All councillors:**

#### **Community leader**

- Champion your ward
- Deal with casework
- Represent the community within the council and other agencies
- Campaign on local issues
- Keep in touch with constituents
- Able to engage with all groups within your community

#### **Decision maker and influencer**

- Actively contribute to the development and scrutiny of the council's policies, strategies, budget, and service delivery
- Attend meetings of full Council and any committees you are appointed to
- Work with partners and outside bodies as a representative of the council
- Act as a corporate parent for children and young people in the care of the council
- Liaise with town and parish councils

#### **Day to day councillor**

- Juggle roles and responsibilities
- Understand and interpret information
- Use ICT effectively
- Communicate using all types of media ensuring adherence to corporate guidance for media, social media and internet usage
- Use a communication style that takes into account different needs of different audiences
- Act as a facilitator.
- Take personal responsibility for continuous professional development to develop and build understanding, knowledge and skills to ensure that the role is undertaken as effectively as possible
- Interact with officers, partners, community and fellow councillors in accordance with the council's codes of conduct and behaviour.



## **Group leader**

- Be the main spokesperson for members of their political group
- Act in a manner which is likely to promote rather than undermine the best interests of the county and ensure that members of their political group act in a similar manner
- Lead their group by ensuring that:
  - Members of their group abide by the council's codes of conduct
  - Adequate liaison takes place with other political groups to further the interests of the council
  - Adequate liaison takes place with members of the management board on all matters affecting the services provided or commissioned by them on behalf of the council
  - Regular briefings take place to ensure good communications takes place on all council matters to members of their group
  - If in opposition, engage in constructive criticism, alternatives or amendments offered by members of the group on proposed decisions of the cabinet where appropriate
- Work with their group to formulate overall policy and priorities for the group
- Represent the council on local, regional and national bodies as appropriate

## **Committee chairman:**

- Understand the role of the committee
- Understand the role of the chairman
- Provide leadership and direction
- Provide effective meeting management
- Spend time with relevant officers to agree agendas and minutes
- Ensure all attendees have an opportunity to contribute to the meeting

## **Leader of the council**

### **Leadership**

- Provide an overall cohesive, corporate and strategic leadership and direction for the council
- Lead and chair the cabinet and ensure its overall effectiveness
- Lead in developing the council's partnerships with other organisations
- Work with portfolio holders to ensure effective delivery of services within their portfolios against the agreed policies of the council, and to ensure the delivery of the cabinet's responsibilities
- Ensure effective communication and explanation of all cabinet's decisions and recommendations to Council and the public
- Ensure that the cabinet manages the business of the council within the financial limits set by the council

## **Cabinet member**

The cabinet is responsible for all council functions which are not the responsibility of any other part of the council, provided the decisions made are within the council's agreed policy and budget framework.

- Participate effectively as a cabinet member taking joint responsibility for all actions and be collectively accountable.
- Build good relationships with appropriate officers and work with them in developing policy
- Take a proactive approach to the early engagement of overview and scrutiny committees to help in policy development
- Give political direction to officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the council's reputation through taking the national stage where possible and participating in regional and national networks
- Have an overview of performance management, efficiency and effectiveness of the portfolio
- Represent cabinet by attending scrutiny committees if requested in connection with any issues associated with the portfolio and consider scrutiny reports as required.
- Make executive decisions within the portfolio and in accordance with the principles of good decision-making
- Act as a strong, competent and persuasive figure to represent the portfolio and a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the council on external bodies and feedback to cabinet any issues of relevance and importance

### **Overall responsibility**

- Ensure that cabinet exercises responsibility for the prudent management of the council's resources
- Have overall responsibility for the political management of the authority and the delivery of agreed council priorities, strategies and policies

### **Working with partners**

- Be the main representative of the council, with others as appropriate, in dealing with the community, business, voluntary sector and other local and national organisations
- Ensure effective liaison with other political groups within the council

## **Scrutiny member**

The overview and scrutiny committees, and any task groups they establish, review and scrutinise decisions made or actions taken by the cabinet. They may also be involved in policy development prior to decisions being taken by the cabinet. The committees may make reports and recommendations to full Council, cabinet or any relevant partner in connection with council or certain other public functions such as health.

- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Lead the committee in prioritising its work so as to ensure effective scrutiny
- Develop a constructive relationship with cabinet, especially with relevant portfolio holders
- Develop a constructive relationship with members of management board in the areas that the committee scrutinises
- Be responsible for outputs and outcomes of scrutiny
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Make recommendations based on the committee's deliberation

## **Committee member**

Council has established a number of committees through which functions which are not the responsibility of cabinet are fulfilled. Seats on these committees are allocated to political groups on a proportional basis and appointments to fill those seats are a matter for the relevant group leaders to determine. Members who are appointed to certain committees, such as planning and regulatory committee, are required to undertake training before taking up their seats.

- Maintain up to date knowledge of council and national policies and processes relevant to the work of the committee
- Attend meetings and, if unable to attend, liaise with your group leader or the monitoring officer to arrange a substitute
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Take decisions in accordance with the principles of good decision-making

## Overview and scrutiny committee remits

Committee	remit
Adults and wellbeing overview and scrutiny committee	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Adult social care (including adult safeguarding)</li> <li>• Health and wellbeing board</li> <li>• Housing</li> <li>• Public health</li> <li>• Statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services (not reserved to the children and young people overview and scrutiny committee) affecting the area and to make reports and recommendations on these matters</li> </ul>
Children and young people overview and scrutiny committee	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Children's social care including safeguarding</li> <li>• Transitional arrangements between children and adult services</li> <li>• Statutory education scrutiny powers</li> <li>• Statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services for children and young people, including transitional health care services, affecting the area and to make reports and recommendations on these matters</li> </ul>
General overview and scrutiny committee	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Services within the economy, communities and corporate directorate</li> <li>• Corporate performance</li> <li>• Budget and policy framework matters</li> <li>• Statutory flood risk management scrutiny powers</li> <li>• Statutory community safety and policing scrutiny powers</li> </ul>







## Summary of key changes made and relevant link to design principle

The table below summarises the key changes made to the content of the constitution and the link to the relevant design principle agreed by audit and governance committee. The design principles are:

- a) Members and officers perform effectively in clearly defined functions and roles
- b) Member engagement and participation is maximised, including the involvement of all members in the development of key policies
- c) Decision making is informed, transparent and efficient
- d) The council welcomes public engagement and makes accountability real

Section	Key change	Design principle
Generic	<ul style="list-style-type: none"> <li>• Job titles made current</li> <li>• Ensure compliance with council's style guide</li> <li>• Simplify wording</li> <li>• Reduce duplication</li> <li>• Changes to committee sizes to meet changes in overall number and scope of committees</li> <li>• Individuals referred to as 'they' rather than he/she</li> </ul>	<ul style="list-style-type: none"> <li>• C</li> <li>• C</li> <li>• C</li> <li>• C</li> <li>• B</li> </ul>
<b>Part 1 (Introduction)</b>		
Introduction	<ul style="list-style-type: none"> <li>• Removal of narrative information unrelated to the constitution</li> <li>• Simplified summary of the constitution</li> </ul>	<ul style="list-style-type: none"> <li>• C</li> <li>• C</li> </ul>
<b>Part 2 (Articles)</b>		
Article 1:	<ul style="list-style-type: none"> <li>• Some elements moved to a new 'code of corporate governance' in part 5</li> <li>• Description of 'holder of public office' expanded for clarity</li> <li>• Powers of the council simplified</li> <li>• Purpose of constitution clarified</li> <li>• Review and changes of constitution simplified and amended to reduce duplication</li> <li>• Suspension of constitution clarified</li> </ul>	<ul style="list-style-type: none"> <li>• C, D</li> <li>• A</li> <li>• A</li> <li>• A, D</li> <li>• C</li> <li>• C</li> </ul>
Article 2:	<ul style="list-style-type: none"> <li>• Corporate parent role referenced</li> </ul>	<ul style="list-style-type: none"> <li>• A</li> </ul>
Article 3:	<ul style="list-style-type: none"> <li>• Citizens defined as 'living or working in the county'</li> <li>• Citizens' rights simplified with greater detail provided in new public engagement code</li> <li>• Citizen's responsibilities updated/clarified</li> <li>• Partner elements contained in article 9</li> </ul>	<ul style="list-style-type: none"> <li>• D</li> <li>• D</li> <li>• D</li> <li>• A</li> </ul>
Article 4:	<ul style="list-style-type: none"> <li>• No substantive changes</li> </ul>	

Section	Key change	Design principle
Article 5:	<ul style="list-style-type: none"> <li>• Role of cabinet support members included</li> <li>• Definition of executive arrangements moved to this section from a previous stand alone section</li> </ul>	<ul style="list-style-type: none"> <li>• A</li> <li>• A</li> </ul>
Article 6	<ul style="list-style-type: none"> <li>• Role of scrutiny made clearer</li> <li>• Public engagement made clearer</li> <li>• Additional scrutiny committee</li> </ul>	<ul style="list-style-type: none"> <li>• B</li> <li>• D</li> <li>• A, B</li> </ul>
Article 7	<ul style="list-style-type: none"> <li>• Inclusion of independent remuneration panel</li> </ul>	<ul style="list-style-type: none"> <li>• A, C</li> </ul>
Article 8	<ul style="list-style-type: none"> <li>• Merging planning and regulatory functions into a single committee (with licensing activity still conducted through sub-committee).</li> <li>• Removal of member involvement in employee appeals process (in line with policy agreed following consultation with trade union).</li> <li>• Inclusion of standards panel</li> </ul>	<ul style="list-style-type: none"> <li>• A, C</li> <li>• A, C</li> <li>• A</li> <li>• A, C</li> </ul>
Article 9	<ul style="list-style-type: none"> <li>• Greater clarification of statutory and other partnerships</li> <li>• Change of title to encompass wider range of partnerships</li> <li>• Title change to joint arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• A, C, D</li> <li>• A</li> <li>• A, C</li> </ul>
Article 10	<ul style="list-style-type: none"> <li>• Change of designation re statutory scrutiny officer and s.151 officer</li> </ul>	<ul style="list-style-type: none"> <li>• A</li> </ul>
Article 11	<ul style="list-style-type: none"> <li>• Refreshed principles of good decision-making</li> <li>• Clarification of how responsibility for decision making/functions is determined</li> </ul>	<ul style="list-style-type: none"> <li>• C</li> <li>• A</li> </ul>
Article 12	<ul style="list-style-type: none"> <li>• Article deleted as it duplicated information incorporated in the scheme of delegation and relevant procedure rules.</li> </ul>	
Article 13	<ul style="list-style-type: none"> <li>• Article deleted as information repeated in access to information rules; public engagement guide etc.</li> </ul>	
<b>Part 3 (Functions)</b>		
Council functions	<ul style="list-style-type: none"> <li>• Compliance with regulations</li> <li>• Clarity of functions and delegations including what constitutes the budget and policy</li> </ul>	<ul style="list-style-type: none"> <li>• A</li> <li>• A</li> </ul>

Section	Key change	Design principle
	<ul style="list-style-type: none"> <li>framework to meet statutory requirements</li> <li>Addition of policy on council representation on outside bodies</li> <li>Delegation of approval of finance and contract rules to audit committee</li> </ul>	<ul style="list-style-type: none"> <li>A</li> <li>A</li> </ul>
Local choice	<ul style="list-style-type: none"> <li>Inclusion of legislative framework for reference</li> <li>Compliance with regulations</li> <li>Clarity of functions and delegations</li> </ul>	<ul style="list-style-type: none"> <li>C</li> <li>C</li> <li>A</li> </ul>
Cabinet	<ul style="list-style-type: none"> <li>Restructured to reflect the flow of delegation</li> <li>Clarity regarding powers to amend budget and policy</li> </ul>	<ul style="list-style-type: none"> <li>A</li> <li>A</li> </ul>
Overview and scrutiny	<ul style="list-style-type: none"> <li>Clearer reflection of statutory powers and duties</li> </ul>	<ul style="list-style-type: none"> <li>A</li> </ul>
Other functions	<ul style="list-style-type: none"> <li>Clarification that planning and regulatory committee does not have responsibility for planning or licensing policy and performance</li> <li>Clarification of sub-committee/ responsibilities</li> <li>Inclusion of standards panel as per Council decision</li> <li>Removal of employee appeals in line with employment policies</li> <li>Audit and governance functions specified in one place</li> <li>Employment panel as consultee of terms and conditions</li> <li>Role in relation to politically restricted posts removed in line with legislation</li> </ul>	<ul style="list-style-type: none"> <li>A</li> <li>A</li> <li>A</li> <li>A</li> <li>A</li> <li>A</li> <li>A</li> </ul>
Additional arrangements	<ul style="list-style-type: none"> <li>Clarification of ability to establish working groups, and membership.</li> <li>Role of ward councillors removed as not informal and covered in new guides in part 5</li> <li>Title changed from 'informal arrangements' to 'additional arrangements' to reflect range of bodies covered</li> <li>Inclusion of independent remuneration panel</li> </ul>	<ul style="list-style-type: none"> <li>A, C</li> <li>A, B,</li> <li>A, C</li> <li>A, C</li> </ul>
Officer functions	<ul style="list-style-type: none"> <li>Proper officer and officer functions combined</li> <li>Types of officer decisions clarified</li> </ul>	<ul style="list-style-type: none"> <li>A</li> <li>A, C</li> <li>A, C</li> </ul>

Section	Key change	Design principle
	<ul style="list-style-type: none"> <li>£50k limit below which decisions will not need to be published</li> <li>Appendix 1 removed - chief executive scheme of delegation to be published separately given frequency of updates and level of operational detail</li> </ul>	<ul style="list-style-type: none"> <li>A, C</li> </ul>
<b>Part 4 (Rules)</b>		
Council and committee	<ul style="list-style-type: none"> <li>Public and member question provision extended to wider range of public meetings, with revised and consistent process for all</li> <li>Simplification of descriptions of types of meeting and business to be conducted (including order of business where relevant)</li> <li>Confirmation of ability to provide notices electronically</li> <li>Inclusion of relevant elements from previous petitions scheme</li> <li>Removal of deputations provision given ability to ask questions and/or present petitions, and greater flexibility for member motions</li> <li>Removal of limit of number of notices on motion at any one meeting and replacement with overall time limit to be managed at discretion of the chairman</li> <li>Summary of time limits on speeches provided in table form</li> <li>Clarity regarding process for amendments to motions including flow chart</li> <li>Clarity re application of the code of conduct at meetings</li> <li>Clarity re purpose of annual report from leader</li> <li>Requirement for report back to Council on motions calling for consideration by another body of the council</li> <li>Restating or rules on confidentiality</li> </ul>	<ul style="list-style-type: none"> <li>D</li> <li>A, B, C</li> <li>B</li> <li>D</li> <li>A</li> <li>B</li> <li>A, B</li> <li>B</li> <li>C</li> <li>B, C</li> <li>B, C</li> <li>C</li> </ul>
Access to information	<ul style="list-style-type: none"> <li>Clarification of exempt and confidential matters</li> <li>Clarification of requirements to publish officer decisions</li> </ul>	<ul style="list-style-type: none"> <li>B, D</li> <li>B, C, D</li> </ul>
Budget and policy	<ul style="list-style-type: none"> <li>Clarification of role of scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>B</li> <li>B, C</li> </ul>

Section	Key change	Design principle
	<ul style="list-style-type: none"> <li>Clarification of amendment processes including alternative budget</li> </ul>	
Cabinet	<ul style="list-style-type: none"> <li>Removal of elements duplicated in part 3</li> <li>Clarification of rights to attend and speak</li> <li>Inclusion of provisions for questions</li> </ul>	<ul style="list-style-type: none"> <li>A, B, C</li> <li>B, D</li> </ul>
Scrutiny	<ul style="list-style-type: none"> <li>Clarification of co-optees</li> <li>Clarification of task and finish arrangements to broaden member engagement</li> <li>Call in process and limitations set out clearly including linking grounds to principles of decision-making</li> <li>Call in period extended by one day</li> <li>Call in no longer restricted to members of the relevant committee and number of signatories required increased accordingly.</li> <li>Clearer provision for pre-decision scrutiny</li> <li>Inclusion of provisions for questions</li> <li>Executive decisions taken by officers subject to call in</li> </ul>	<ul style="list-style-type: none"> <li>A</li> <li>A, B</li> <li>A,D</li> <li>B</li> <li>B</li> <li>B</li> <li>B, D</li> <li></li> </ul>
Contracts	Phase 2: to be delegated to audit and governance	
Finance	Phase 2: to be delegated to audit and governance	
Planning	<ul style="list-style-type: none"> <li>Clarifications re requirements for redirection and flexibility re timescale for requesting consideration of redirection</li> <li>Removal of protocol for deferral and further report</li> </ul>	<ul style="list-style-type: none"> <li>A, B, C, D</li> <li>A, C</li> </ul>
Employment	<ul style="list-style-type: none"> <li>Clarification of existing authority for senior interim management arrangements under contracts for services</li> <li>Clarification of designated posts</li> <li>Clarification of requirement for declarations in relation to appointments</li> <li>Consultee of employee terms and conditions including policies</li> <li>Delegation to monitoring officer re invitation of independent persons to membership of a disciplinary panel</li> </ul>	<ul style="list-style-type: none"> <li>A, C</li> <li>A, C</li> <li>A, C</li> <li>A, B</li> <li>A</li> </ul>

Section	Key change	Design principle
<b>Part 5 (Codes and guidance)</b>		
Code of corporate governance	<ul style="list-style-type: none"> <li>• New code – incorporating previous code and principles from existing ‘preamble’ to constitution</li> <li>• Code now more directly linked to principles of good decision making</li> </ul>	<ul style="list-style-type: none"> <li>• A, B, C, D</li> <li>• C</li> </ul>
Councillor code of conduct	Phase 2: monitoring officer to progress with support from standards working group	
Employee code of conduct	Phase 2: delegated to chief executive following consultation with employment panel	
Member officer relations code	Phase 2: monitoring officer to progress with support from standards working group and head of human resources and organisational development	
Use of council resources by members	Phase 2: monitoring officer to progress with support from standards working group	
Gifts and hospitality code	Phase 2: monitoring officer to progress with support from standards working group and head of human resources and organisational development	
Confidential reporting code	<ul style="list-style-type: none"> <li>• Updated to reflect policy approved by audit and governance committee</li> </ul>	<ul style="list-style-type: none"> <li>• A, D</li> </ul>
Planning code	<ul style="list-style-type: none"> <li>• Updated to reflect current legislation</li> <li>• Removal of protocol for deferral and further report</li> </ul>	<ul style="list-style-type: none"> <li>• A</li> <li>• A, C</li> </ul>
Councillor call for action guide	<ul style="list-style-type: none"> <li>• No substantive change</li> </ul>	
Public participation guide	<ul style="list-style-type: none"> <li>• New guide</li> </ul>	<ul style="list-style-type: none"> <li>• D</li> </ul>
Roles of members guide	<ul style="list-style-type: none"> <li>• New guide</li> </ul>	<ul style="list-style-type: none"> <li>• A, B, D</li> </ul>
Overview and scrutiny chairman’s guide	<ul style="list-style-type: none"> <li>• Removed in light of new guide above</li> </ul>	<ul style="list-style-type: none"> <li>• A, B, D</li> </ul>
Committee chairman’s guide	<ul style="list-style-type: none"> <li>• Removed in light of new guide above</li> </ul>	<ul style="list-style-type: none"> <li>• A, B, D</li> </ul>
Petitions scheme	<ul style="list-style-type: none"> <li>• Deleted as no longer statutory requirement and relevant elements incorporated in council procedure rules and public participation guide</li> </ul>	<ul style="list-style-type: none"> <li>• D</li> </ul>

<b>Section</b>	<b>Key change</b>	<b>Design principle</b>
Audit and governance code	<ul style="list-style-type: none"> <li>Deleted to minimise duplication as functions within part 3</li> </ul>	<ul style="list-style-type: none"> <li>A</li> </ul>
<b>Part 6 (Allowances)</b>		
Scheme	Phase 2: independent remuneration panel review to report to annual Council in May 2017	
<b>Part 7 (Portfolios and committees)</b>		
To be produced following adoption of revised constitution as purely a factual description.		





### Appendix 3 Working group consultation

	Question	Working group response
1.	<p>Scrutiny activity is currently carried out by two committees:</p> <ul style="list-style-type: none"> <li>a) health and social care - discharges the council's statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services affecting the area, children's and adult's safeguarding adults and children's social care, the health and wellbeing board and public health;</li> <li>b) general – all other functions including the statutory crime and disorder, and education functions</li> </ul> <p>Is this balance of responsibilities working effectively? If no please outline the concern.</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Generally working acceptably but some concerns about wide workloads and focus leading to difficulties in engaging with members. Proposal made for three committees with smaller membership.</p>
2.	<p>The constitution already makes provision for task and finish groups to include members who aren't on the scrutiny committee establishing the task and finish group, but this happens rarely in practice. It is proposed that, drawing on the skills and interests expressed by elected members group leaders should be asked to identify possible members for each task and finish activity as it arises. Do you support this proposal? If no please outline any alternative proposals to increase participation of a wider range of members.</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed using members expertise from outside scrutiny committees</p>
3.	<p>Do you agree that the constitution should make provision for electronic approvals/confirmation of assent eg notices of call in?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed – with appropriate safeguards given some IT problems</p>
4.	<p>Key decisions are executive decisions which are either significant in terms of their impact on the community and/or significant in terms of their financial impact (positive or negative). It is open to the council to determine what is 'significant' in financial terms and this Council has set a definition of £500k for both revenue and capital. Do you agree with that limit?</p>	<p>Agreed – £500k for capital and revenue, consider how to describe significant impact on communities</p>

	Question	Working group response
	<p>If no please say what you think the limit should be for capital and for revenue.</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	
5.	<p>The principles of good decision making (listed below) are proposed. Do you feel these are appropriate? If not what alternative would you propose?</p> <ul style="list-style-type: none"> <li>a be clear about what the council wants to happen, how it will be achieved, who is accountable for the decision and who is accountable for implementing it;</li> <li>b consult properly and have regard to the professional advice from its officers;</li> <li>c have regard to the public sector equality duty and respect for human rights;</li> <li>d make the decision public unless there are good reasons for it not to be;</li> <li>e give due weight to all material considerations, only take relevant matters into account, and make sure the action is proportionate to what the council wants to happen;</li> <li>f explain what options were considered and give the reasons for the decision; and</li> <li>g follow proper procedures</li> </ul> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed – in addition – follow up action to be taken after decision is made to ensure the action has been properly implemented</p>
<p>The council and committee rules have been reviewed in light of the principles agreed by the working group, and two versions are attached one with tracked changes and another 'clean copy' for clarity. Views on the proposed changes would be welcome, and in addition some specific questions are below.</p>		
6.	<p>Currently the constitution specifies that meetings of full Council are normally held at 10.00am; the timing of other committee meetings is not defined although in practice almost all are held during the day. Do you agree that the discretion over timing of meetings should be left with committee chairs? If not what alternative arrangement would you propose?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed - discretion over timing of meetings should be left with committee chairs following consultation with members.</p>
7.	<p>The constitution currently makes provision for annual reports from committees summarising the business they have undertaken during the year. Now that all agendas and minutes are available on the website and given that the constitution already makes provision for questions at full Council to be</p>	<p>Agreed - No longer require annual reports. Alternative members can question relevant chairs at full council</p>

	Question	Working group response
	<p>addressed to committee chairs as well as cabinet members, do you feel annual reports to full Council are still required?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>under members' questions. Plus new ability to ask.</p>
8.	<p>Currently public questions may only be asked at a meeting of council, and at meetings of scrutiny meetings only in relation to items on the agenda. Would you support extending the ability for the public to ask questions at other committees and cabinet?</p> <p>(Refer also to question 52)</p>	<p>Agreed - public participation scheme required. Public able to ask one question at all committees (save Regulatory and planning) Prior notice of the question required with one supplementary at chairman's discretion.</p> <p>Question to relate to function of the committee or an item on the agenda.</p> <p>30 minutes allocated for questions to council, 15 minutes for other meetings.</p>
9.	<p>Currently the constitution does not place a limit on the number of questions a member may ask at a meeting of full Council, although members of the public may ask only one question. Would you support a limit on the number of questions a member may ask at any one meeting? If so please indicate what you think that limit should be.</p> <p>Feedback from chairman of the council:</p> <ul style="list-style-type: none"> <li>• Feel a limit of 1 question per meeting is unnecessary.</li> </ul>	<p>Agreed - One question per meeting.</p> <p>Can be reviewed in future if not working well in practice. The limit does not apply to points made during debate.</p>
<p>The law identifies certain functions which may not be the responsibility of the executive (referred to as council function); and those which are a matter of choice for individual councils to determine who takes the decision (referred to as local choice functions). All other functions by default are executive functions. Part 3 of the constitution, known as the functions scheme) sets out which functions may be undertaken by which body, and includes the scheme of delegation for officers. The language can sometimes be confusing – council functions do not necessarily mean the decision must be taken by full Council – they may be delegate to a committee of council such as planning committee,</p>		

	Question	Working group response
	or to an officer. Similarly executive functions do not mean the decision must be taken at a cabinet meeting, but may be delegated to an individual cabinet member, a joint committee or an officer. The following questions relate to the functions scheme and contain links to the relevant part of the constitution for ease of reference.	
10.	<p>Do you agree with the current allocation of 'local choice' functions (see link below)? If no please say what alternative allocations would you propose?</p> <p><a href="http://councillors.herefordshire.gov.uk/documents/s50025399/Section%204%20-%20Local%20Choice%20Functions%20Updated%2022-Apr-15.pdf">http://councillors.herefordshire.gov.uk/documents/s50025399/Section%204%20-%20Local%20Choice%20Functions%20Updated%2022-Apr-15.pdf</a></p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	Agreed - Useful to state what the relevant laws state and what hereford council terminology is used.
11.	<p>Council functions (see link below) include the approval by full Council of budget and policy framework items. Some of the policy framework is mandatory (as listed below), but it is open to the council to determine which other key strategies and policies should be approved at the full Council meeting. Do you feel the mandatory list properly reflects the policy framework for the council? If no please identify what other strategies or policies you feel should be considered for inclusion.</p> <p><a href="http://councillors.herefordshire.gov.uk/documents/s50025397/Section%202%20-%20Council%20Functions%20Updated%2022-Apr-15.pdf">http://councillors.herefordshire.gov.uk/documents/s50025397/Section%202%20-%20Council%20Functions%20Updated%2022-Apr-15.pdf</a></p> <ul style="list-style-type: none"> <li>• Children and young people's plan</li> <li>• Crime and disorder reduction strategy</li> <li>• Local plan documents</li> <li>• Licensing authority policy statement</li> <li>• Local transport plan</li> <li>• Youth justice plan</li> <li>• Pay policy statement</li> </ul> <p>Feedback from focus groups: See below</p>	Update to reflect current requirements.
12.	The current scheme of delegation does not allow officers to take key executive decisions. Do you think that officers should be able to take key decisions in certain circumstances, for example once a budget and policy have been approved, to let contracts over £500k (in which case those officer decisions would be subject to call-in in the usual way)?	Only members make key decisions.

	Question	Working group response
	<p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	
13.	<p>A number of officer decisions taken under delegation from the executive relate to relatively small amounts of expenditure and it is open to the council to set a financial limit below which such decisions do not need to be documented. This would reduce the amount of bureaucracy associated with documenting decisions but would not negate the need to comply with the council's finance and contracts procedure rules. (There is considerable variation in the limit set by other councils ranging from £10k to £250k. Would you agree with setting such a limit? If so please indicate what you think that limit should be.</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed - Set a limit at £50K for all non-operational decisions (i.e. executive non key decisions and non-executive decisions).</p>
14.	<p>The functions scheme also sets out the current allocation of council functions to committees. There is no set format for these and different councils adopt different structures. For example some councils link planning and licensing functions in a single committee, some councils have a distinct constitution and governance committee. Do you agree with the current structure of committees? If no please set out what alternatives you would propose?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	<p>Agreed - Planning and regulatory to be one committee.</p> <p>Audit and Governance - clarify functions clearly state what able to do.</p> <p>Employment panel remove old reference to member's appeals which are no longer part of HR policies.</p> <p>Overall reduce committee sizes, confirm ability to utilise working groups.</p>
15.	<p>Is there anything in the functions scheme and scheme of delegation which you feel is unclear? If so please identify this and, if possible, say what alternative you would propose.</p>	<p>Agreed – basic structure satisfactory. Just needs</p>

	Question	Working group response
	Feedback from focus groups: <ul style="list-style-type: none"> <li>See below</li> </ul>	clarity, definition of operational decision needed.
16.	<p>There is no longer a statutory requirement to have a petition scheme. The proposed changes to Council rules retain the right of petitions reaching a certain level of signatures to be debated at full Council if the petitioner chooses. The working group has proposed a new code to set out the council's approach to public engagement which would include: petitions, attending meetings, recording meetings, public questions at meetings, speaking at planning or regulatory committees, contacting your ward member, contacting the council, access to information (freedom of information etc.), and consultation. Do you support this approach?</p> <p>Feedback from chairman of the council:</p> <ul style="list-style-type: none"> <li>Query if numbers required to trigger a debate should be based on the local population where an issue only impacts on one ward or locality?</li> </ul>	<p>Agreed - with all petition signatures subject to Herefordshire electoral role verification.</p> <p>If an issue relates to a specific ward then the ward member could be approached to put forward a motion for debate or ask a question if insufficient signatures are gathered.</p>
17.	<p>Appointing the vice chairman of council, committee chairmen and committee vice-chairmen is a function of the council it is not delegated to the committee for in year changes, should it be?</p> <p>Should there be any guidance or restrictions on how appointments are made?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>See below</li> </ul>	Remain as full council decision. From which group these appointments could be taken from should not be part of the constitution, requires flexibility.
18.	<p>Currently amendments to motions are made without any advance notice. Do you agree with this current arrangement? If not what alternatives would you suggest?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>See below</li> </ul>	Agreed – amendments to motions to be normally submitted by 9:30 am on the morning of the relevant meeting. Don't want to limit ability to raise during debate.
19.	<p>Should call-in still apply to all member decisions or just key decisions?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>See below</li> </ul>	Call-in to apply to all executive decisions including officers and joint executive committees.

	Question	Working group response
Engagement		
20.	<p>Provision for public questions at committee and cabinet meetings is being progressed (see question 7 above); should the same provision be extended to elected members to enable members to engage more fully across the range of council decision-making and functions?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	Agreed members should be able to ask questions at all meetings with appropriate controls.
21.	<p>To enable the views of all groups to be taken into consideration in significant executive decisions it is proposed that they be consultees on key decisions (and decisions of cabinet) and the views expressed on behalf of their group so recorded in the decision report as is already the case for ward members on ward-specific issues. It would be important to be clear that this would not amount to pre-decision scrutiny and that groups must be prepared to respond to consultation on a proposal in a timely way. Is this approach supported?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	Agreed consultees.
22.	<p>Is there a need to specify any particular classes of member in attendance (eg group leaders) to have a right to speak at committees of the council (it is currently at the discretion of the chairman), and if so which groups and for what purpose?</p> <p>Feedback from focus groups:</p> <ul style="list-style-type: none"> <li>• See below</li> </ul>	No. Chairman's discretion as to who can speak at meeting but new provision for members questions.
Planning Functions		
23.	<p>Could the redirection process be made clearer/more effective – and how?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• the role of ward members in the planning process needed to be included in the induction for new councillors.</li> </ul>	Suggested that code state the reasons why a request for redirection would <u>not</u> be accepted. Have a

	Question	Working group response
	<ul style="list-style-type: none"> <li>the criteria for redirection needed to consider very rural areas where a significant level of public interest was difficult to demonstrate</li> <li>generally officers were already expected to take account of local circumstances when considering requests for redirection</li> <li>good communication with planning officers was important</li> <li>it was an officer decision whether to agree to a redirection request</li> <li>an additional criteria on exceptional circumstances should be considered</li> </ul>	presumption towards redirection.
24.	<p>Is the time limit for exercising redirection workable and is discretion to extend that time working?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>councillors did not always have all the information needed to reach a decision within the time limit</li> <li>parish council meetings were sometimes very late in the consultation period so members were not always fully aware of local sentiment until the end of the period</li> <li>circumstances when extensions to the time limit could be requested needed to be clearer</li> <li>officers were expected to take account of the circumstances</li> </ul>	<p>Agreed – time limit generally works.</p> <p>Suggested that language be softened to include words ‘normally’ or ‘ideally’.</p>
25.	<p>Are the rules on speaking clear and effective?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>this was felt to be clear and working well</li> <li>rules on giving personal explanations were covered under a different section</li> </ul>	Agreed – rules are clear and effective.
26.	<p>Is the guidance on pre-determination clear?</p> <p>Does the guidance on pre-determination need updating in relation to changes to the Localism Act 2011?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>the constitution needed updating to reflect the Localism Act 2011</li> <li>the current planning code appeared to give guidance that members of the planning committee should not also sit on the planning committee of the parish council, this was not the case and this section required clarification</li> </ul>	Agreed – guidance to be revised to ensure compliance with recent legislation.



	Question	Working group response
	<ul style="list-style-type: none"> <li>the guidance on sitting on both a parish council and Herefordshire council's planning committee applied even if the parish was outside the councillor's ward</li> <li>the new system where the ward member did not vote on an application in their ward was clear and working well</li> <li>councillors required more training on pre-determination</li> <li>particular guidance was needed on applications with significant political sensitivities, for example where manifesto commitments directly supported or objected to certain types of development</li> </ul>	
27.	<p>Is the role of ward members clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>this was felt to be clear and working well</li> </ul>	Agreed – role of ward members is clear.
28.	<p>Is the role of adjoining members clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>this was felt to be generally clear</li> <li>the principle should apply where the application was significant</li> <li>need to consider the impact of any associated investment such as S106 contributions where they were used in wards other than where the application site was situated</li> </ul>	Agreed – role of adjoining members does not need to be changed.
29.	<p>If there are significant numbers of adjoining members should a limit be imposed e.g. up to three? (Chairman's discretion would be retained.)</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>no limit should be imposed, the chairman's discretion should continue to be used</li> <li>this should be proportionate to the scale and impact of development</li> </ul>	Agreed – no limit should be imposed, retain chairman's discretion.
30.	<p>What about when a committee member is the ward member? Is this clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>this was felt to be clear and working well.</li> </ul>	Agreed – guidance is clear and system works well.

	Question	Working group response
31.	<p>What is the role of the committee as a consultee on policy matters?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>the committee should have a proactive role in policy matters, for example in debating need for supplementary planning documents</li> <li>scrutiny was a separate role from being a consultee</li> <li>issues could be raised through a motion to full council or by referral to the chairman of the scrutiny committee</li> </ul>	<p>Suggested that scrutiny is appropriate body to review policies and garner views of members.</p> <p>Suggested that member training continue to be reviewed and improved – member development working group to look at this.</p>
32.	<p>What is the role of the committee for receiving information on appeals and JR?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>it was noted that there was no legal requirement for the committee to receive information on appeals and JR</li> <li>the receipt of information on appeals was not a stated function of the committee</li> <li>the option of a separate informal session or seminar to receive information on appeals and relevant case law was discussed</li> <li>information on appeals was of interest to all councillors in relation to their ward, not just members of the planning committee</li> <li>officers highlight relevant decisions in updates issued at committee meetings</li> </ul>	<p>Suggested that this is a training and development requirement not a function of the committee.</p> <p>Suggested that a briefing for members would be appropriate way to disseminate this information.</p>
33.	<p>Is the role of planning committee members who are also parish council members clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>this was felt to be clear and working well.</li> </ul>	<p>Agreed – the role is clear.</p>
34.	<p>Is the size of the committee correct?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>it was felt that the size of the committee was appropriate</li> </ul>	<p>Suggested – if amalgamation with regulatory committee takes place then size of committee should be reviewed.</p>

	Question	Working group response
	<ul style="list-style-type: none"> <li>it was noted that the size of the committee ensured representation across most areas of the county, although this was not a legal or functional requirement</li> <li>members of the committee were expected to have knowledge of all areas of the county</li> <li>there was discussion of the public perception if parts of the county were not represented</li> </ul>	
35.	<p>Should a reserved list of substitutes be appointed by council each year?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>it was felt that all councillors should be trained in planning matters so that any could serve as a substitute when necessary</li> </ul>	No – continue to train all councillors in planning matters as beneficial in regard to applications in their ward as well as allowing substitution.
	<p>General Comments</p> <ul style="list-style-type: none"> <li>the public understanding of the role of the ward member needed improving</li> <li>the number of retrospective planning applications was a concern, but it was not a function of the planning committee to address this</li> <li>the relationship between councillors and planning officers had improved with more proactive communication between the two</li> </ul>	
Regulatory Functions		
36.	<p>Could the functions effectively be merged with planning?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>it was felt that the current arrangement worked well, the two committees should remain separate</li> <li>there was concern over the workload of the combined committee</li> <li>the function of the regulatory committee was to receive an annual report and information on appeals and JRs</li> <li>the majority of the work was centred on the sub-committee</li> <li>there was discussion whether the regulatory committee could consider licencing of Houses of Multiple Occupation, the legal options around this would be explored</li> </ul>	<p>No need for a separate regulatory committee. Planning committee can be the licencing committee too. Retain use of subcommittee. No additional function for planning as delegated to subcommittee and officers.</p> <p>Licensing of HMOs is an executive function would require a cabinet committee</p>

	Question	Working group response
		and not having a licence is a criminal offence so overseen by the magistrates court. Licensing of HMOs should remain with officers.
37.	Should committee size change to enable that?  Feedback from focus group: <ul style="list-style-type: none"> <li>it was felt that the current arrangement worked well, no changes should be made</li> </ul>	Yes (See question 63 for options.)
38.	Does the use of a sub committee work?  Feedback from focus group: <ul style="list-style-type: none"> <li>it was felt that the current arrangement worked well, no changes should be made</li> </ul>	Agreed – the use of subcommittee works well.
39.	Should the name of the sub committee be changed to licensing?  Feedback from focus group: <ul style="list-style-type: none"> <li>it was felt that the name should not be changed</li> </ul>	Agreed.
Scrutiny Functions		
40.	Is the balance of functions correct if we are to maintain two committees? (eg should education and community safety go to HSCOSC?)  Feedback from focus group: <ul style="list-style-type: none"> <li>It was noted that a suggestion had previously been made of designating three scrutiny committees to reflect the three directorates of the council</li> <li>Concerns were raised about whether there would be enough interest from councillor to sit on more committees. Members could end up making up the numbers on a committee in whose remit they had little interest.</li> <li>The chair of HOSC stated she did not feel that an additional scrutiny committee was required</li> <li>Concern was expressed over the large remit and workload of HOSC</li> </ul>	Split functions between 3 scrutiny committees.  <b>Planning and regulatory committee</b> – existing planning functions and forms the pool from which the regulatory subcommittee is drawn.  <b>Children's wellbeing overview and scrutiny committee</b> – children's social

	Question	Working group response
	<ul style="list-style-type: none"> <li>• The view was expressed that the overview function needed to be more prominent and that the scrutiny committees should not purely react to decisions made or to be made</li> <li>• Current practice allowed any member to bring forward issues to the chairmen of the scrutiny committees but this needed setting out explicitly in the constitution</li> <li>• It was noted that council would make the final decision on the number of scrutiny committees so there would need to be majority support for any change.</li> <li>• The planning section on public participation should make it clearer when and where members of the public can engage. It will also set out what a ward member can and cannot do to support members of the public.</li> <li>• There was discussion on the workload of the scrutiny committees. It was noted that the workload for councillors would remain unchanged regardless of the number of committees. There was a suggestion that having three committees would allow each to have a clear remit and would help to manage the workload, while accepting that there would be a cross over in membership of each committee.</li> <li>• It was suggested that the existing two scrutiny committees might need to meet more frequently in order to keep the number of items per agenda lower. There was concern that long agendas did not give adequate time for all items to be properly debated.</li> <li>• There were a variety of reasons why the majority did not support increasing the number of scrutiny committees.</li> <li>• It was noted that there is no statutory number of councillors who must sit on a scrutiny committee.</li> </ul>	<p>care and safeguarding, transition from children's to adult social care, children's specific statutory health scrutiny, education.</p> <p><b>Adults and wellbeing overview and scrutiny committee</b> – adult social care and safeguarding, housing, public health, adult and cross cutting statutory health scrutiny, housing.</p> <p><b>General overview and scrutiny committee</b> – services within the economy, communities and corporate directorate, corporate performance, corporate budget and policy development, statutory scrutiny functions re flood management and community safety/policing.</p> <p><b>Audit and governance</b> – retains existing functions</p> <p><b>Employment Panel</b> – retains existing functions</p>
41.	Are the call-in provisions sufficiently clear?	Agreed – clarity required on criteria used by monitoring

	Question	Working group response
	<p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was felt that the provisions could be clearer.</li> <li>• Better communication was required so that all members were clear when a decision was made and how long they had to call it in</li> <li>• Chairs of task and finish groups would like to receive feedback on recommendations going to cabinet ahead of publication to allow dialogue with relevant cabinet members.</li> <li>• The importance of the forward plan was stressed in identifying upcoming decisions.</li> <li>• There was discussion regarding who could sign call in papers. It was stated that the current process required three members of the relevant scrutiny committee who could not all be members of the same political group. It was felt that this should be expanded so that any members could sign the papers so long as they were not all members of the same political group.</li> </ul>	<p>officer to decide if call-in is valid.</p> <p>Agreed – call in period should be extended to 4 days to allow time for councillors to formulate an argument and gather evidence.</p>
42.	<p>Should officer decisions taken under delegated authority in relation to executive functions be subject to call in?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was felt that these decisions should be subject to call in.</li> <li>• It was noted that as the statutory scrutiny officer was currently the Director for Economy Communities and Corporate there could be some conflict where decisions were made by him in his capacity as a director of the council. The reallocation of the scrutiny officer role is currently under consideration.</li> </ul>	<p>Agreed – officer decisions should be subject to call in.</p>
43.	<p>Are the public speaking arrangements proportionate?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was noted that public participation was the exception rather than the rule.</li> <li>• It was felt that the arrangements were not explicit and that a long and complicated set of rules around public speaking would deter engagement.</li> <li>• Where members of the public do currently speak there was felt to be generally good practice in place.</li> <li>• The potential of requiring a written copy of the question in advance and imposing a limit on the number of words was discussed. This was felt to be too restrictive. It was noted that the chairman should control the meeting and intervene if speakers were too long or rambling.</li> </ul>	<p>Agreed – arrangements are proportionate. There should be some flexibility with the chairman exercising discretion.</p>

	Question	Working group response
	<ul style="list-style-type: none"> <li>It was suggested that the public speaking section of the constitution should make it clear that the chairman could limit the length of questions at his or her discretion</li> <li>It was noted that the aim was to achieve consistency across all committees with the exception of planning which has specific rules regarding public participation.</li> </ul>	
44.	<p>Do task and finish groups work well? Any improvements?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>It was felt that the constitution should clarify that the chair of the group must be a scrutiny committee member but that the other members did not have to be.</li> <li>There was concern that members feel they are not able to influence the outcome of task and finish groups in the way they would like. This may result in a lack of volunteers.</li> <li>It was noted that those individuals with the most interest or relevant experience can make the best contribution, regardless of their other roles.</li> <li>There was a request to clarify the status of co-optees on the scrutiny committees and on task and finish groups.</li> </ul>	<p>Agreed – make clear that any councillor can sit on a task and finish group without being a member of the parent committee.</p> <p>Agreed – make clear that the parent committee would set the membership, chair, desired outcome and time frame for the group. Parent committee would also determine if special responsibility allowance was appropriate.</p>
45.	<p>Should we specify how all members can get involved in scrutiny?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>It was agreed this should be added to the constitution.</li> </ul>	<p>Agreed – yes make clear in constitution.</p>
46.	<p>Should we define other types of reviews ie spotlight?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>It was agreed this needed greater clarity.</li> </ul>	<p>Agreed – needs greater clarity as terminology may not be familiar to all.</p>
	<p>General Comments:</p> <ul style="list-style-type: none"> <li>There was discussion whether the educational co-optees should reflect the various types as well as categories of schools e.g. academies and maintained schools.</li> </ul>	

	Question	Working group response
	<ul style="list-style-type: none"> <li>• There was also discussion on whether a representative of NHS England should be a co-optee on HOSC. However it was noted that in the past there had been difficulty getting consistent attendance from such bodies.</li> <li>• It was noted that some councils have the ability on their website to register interest in a particular topic or subject area so interested parties can be prompted when items are coming forward. This might also result in a pool of interested persons who could be drawn up to contribute to discussion on a particular topic.</li> <li>• It was noted that some of the proposed changes to the functions of the scrutiny committees reflect changes in legislation.</li> <li>• Where scrutiny was seeking to influence policy the committees needed to be proactive and have input early in the process. Where scrutiny took place too late in the process there was limited opportunity to effect meaningful change to recommendations.</li> <li>• It was commented that the work programme might need adjusting to reflect the different types of work undertaken by the scrutiny committees and to highlight the balance between overview functions and scrutiny work.</li> <li>• It was noted that in order for scrutiny committees to make a positive contribution to policy formation the executive needed to be willing to delegate items for review.</li> </ul>	
Cabinet Functions		
47.	<p>Is the explanation of where executive decisions are taken /scheme of delegation sufficiently clear?</p> <p>Feedback from leader's briefing: Yes – but clarity on when officers take an executive decision is needed.</p>	Agreed – greater clarify needed on which decisions were taken by officers.
48.	<p>Is the definition of operational and executive functions clear?</p> <p>Feedback from leader's briefing: Needs more clarity – and see above. Also need to ensure all members and officers understand once the constitution is adopted.</p>	Agreed – definitions were clear but extra clarity might help.



	Question	Working group response
49.	<p>Is the role of cabinet support members clear?</p> <p>Feedback from leader's briefing:            Yes – they have no decision-taking or executive responsibility. They provide an additional perspective to the cabinet member and support e.g. with attendance at some external meetings. Also useful as succession planning, particularly if support roles are periodically rotated.</p>	<p>Agreed – role is clear but needs describing in the constitution.</p>
50.	<p>The current cabinet rules require cabinet members to be seated separately from officers and other members to make it clear to those in attendance who is taking the decision – should this be retained?</p> <p>Feedback from leader's briefing:            Yes – and also change layout of meetings to provide greater transparency of roles. Consider colour code name plates?            Include explanation at beginning of each meeting of who is there and why.</p>	<p>Suggested that consideration be given to ways to improve clarity such as colour coded nameplates and changes to seating arrangements.</p>
51.	<p>Is the role of those entitled to speak at cabinet meetings clear?</p> <p>Feedback from leader's briefing:            Yes – but this needs to be clarified (see above) and managed.            Consider providing a mechanism for including group views in the consultation section of a key decision report or otherwise tabling as a supplement to the agenda.            Member guide to how to get involved in decision-making to be produced – don't want to stifle or block consideration of other views or contributions but do want these to be raised appropriately and in a timely manner – Cabinet meetings are not the forum for scrutinising decisions and any substantial concerns or questions on content should be raised with the cabinet member or lead director before the meeting to enable those concerns or questions to be properly addressed. All members should make more effective use of the information available to them such as the forward plan.</p>	<p>Suggested – political groups to be consulted for views as part of report writing process.</p>
52.	<p>Are the proposed arrangements for public questions at cabinet clear? (See also question 8)</p> <p>Feedback from leader's briefing:</p> <ul style="list-style-type: none"> <li>• Prefer not to allow public or member questions as concern that this will duplicate the process already in place at Council.</li> </ul>	<p>Suggested – questions would be limited to the function of the committee or items on the agenda on that day. Questions would be submitted 2 days in advance of the</p>

	Question	Working group response
	<ul style="list-style-type: none"> <li>• Would be helpful to include provision for members of the public to make representation/statements.</li> <li>• Consider giving ward member the role of asking the question/making representation on behalf of the constituent.</li> </ul> <p>Feedback from chairman of the council:</p> <ul style="list-style-type: none"> <li>• Query if a limit on the number of questions that can be asked per year is necessary</li> </ul> <p>Feedback from seminar</p> <ul style="list-style-type: none"> <li>• Limit of 50 words for questions is too restrictive</li> </ul>	<p>meeting and limited to 70 words. An individual would only be allowed to ask 6 questions per municipal year across all committees.</p>
Audit and Governance Functions		
53.	<p>Is it clear the role of the committee in relation to governance (i.e. to assure effectiveness rather than approve)?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was noted that the Audit and Governance committee was primarily concerned with ensuring that correct processes were being followed</li> <li>• The guidance gives the role of the committee as to review and approve – the scope and nature of the approval role needs to be clear</li> <li>• It was noted that some items have been delegated to the committee to approve, these need to be made clear</li> <li>• There was consensus that details in the constitution should be given in one place only to avoid duplication and improve clarity.</li> <li>• It was stated that the language used should be clear and consistent.</li> <li>• There was a comment that the information presented to the committee must include all the necessary evidence and be presented in such a way as to enable the committee to make a clear judgement and decision.</li> <li>• It was suggested that the responsibilities with regard to the LEP should be referenced.</li> </ul>	<p>Agreed – guidance does not need to be included in the constitution but remains available to assist committee.</p> <p>Suggested – that contract procedure and finance rules could be delegated to audit and governance committee.</p> <p>Clarity needed to ensure there is not an overlap between the audit and governance functions and the scrutiny functions.</p>
54.	<p>Is an audit and governance code necessary if the functions scheme is explicit?</p> <p>Feedback from focus group:</p>	<p>Include in function of committee ability to adopt own code.</p>

	Question	Working group response
	<ul style="list-style-type: none"> <li>• It was stated that the code was useful to elaborate on the details of the functions of the committee.</li> <li>• It was suggested that having a separate sub-document or appendix containing the detailed responsibilities allowed updates to be made to reflect new or altered responsibilities without having to change the whole constitution.</li> <li>• There was discussion of the role of the committee in relation to the waste management contract. The current role was associated with the risk around one particular element of borrowing rather than the management of the contract itself. It was noted that other authorities had chosen to create a specific body for this function but Herefordshire had chosen to add it to an existing committee.</li> <li>• There was discussion of the scrutiny functions which could potentially fit with work carried out by the audit and governance committee. It was stated that the committee was not a scrutiny committee, although it did follow some of the rules relating to scrutiny.</li> <li>• It was noted that the status of working groups established by the committee needed clarification.</li> <li>• It was noted that any additional responsibilities or functions delegated to the committee must be reflected in the constitution and/or code.</li> </ul>	
55.	<p>Is responsibility for appointment of external and internal audit functions clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was felt that the responsibility was clear.</li> <li>• There was discussion around the degree of independence of the internal and external auditors. It was noted that there would always be some kind of contractual arrangement with auditors and that it was a matter of having confidence in their work.</li> <li>• It was noted that the chairman of the audit and governance committee had been appointed to the members' board of the south west audit partnership and that part of this role was to ensure that the auditors were appropriately independent.</li> <li>• It was noted that audit and governance committee could choose to examine if they were happy with the audit process and the work of the auditors.</li> <li>• There was discussion as to whether the committee could only audit the information provided or whether it could request other information.</li> </ul>	Agreed – the responsibility is clear.

	Question	Working group response
56.	<p>Are the differing roles and responsibilities of AGC and scrutiny sufficiently clear?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was stated that the role of the audit and governance committee was to consider processes and ensure they were followed correctly. It was noted that the committee did query information that was presented where necessary but that it must fall short of querying the operational work of the council.</li> <li>• It was felt that the distinction between the audit and governance functions and scrutiny could be clarified further.</li> </ul>	<p>Agreed – the roles and responsibilities are clear.</p>
57.	<p>It is proposed that the code of corporate governance be moved from the introduction of the constitution to part 5 to give a higher profile; is that supported?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was noted that there was an intention to only state information once in the constitution and not duplicate in different sections.</li> <li>• It was felt that corporate governance was an important role and that it should be prominent at the beginning of the constitution, even if this was then explained more fully in part 5.</li> </ul>	<p>Agreed – that the preamble be removed and that the code of corporate governance be moved to the code section.</p>
58.	<p>What should the annual report from the monitoring officer achieve?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was noted that there was no legal requirement for this report to be put to the audit and governance committee. Around 50% of councils did produce an annual report. There was no guidance on what the content should be and no consistent practice within those councils that did produce one. This also applied to the report from the S151 officer.</li> <li>• There was agreement that the committee should continue to receive the annual reports.</li> <li>• It was suggested that the reports should reflect the statutory functions of the officers and summarise how these functions had been carried out. The report should also draw attention to anything that the officers feel is important.</li> <li>• It was stated that the reports should not be formulaic, merely reiterating what had already been discussed at previous committee meetings, but must add to previous discussions.</li> </ul>	<p>Suggested – that contents of reports from monitoring officer and S151 officer be incorporated into the annual governance statement.</p>

	Question	Working group response
59.	<p>Should there be a stand-alone committee or sub-committee or working group of AGC to maintain oversight of the constitution going forward?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was noted that there was a standing delegation to the monitoring officer to make technical changes as required.</li> <li>• It was also noted that the constitution was not set in stone and would need to change from time to time to reflect circumstances. The exact frequency of changes could not be predicted.</li> <li>• There was a consensus that a standing group was not required. The audit and governance committee should be responsible for future review of the constitution and could establish a working group as necessary to deal with issues as they arose.</li> </ul>	<p>A standing working group was not required. A&amp;G would continue to review the constitution with a suggested annual review period.</p>
60a	<p>It could be that finance rules and contractual rules are delegated to audit and governance rather than being retained by full council. What are the views on this?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was stated that if this was what the council chose to do the audit and governance committee would take it on.</li> <li>• There was concern whether the committee was able to give these matters the attention required. The subjects considered could be complex and required clear explanation so that members of the committee could form a considered judgement.</li> <li>• It was noted that members needed training to fulfil the responsibilities of the committee and that the training should be as accessible as possible.</li> </ul>	<p>Agreed – these rules should be delegated to A&amp;G.</p> <p>Noted that the committee would have the option to refer items back to council if it felt the issue was too significant for it to determine.</p>
60b	<p>Are the finance procedure rules and contract procedure rules clear and provide adequate controls?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was stated that the committee expected to be thorough and deliberate and would take expert guidance as necessary.</li> <li>• It was noted that as the council was looking at contracting out more services this could be an area that the committee needed to examine in greater detail to ensure procedures were robust.</li> <li>• It was suggested that a reprise of recent audit work might help to identify weakness or gaps.</li> </ul>	<p>Agreed – A&amp;G would review the finance procedure rules and contract procedure rules outside of this constitution review.</p>

	Question	Working group response
61.	<p>Is the committee size correct?</p> <p>Feedback from focus group:</p> <ul style="list-style-type: none"> <li>• It was stated that the committee functioned adequately at the present time so there was no functional reason to change the size.</li> <li>• It was noted that turnout for the committee was sometimes disappointing and that finding substitutes was challenging as members needed a familiarity with the constitution and a depth of understanding of the matters for discussion.</li> </ul>	Suggested – committee could be made smaller so long as cost neutral and no overall increase in number of meetings.
	<p>General Comments</p> <ul style="list-style-type: none"> <li>• It was noted that the aims of the review were to make the constitution fit for purpose and easy to understand. It had always been planned to review all areas of the constitution as this is good practice but it also provided an opportunity to pick up on any issues that had been identified.</li> <li>• Councillors were reminded to comment on the tracked changed documents through their group representative on the working group.</li> <li>• It was noted that 3 members of the working group were present to hear the discussion.</li> </ul>	
<b>Modelling Change to Committee Structure</b>		
62.	<p>Is the proposed allocation of functions between the committees as set out below correct?</p> <p><b>Planning and regulatory committee</b> – existing planning functions and forms the pool from which the regulatory subcommittee is drawn. (The regulatory subcommittee could have a ‘standing chair’ who could be the vice chair of planning, with the planning chair acting as vice chair to the regulatory sub on those occasions where the standing chair has a conflict of interest.)</p> <p><b>Children’s wellbeing overview and scrutiny committee</b> – children’s social care and safeguarding, transition from children’s to adult social care, children’s specific statutory health scrutiny, education.</p> <p><b>Adults and wellbeing overview and scrutiny committee</b> – adult social care and safeguarding, housing, public health, adult and cross cutting statutory health scrutiny, housing.</p>	Yes

	Question	Working group response																																																																																																									
	<p><b>General overview and scrutiny committee</b> – services within the economy, communities and corporate directorate, corporate performance, corporate budget and policy development, statutory scrutiny functions re flood management and community safety/policing.</p> <p><b>Audit and governance</b> – retains existing functions</p> <p><b>Employment Panel</b> – retains existing functions</p>																																																																																																										
63.	<p>What is the preferred option for committee sizes?</p> <p><b>Option 1</b></p> <table><tr><th></th><th>Con (29)</th><th>IOC (11)</th><th>Ind (8)</th><th>Grn (2)</th><th>Lib dem (2)</th><th>Ungrouped</th></tr><tr><td>Planning &amp; Reg (15)</td><td>8</td><td>3</td><td>2</td><td>1</td><td>1</td><td>0</td></tr><tr><td>General OSC (7)</td><td>4</td><td>1</td><td>1</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Adults and Wellbeing OSC (7)</td><td>4</td><td>1</td><td>1</td><td>0</td><td>1</td><td>0</td></tr><tr><td>Childrens Wellbeing (7)</td><td>4</td><td>2</td><td>1</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Audit (7)</td><td>4</td><td>2</td><td>1</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Employment (5)</td><td>3</td><td>1</td><td>1</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Total (48)</td><td>27</td><td>10</td><td>7</td><td>2</td><td>2</td><td>0</td></tr></table> <p><b>Option 2</b></p> <table><tr><th></th><th>Con (29)</th><th>IOC (11)</th><th>Ind (8)</th><th>Grn (2)</th><th>Lib dem (2)</th><th>Ungrouped</th></tr><tr><td>Planning &amp; Reg (15)</td><td>8</td><td>3</td><td>2</td><td>1</td><td>1</td><td>0</td></tr><tr><td>General OSC (9)</td><td>5</td><td>2</td><td>1</td><td>1</td><td>0</td><td>0</td></tr><tr><td>Adults and Wellbeing OSC (9)</td><td>5</td><td>2</td><td>1</td><td>0</td><td>1</td><td>0</td></tr><tr><td>Childrens Wellbeing (9)</td><td>5</td><td>2</td><td>2</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Audit (7)</td><td>4</td><td>2</td><td>1</td><td>0</td><td>0</td><td>0</td></tr><tr><td>Employment (5)</td><td>3</td><td>1</td><td>1</td><td>0</td><td>0</td><td>0</td></tr></table>		Con (29)	IOC (11)	Ind (8)	Grn (2)	Lib dem (2)	Ungrouped	Planning & Reg (15)	8	3	2	1	1	0	General OSC (7)	4	1	1	1	0	0	Adults and Wellbeing OSC (7)	4	1	1	0	1	0	Childrens Wellbeing (7)	4	2	1	0	0	0	Audit (7)	4	2	1	0	0	0	Employment (5)	3	1	1	0	0	0	Total (48)	27	10	7	2	2	0		Con (29)	IOC (11)	Ind (8)	Grn (2)	Lib dem (2)	Ungrouped	Planning & Reg (15)	8	3	2	1	1	0	General OSC (9)	5	2	1	1	0	0	Adults and Wellbeing OSC (9)	5	2	1	0	1	0	Childrens Wellbeing (9)	5	2	2	0	0	0	Audit (7)	4	2	1	0	0	0	Employment (5)	3	1	1	0	0	0	Members of working group to gather views from political groups on whether 7 or 9 members for scrutiny committees is preferred. This can be a decision for the AGM
	Con (29)	IOC (11)	Ind (8)	Grn (2)	Lib dem (2)	Ungrouped																																																																																																					
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Question								Working group response
	Total (54)	30	12	8	2	2	0	
64.	It is proposed that any councillor will be able to be a signatory to a call in request with a four day call in period. How many signatures should be required to trigger a call in? Other councils with this model vary between 5 and 15 signatures.							Agreed – 7 signatories to be required, must be from more than one political group
65.	Should role profiles for members be included in the constitution?							Yes
<b>Additional questions arising from members seminar</b> Amended recommendations were also made to previous questions following discussion at the seminar.								
66.	Under article 2 should the constitution include examples of quasi-judicial functions e.g. planning?							Yes
67.	Should the constitution detail alternative arrangements that could be put in place for executive and management functions?							No. The constitution must reflect the arrangements currently in place. If council agrees changes to structures in future then a statutory process must be followed.
68.	Should proposed amendments to the budget and alternative budgets be subject to the same process?							No. Alternative budgets are different and should be subject to scrutiny. The Section 151 officer will advise if multiple amendments constitute an alternative budget.
69.	Should cabinet support members be prevented from sitting on overview and scrutiny committee?							No. Preventing cabinet support members from sitting on scrutiny committees would make the pool of available members from the majority group very small.



	Question	Working group response
		The constitution clarifies that members should not be involved in scrutinising decisions in which they had a direct input.
70.	Any member of an overview and scrutiny committee can propose an item they wish the committee to consider and it will be included on the next available agenda. Should we define the term next available and the role of the chairman?	Yes - clarify this wording following g the law. Must be on an agenda and discussed at meeting.
71.	Does the reference to party whipping in relation to scrutiny committees need updating?	Agreed that paragraph should be reworded to clarify that whipping arrangements should not apply.
72.	Should the function of the audit committee in overseeing governance of joint arrangements be made clearer?	Yes - the function is already included but needs clarification. Link to adopted partnership governance framework. Risks identified through the framework assessments will be reported to audit and governance.
73.	Should members be required to specify the relevant paragraph of the constitution when raising points of order?	Members should be required to specify the section of the constitution but not the exact paragraph reference.
74.	Should ward members be limited in the length of time they can speak on planning applications?	No – it is for the chairman to manage the meeting. Remove any reference to time limit for ward members.

	Question	Working group response

	<b>Governance design principle</b>	<b>Constitution action</b>	<b>Action update</b>	<b>Other action</b>	<b>Action update</b>
1.	Members and officers perform effectively in clearly defined functions and roles	<ul style="list-style-type: none"> <li>a) Review functions scheme</li> <li>b) Review scheme of delegation</li> <li>c) Focus for member decision making on strategy and policy, with officer decision-making focussed on operations/implementation</li> <li>d) Clear purpose and vision for the organisation focussed on outcomes</li> <li>e) Partnership roles and responsibilities clear</li> </ul>	<ul style="list-style-type: none"> <li>a) Reviewed to ensure roles and functions clear</li> <li>b) Reviewed to ensure clear</li> <li>c) Functions and delegations make the respective roles clear and new guide on member roles included. Consultation with groups on key decisions to be reflected in decision reports</li> <li>d) Link to corporate plan clear within articles</li> <li>e) New framework for partnership governance referenced in constitution</li> </ul>	<ul style="list-style-type: none"> <li>a) Training and development for members and officers</li> <li>b) Communications/web site – ensure people know the information and support available and can find it</li> <li>c) Plain English/easy guides</li> </ul>	<ul style="list-style-type: none"> <li>a) Scheduled for after adoption of revised constitution</li> <li>b) New website commissioned and scheduled to go live in new year</li> <li>c) New guides to public participation and member roles in new constitution. Draft guide to member participation being developed to accompany the new constitution</li> </ul>
2.	Maximise member engagement and participation, including the involvement of all members in the development of key policies	<ul style="list-style-type: none"> <li>a) Clarify/strengthen role of members in performance management and improvement</li> <li>b) Confirm budget and policy framework items</li> <li>c) Scrutiny structure reviewed and/or policy</li> </ul>	<ul style="list-style-type: none"> <li>a) Role of GOSC re performance clarified</li> <li>b) Framework items confirmed and role of GOSC in relation to framework items clarified</li> </ul>	<ul style="list-style-type: none"> <li>a) With regard to policy development - clear process flow / timescales to ensure all stakeholders included and at the right point, e.g. unions, partners etc.</li> </ul>	<ul style="list-style-type: none"> <li>a) Existing procedure on policy adoption to be reviewed in light of new constitution and communicated; new guides to effective scrutiny to be developed.</li> </ul>

	<b>Governance design principle</b>	<b>Constitution action</b>	<b>Action update</b>	<b>Other action</b>	<b>Action update</b>
		panels supporting cabinet members	c) Scrutiny structure reviewed and proposals for three committee system made	b) Ensure feedback is given to those contributing	b) Guidance to report authors to include feedback to consultees.
3.	Decision making is informed, transparent and efficient	a) Clear scheme of delegation b) Presumption of openness c) Set threshold below which officer decisions do not need to be recorded d) Review key decision financial threshold	a) Scheme of delegation clarifies b) Explicit within code of corporate governance and principles of good decision making c) Proposed as £50k d) Remain at £500k for both capital and revenue	a) Forward plan robust and clearly understood and identifies type of decision /strategy, policy b) Decision reports proportionate to scale of decision c) Training for report authors d) Identify evidence sources and demonstrate how they are being used e) Maximise use of technology to minimise bureaucracy and cost	a) Role of plan made clear in constitution and guides; to be covered in member and officer training. b) To be covered in report author guidance and training c) Scheduled to follow implementation of online report management system and adoption of the new constitution d) Included within report author guidance e) Implementation of online report management system currently being tested for implementation in 2017
4.	The council welcomes public engagement and makes accountability real.	a) Public involvement at meetings (questions at all meetings/questions without notice) b) Forward plan publication arrangements	a) Provision for public questions included together with a guide to participation	a) Use of webcasting/technology to improve public access b) Timing/location of scrutiny and Cabinet	a) Costs of webcasting not possible within available resources but trial of audiocasting facility planned for end 2016

	Governance design principle	Constitution action	Action update	Other action	Action update
		<ul style="list-style-type: none"> <li>c) Scrutiny arrangements robust and resourced</li> <li>d) Standards of behaviour (members and officers) clearly articulated</li> <li>e) Locality arrangements</li> </ul>	<ul style="list-style-type: none"> <li>b) Forward plan of key decisions published.</li> <li>c) Revised scrutiny arrangements proposed</li> <li>d) Review of both codes scheduled as phase 2</li> <li>e) Working group not recommending formal locality arrangements</li> </ul>	<ul style="list-style-type: none"> <li>meetings flexible at Chairman's discretion</li> <li>c) Website and communications make information easy to access</li> <li>d) Forward plan understood and accessible</li> <li>e) Improved customer feedback and use of information held to inform improvement</li> </ul>	<ul style="list-style-type: none"> <li>b) Confirmed timing of meetings remains flexible</li> <li>c) Accessibility a key element of new website design and a guide to public participation will include live links for ease of navigation</li> <li>d) Forward plan of key decisions published on the website.</li> <li>e) Public participation guide includes information about providing feedback. Scrutiny training to include use of data.</li> </ul>



# The Local Government Act 2000 (Constitutions) (England) Direction 2000

The Secretary of State for the Environment, Transport and the Regions, in the exercise of his powers under sections 37(1)(a) and 48(7) of the Local Government Act 2000 (c.22) (the Act) and all other powers enabling him in that behalf, hereby directs all local authorities in England to which Part II of the Act applies as follows:

## Miscellaneous and interpretation

### 1. In the direction:

"constitution" has the meaning given by section 37(1) of the Act,

"overview and scrutiny committee":

- a. in the case of a local authority which is operating executive arrangements has the meaning given by section 21(1) of the Act; or
- b. in the case of a local authority which is operating alternative arrangements means any committee or sub-committee appointed by the authority in accordance with regulations made under section 32(1)(b) of the Act to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority.

### 2. In complying with this direction a local authority must have regard to any guidance issued for the time being by the Secretary of State under section 38 of the Act.

## The constitution

### 3. The constitution prepared and kept up to date in accordance with section 37(1) of the Act by a local authority which is operating executive arrangements or, as the case may be, alternative arrangements must include:

	Requirement of Direction	Relevant part of Council's Constitution	Comment
a	a summary and explanation of the purpose and content of the constitution;	Article 1	
b	a description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office;	Article 2	
c	a description of the principal roles and functions of the members of the council under executive arrangements or, as the case may be, alternative arrangements including the rights and duties of	Article 5, Part 7	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	those members;		
d	the scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 (c.42);	Part 6	Phase 2 recommendation c
e	<p>a description of the rights and responsibilities of inhabitants of the authority's area including:</p> <ul style="list-style-type: none"> <li>i. their rights to vote in elections for the return of members of the authority;</li> <li>ii. their rights to access to information about the authority's activities;</li> <li>iii. their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority; and</li> <li>iv. their rights of access to meetings of the executive and committees of the executive,</li> </ul>	<p>Article 3</p> <p>Access to information rules</p> <p>Council and cabinet procedure rules</p>	
f	<p>a description of the roles of the authority itself under executive arrangements or, as the case may be, alternative arrangements including:</p> <ul style="list-style-type: none"> <li>i. the functions which may be exercised only by the authority itself or which may to some extent be exercised only by the authority itself (including, in the case of a local authority operating executive arrangements any plans and strategies which are subject to approval or adoption by the authority itself by virtue of regulation 5 of, and paragraph 1 of Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853)); and</li> <li>ii. any rules governing the conduct and proceedings of meetings of the authority itself whether specified in the authority's standing orders or otherwise;</li> </ul>	<p>Function scheme – cabinet</p> <p>Council and cabinet procedure rules</p>	
g	a description of the roles and functions of the chairman of the council (including a chairman entitled to the style of mayor);	Article 4	



	Requirement of Direction	Relevant part of Council's Constitution	Comment
h	a description of the functions of the local authority executive which, for the time being, are exercisable by individual members of the local authority executive stating as respects each function, the name of the member by whom it is exercisable;	Functions scheme – cabinet Part 7	
i	a description of the functions of the local authority executive which, for the time being, are exercisable by the executive collectively or a committee of the executive, stating as respects each function, the membership of the body by who it is exercisable	Cabinet functions	
j	a description of those powers of the executive which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months	Officer function	
k	a description of the arrangements for the operation of overview and scrutiny committees including: <ul style="list-style-type: none"> <li>i. the terms of reference and membership of those committees and any rules governing the exercise of their functions; and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise;</li> </ul>	Article 6  Function scheme – overview and scrutiny  Overview and scrutiny rules	
l	in the case of a local authority which is operating executive arrangements, a description of the roles of the executive, committees of the executive and members of the executive including: <ul style="list-style-type: none"> <li>i. the roles, functions, rights, responsibilities and duties of members of the executive;</li> <li>ii. in the case of a local authority which is operating executive arrangements which include a leader and cabinet form of executive, any rules governing the election of the executive leader;</li> <li>iii. any rules governing the appointment of members of the executive;</li> <li>iv. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of the executive;</li> </ul>	Article 5  Function scheme – cabinet  cabinet rules	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	<ul style="list-style-type: none"> <li>v. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive;</li> <li>vi. any provisions in the local authority's executive arrangements with respect to the appointment of committees of the executive; and</li> <li>vii. in the case of a local authority which is operating executive arrangements which include a mayor and council manager form of executive, any roles of committees appointed by the elected mayor to advise the executive in accordance with paragraphs 3(14) and (15) of Schedule 1 to the Act;</li> </ul>		
m	in the case of a local authority which is operating executive arrangements which include a mayor and council manager form of executive, a description of the roles, functions, rights, responsibilities and duties of the deputy mayor appointed in accordance with paragraph 3(3) of Schedule 1 to the Act;	N/a	
n	a description of the roles of any committees or sub-committees appointed by the authority in accordance with section 101 of the Local Government Act 1972 (c.70) including: <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees or sub-committees; and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees whether specified in the authority's standing orders or otherwise;</li> </ul>	Article 8 Functions scheme – other Council rules Planning rules	
o	a description of those powers of the council which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;	Functions scheme – officer	
p	a description of the roles of the local authority's Standards Committee and any parish council sub-committee of the Standards Committee appointed in accordance with sections 53 or 55 of the Act including: <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of that committee or sub-committee; and</li> </ul>	Article 8 Function scheme - other	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	ii. any rules governing the conduct and proceedings of meetings of that committee or sub-committee whether specified in the authority's standing orders or otherwise;	Council procedure rules	
q	a description of the roles of any area committees appointed by the authority to exercise functions in accordance with regulations 16A of the Local Government (Committees and Political Groups) Regulations 1990 (SI 1990/1553) or, as the case may be, section 18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000/2851) including: <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees; and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise;</li> </ul>	N/a	
r	a description of any joint arrangements made with any other local authorities under section 101(5) of the Local Government Act 1972 including: <ul style="list-style-type: none"> <li>i. the terms of those arrangements;</li> <li>ii. the membership, terms of reference and functions of any joint committees established under those arrangements; and</li> <li>iii. any rules governing the conduct and proceedings of meetings of those joint committees whether specified in the authority's standing orders or otherwise</li> </ul>	Article 9	Need live link
s	a description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with section 101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000;	Article 9	Need live link
t	a description of the roles of officers of the local authority including: <ul style="list-style-type: none"> <li>i. the management structure for officers of the authority;</li> <li>ii. any arrangements made under section 101 of the Local Government Act 1972 or, as the case may be, section 14, 15 or 16 of the Act for the discharge of functions by officers</li> </ul>	Part 7  Article 10	Need live link to transparency

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	<p>of the authority;</p> <p>iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer;</p> <p>iv. the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Act;</p> <p>v. any rules governing the recruitment, appointment, dismissal and disciplinary action for officers of the authority;</p> <p>vi. any protocol established by the authority in respect of relationships between members of the authority and officers of the authority;</p>	<p>Codes</p> <p>Function scheme – council</p> <p>Function scheme – other – employment panel</p> <p>Protocol</p>	<p>Phase 2</p> <p>Phase 2</p>
u	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority, committees and sub-committees of the authority, joint committees established with any other local authority, the executive and committees of the executive;	Access to information rules	
v	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities;	Access to information rules	
w	<p>a register stating:</p> <p>i. the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and</p> <p>ii. the name of every member of each committee of the local authority's executive for the time being;</p>	Part 7	
x	<p>a description of the rules and procedures for the management of its financial, contractual and legal affairs including:</p> <p>i. procedures for auditing of the local authority;</p> <p>ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise;</p> <p>iii. rules, regulations and procedures in respect of contracts</p>	<p>Finance and contract procedure rules</p> <p>Article 10</p> <p>Functions scheme- council</p>	Phase 2

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and iv. rules and procedures in respect of legal proceedings brought by and against the local authority;	Functions scheme - officers	
y	a description of the register of interests of members and co-opted members of the authority required under section 81 of the Act, together with the procedures for publicising, maintaining and updating that register.	Code of conduct	Phase 2
x	a description of the rules and procedures for review and revision of the authority's constitution and executive arrangements or, as the case may be, alternative arrangements	Article 1 Functions scheme- other –audit	

4. This direction shall have effect from 19th December 2000.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions



# **Constitution Review**

## **28 November 2016**

# How did the working group complete this work?

- Cross party working group
- Formed in October 2014
- Followed the cfps “rethinking governance” framework





## 273

273

- 273



# How did the working group complete this work?

- Consulted with groups
- Distributed questionnaires
- Held focus groups
- All member seminar



# What have the working group done?

- Prepared recommendations to produce a revised constitution



# Major changes

- Public questions at all meetings with a guide to public participation
- New guide to roles of members
- 3 Scrutiny Committees with clearer arrangements for task and finish and call in
- Smaller committee sizes
- Planning and Regulatory Committee with a licensing sub committee



# Next Steps

- Adoption at full Council 16 December
- Training, guidance and templates January – May 17
- Phase 2 (outstanding codes and procedure rules that require third party consultation)
- Implementation May 2017
- Ongoing subject to annual review



**Herefordshire Council  
Constitution  
May 2017**





<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>28 November 2016</b>
<b>Title of report:</b>	<b>Annual report of the monitoring officer</b>
<b>Report by:</b>	<b>Monitoring officer</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose

To inform the committee of performance in the areas within the remit of the monitoring officer for the municipal year 2015/16.

## Recommendation

**THAT:**

- (a) the annual report of the monitoring officer be reviewed and any areas for further work be identified for inclusion in the work programme.**

## Alternative options

- 1 There are no alternative options as the report provides a factual summary of performance.

## Reasons for recommendations

- 2 To enable the committee to be assured that high standards of conduct continue to be promoted and maintained and the council is adhering to the principles of openness and transparency.

## Key considerations

- 3 The role of the monitoring officer is a statutory office whose duties are set out in the Local Government and Housing Act 1989 and the Local Government Act 2000.
- 4 The main responsibilities of the monitoring officer are to ensure that the council, its elected councillors and its staff act with probity and that all the council's activities are in accordance with the law and the council's constitution. The monitoring officer has responsibility for ensuring that the council avoids findings of maladministration and that it responds appropriately to the local government ombudsman in that regard.
- 5 The monitoring officer is also responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct, and for administering the local standards framework. The monitoring officer's responsibilities dovetail with those of the other statutory officers: the head of paid service (chief executive) and the section 151 officer (director of resources).

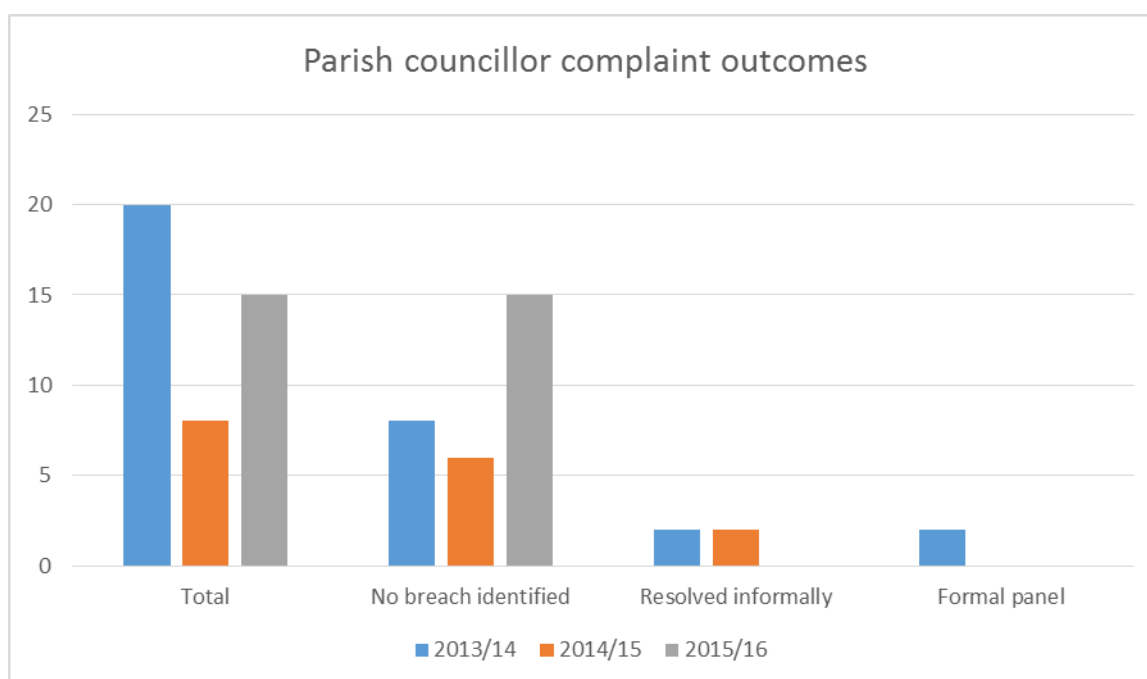
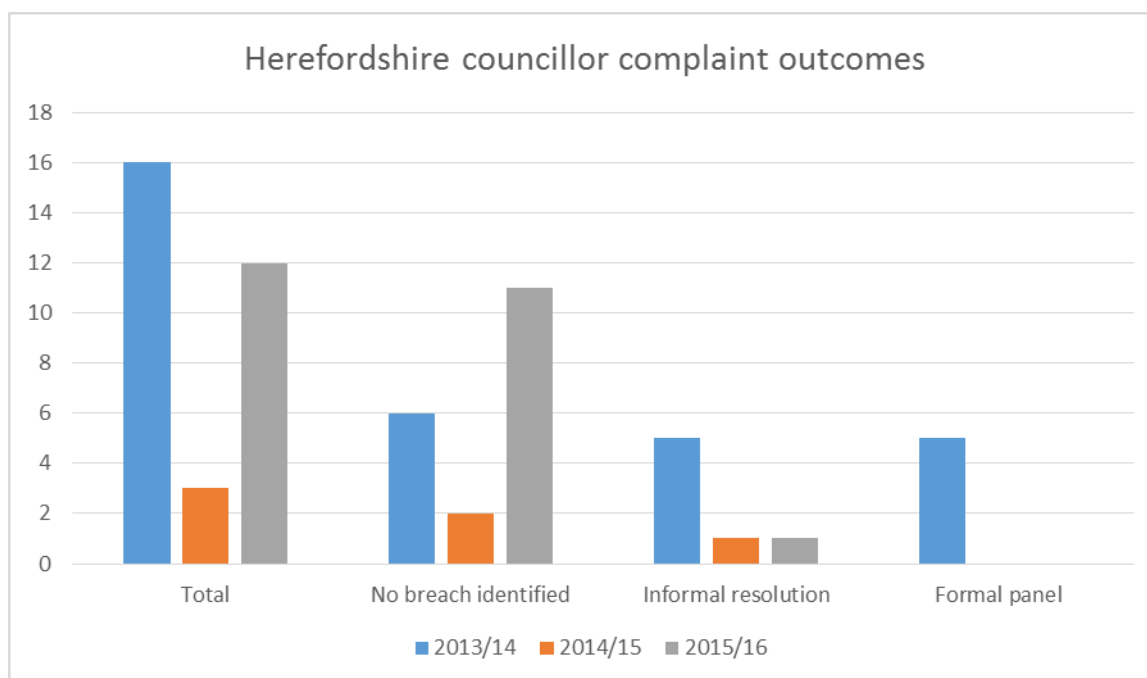
### Code of Conduct

- 6 In accordance with the provisions of the Localism Act 2011 the council has adopted a code of conduct, and this has been made available to all parish councils in the county to inform the adoption of their own code. The act also requires that the council appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct, whether by a Herefordshire councillor or a parish councillor in Herefordshire, which it has decided to investigate. Their view may also be sought in dealing with allegations which have not been investigated and they may be asked to provide support to subject members who are the subject of an allegation. At the beginning of the year the council had only one independent person, John Sharman; following a recruitment process an additional independent person, Richard Stow, was appointed by full Council in May 2016. The monitoring officer is grateful for the time and commitment these independent panel members give.
- 7 Following the monitoring officer's annual report for 2014/15 presented to the audit and governance committee on the 24 November 2015 it was resolved that a review of the standards procedure to investigate code of conduct complaints be carried out. This review has been completed and was presented to the audit and governance committee on the 9 May 2016 where it was resolved that subject to the views of parish councils the revised procedure as amended for standards matters be adopted. The revised procedure is currently out for consultation with parish councils with a deadline for responses being the 7 October.
- 8 The council maintains a register of interests for members of Herefordshire Council and parish councillors; these declarations are published on the 'your councillors' pages of the council's website. An annual reminder is sent to members and parish councillors to ensure that declarations are kept up to date. The monitoring officer provides periodic briefing sessions for Herefordshire councillors and parish councillors on the code of conduct, including induction training for members following elections. Under the powers delegated to the monitoring officer by Council in September 2012 the monitoring officer granted one general dispensation to enable members to vote on appointments at the annual meeting of Council in May 2015.



## Standards complaints

- 9 Between May 2015 and April 2016 a total of 36 complaints alleging a breach of the code of conduct were received. This figure is a significant increase on that for 2014/15. On analysis of the complaints received there is evidence that there has been a rise in the number of complaints alleging lack of respect when councillors are using social media, further training in this area might be of benefit to both local and parish councillors and will be covered in the monitoring officer's annual training. It will be noted that the tables below detail the outcome of 27 of the 36 complaints received. The remaining nine complaints are with an external investigator and no decision on these complaints has been made to date.



Further information on the subject of this report is available from  
 Claire Ward, monitoring officer on Tel (01432) 260657

## Gifts and Hospitality

- 10 Members are required to register offers (whether accepted or declined) of gifts and hospitality with an estimated value in excess of £25.00; any declarations received are published on the 'your councillors' pages of the council website. It is suggested that members are reminded of this requirement in the annual training.

## Council complaints

- 11 The council's information access team and information governance team manages:
- All formal complaints (note that with effect from 1 June 2014 the statutory children's social care (CSC) complaints process has been administered and managed by the quality assurance team in the children's wellbeing directorate)
  - Freedom of information (FOI) requests
  - Subject access requests (SAR)
  - Environmental regulation requests (EIR)
  - Potential data breaches
  - Police requests including proof of life requests
  - Requests from other authorities to share information
  - Community trigger alerts (since October 2014)
- 12 Complaints performance and trends are regularly monitored and reviewed by the council's management board. The table below provides a high level summary of the number of issues the team dealt with during the year and the previous years to provide comparison.

	<b>Complaint</b>	<b>FOI</b>	<b>EIR</b>	<b>SAR</b>	<b>Data incident</b>	<b>Police request</b>	<b>LA request</b>	<b>Community trigger</b>
2013/14	880 (total)	1280	153	56	64	34	8	n/a
2014/15	78 (CSC) 867 (other) 945 (total)	1165	76	76	63	101	72	0
2015/16	62 (CSC) 667 (other) 729 (total)	1121	85	75	91	84	83	0

## **Data breaches**

- 13 Data incidents are incidents (potential breaches) reported internally to be investigated – they are not full-blown data breaches. However, all incidents are investigated so that we can improve practice and learn from any mistakes. Mandatory training is provided for all employees and for elected members on information governance issues, and the rate of reporting indicates a high level of awareness among staff of the processes to be followed if a potential data breach has occurred. During 2015/16 no data breaches were reported to the information commissioner's office (ICO).

## **Information requests**

- 14 A wide range of information requests are received, some reflecting local issues and others on themes of more national areas of interest. Over the course of the past two years there has been a significant rise in the response time within deadline for such requests by the council. During 2015/16 three FOI/EIR referrals were made to the ICO where the requester was unhappy with a refusal by the council to release information. The ICO have upheld the council's decision in two of the cases and partially upheld the council's decision in the third.
- 15 The number of police and other public authority requests for information has remained relatively stable over the two years; with processes in place for such requests to ensure that information is shared appropriately.
- 16 The community trigger gives individuals and communities the right to request a review of their case of anti-social behaviour or hate crime, if they are not happy with the response from the relevant authorities.
- 17 A community trigger can be applied for if:
- an individual has reported three or more incidents of anti-social behaviour in the past six months to the local authority, the police or their housing association
  - an individual and four or more further individuals have complained separately about similar incidents of anti-social behaviour in the past six months to the local authority, the police or their housing association.
- 18 Overall there have been less complaints made in this period, however any deviation from our own complaints policy opens up the organisation to reputational risk and possible penalty from the Local Government Ombudsman (LGO).

## **Local Government Ombudsman**

- 19 During 2015/16 a total of 39 enquires were reviewed by the LGO compared to 47 in 2014/15. Of these 11 were up-held, compared to 17 in 2014/15. The LGO investigations that were upheld are summarised as follows:
- Adults and wellbeing had two LGO decisions upheld, concluding maladministration and no injustice. One complaint concerned an unreasonable delay in providing service and one concerned a breakdown of communication.
  - Economy communities corporate had three LGO decisions upheld concluding maladministration and injustice, of which one was due to the handling of a planning application, one was due to delay in handling a planning application

resulting in compensation paid to the complainant, and one concerning poor pre-planning application advice resulting in a refund of fees. Two further decisions were upheld concluding maladministration and no injustice.

- Children's Wellbeing had three LGO decisions upheld, two concluding maladministration and injustice due to poor communication of which one was with compensation paid, and one decision concluding maladministration but no injustice.
- Balfour Beatty Living Places had one LGO decisions upheld, concluding maladministration and injustice.
- Hoople had no decision upheld by the LGO.

### **Confidential reporting procedure**

- 20 The monitoring officer is responsible for ensuring that concerns raised by whistleblowers are investigated in accordance with the council's policy. During 2015/16 there were three disclosures compared to one in the previous year.

### **Corporate governance**

- 21 In line with the council's agreed values, one of the key elements of good corporate governance is open and transparent decision making. It is therefore appropriate to note any occasions when closed sessions of public meetings have taken place, when less than 28 days' notice of intention to take a key executive decision has been given, and the number of scrutiny call-ins conducted.
- 22 The public can be excluded from the whole or part of a meeting if the meeting is to discuss confidential or exempt information (as defined in schedule 12a of the Local Government Act 1972 as amended). During 2015/16 there were five occasions when this took place (two relating to regulatory sub-committee two to the employment panel and one to the audit and governance committee).
- 23 Key decisions to be taken by the executive are promoted on the council's website generally giving the required 28 days' notice. It is not always possible to provide this amount of notice and during 2015/16 there were thirteen occasions when a key decision was taken with more than five days but less than 28 days' notice being given; in all cases the chairman of the relevant overview and scrutiny committee was informed of this and of the reason in each case. This is a decrease from the 2014/15 figure of eighteen. Whilst the reduction in notice period was in most cases due to matters beyond the council's control (e.g. to respond to government deadlines or to respond in a timely way to rapidly changing circumstances) there were six instances which related to procurement or commissioning decisions where the delay in publishing the notice could have been avoided. The governance team has been working on the development of an online report management function to be implemented during 2016/17 which should assist in improving adherence to the forward planning processes. There were no cases of 'special urgency' where key decisions were taken with less than five days' notice.
- 24 General overview and scrutiny committee did not call in any executive decisions during 2015/16. Health and social care overview and scrutiny committee called in one executive decision in relation to proposed changes to the level of support available from the supported housing for young people project (SHYPP). The committee requested that cabinet reconsider the decision taking into account counter proposals made by SHYPP. Cabinet considered the decision further in light of this and reaffirmed its decision.

- 25 During 2015/16 the general overview and scrutiny committees made a total of 61 recommendations to the executive. Of these 44 were accepted in full, 16 accepted in part, and one rejected. The health and social care overview and scrutiny committee made a total of 18 recommendations to the executive. Of these nine were accepted in full, six accepted in part and three rejected.
- 26 The monitoring officer is responsible for ensuring that any investigation using discreet surveillance or similar evidence gathering techniques is appropriately authorised in accordance with the provisions of the Regulation of Investigatory Powers Act 2000 (RIPA). During 2015/16 no such authorisations were requested.

## **Community impact**

- 27 This report provides information about the council's performance in relation to governance and standards, in support of the council's code of corporate governance.

## **Equality duty**

- 28 There are no equality duty implications arising directly from this report, which is for information.

## **Financial implications**

- 29 There are no financial implications arising directly from this report, which is for information.

## **Legal implications**

- 30 There is no statute that specifically requires the monitoring officer to produce an annual report, however the committee can be assured that the legal issues raised in this report have been fully complied with.

## **Risk management**

- 31 There are no risks arising directly from the report which is for information. Effective governance processes mitigate the risk of legal change to decision-making and maintaining high standards of conduct mitigates risks to the reputation of the authority.

## **Consultees**

- 32 Not applicable.

## **Appendices**

- None.

## **Background papers**

- None identified.





<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>28 November 2016</b>
<b>Title of report:</b>	<b>Progress report on 2016/17 internal audit plan</b>
<b>Report by:</b>	<b>Head of corporate finance / internal audit</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose

To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.

## Recommendation

**THAT:**

- a) performance against the approved plan be reviewed and any areas for improvement identified; and
- b) the robustness of the management response to recommendations be reviewed and any recommendations for strengthening the response to further mitigate risk be identified.

## **Alternative options**

- 1 There are no alternative recommendations; it is a requirement of the council's adopted audit and governance code that the committee considers these matters in fulfilling its assurance role.

## **Reasons for recommendations**

- 2 To enable the committee to monitor performance of the internal audit team against the approved plan.
- 3 To assure the committee that action is being taken on risk related issues identified by internal audit. This is monitored by acceptance by management of audit recommendations and progress updates in implementing the agreed action plans. In addition, audit recommendations not accepted by management, and where it is considered that the course of action proposed by management presents a risk in terms of the effectiveness of or compliance with the council's control environment, are reviewed and progress to an appropriate recommendation to cabinet.

## **Key considerations**

- 4 The internal audit progress report is attached at appendix A. In the period covered by the report, six priority 4 recommendations were made.
- 5 A glossary of terms is provided at appendix B and the annual plan summary is provided at appendix C.

## **Community Impact**

- 6 The council's corporate plan and its values include commitments to being open, transparent and accountable about its performance. By ensuring robust management responses to identified risks, the council will be better able to meet its corporate plan priority to secure better services, quality of life and value for money.

## **Equality duty**

- 7 The report does not impact on this area.

## **Financial implications**

- 8 None arising from the recommendations; any additional recommendations made by the committee will be considered by the relevant manager or cabinet member and the financial implications of accepting those recommendations will be considered then.

## **Legal implications**

- 9 None.

## **Risk management**

- 10 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.

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Further information on the subject of this report is available from  
Jacqui Gooding – assistant director (SWAP) on Tel: 07872500675



- 11 Risks identified by internal audit are mitigated by actions proposed by management in response.

## **Consultees**

- 12 None.

## **Appendices**

Appendix A – SWAP plan progress report 2016-17

Appendix B – Summary of control assurance definitions, categorisation of recommendations and risk levels

Appendix C – Audit Plan Status 2016-17

## **Background papers**

- None identified.





## **Herefordshire Council**

Report of Internal Audit Activity

Plan Progress 2016-17 November 2016

# Contents

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## Summary

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## Internal Audit Work Plan 2016-17

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Added Value, Special Reviews, Future Planned Work Page 10

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High Priority Findings and Recommendations (since last Committee) Page 12 - 16

## Appendices

Appendix B - Audit Definitions

Appendix C - Audit Plan Progress 2016-17

## Our audit activity is split between:

- Operational Audit
- Key Control Audit
- Governance, Fraud & Corruption Audit
- IT Audit
- Special Reviews

See Appendix A for individual audits

## Role of Internal Audit

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 Standards of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 23 March 2016.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

- Operational Audit Reviews
- School Themes
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Reviews

## Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Director of Resources (Section 151 Officer) following consultation with the Senior Management Team. This year's (2016/17) Plan was presented to this Committee on 23 March 2016.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

## Update 2016-17

### Completed Audit Assignment in the Period

## Audit Plan Progress

The summary of the Annual Plan for 2016/17 (Appendix C) highlights progress to date. Based on the findings of each review, an overall control assurance is offered. For a summary of Control Assurance Definitions, Categorisation of Recommendations and Risk Levels, please refer to [Appendix 'B'](#).

It is important that Members are aware of the status of audits as this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

As can be seen from [Appendix 'C'](#), the following audits have been progressed to date:

### Operational:

- Completed, 3 reviews (1 reasonable, 2 partial)
- Draft Report, 3 reviews
- Discussion Report, 1 review
- In Progress, 8 reviews
- Not Started, 15 reviews
- Deferred to 2017-18, 1 review

### Governance, Fraud and Corruption:

- In Progress, 1 review

### Follow Up Reviews:

- Completed - 2 reviews
- In progress – 1 review
- Not started – 8 reviews

Update 2016-17

Completed Audit Assignment in the Period

## Audit Plan Progress

### Special reviews:

- Completed, 2 reviews

### School Themes –: SFVS – Schools Financial Value Standard

- Completed, 3 schools (1 partial, 2 reasonable)
- Draft Report, 3 schools

### Key Control:

- Not Started, 8 reviews

### Grants:

- Complete, 3 Claims
- Removed, 1 Claim

## Completed Audit Assignments in the Period

### Audit Plan Progress

Audits completed to final report since my last update are:

#### Operational

- Client Finances– Partial
- Car Parking Income and Enforcement – Partial
- Cash Handling and Collection –Reasonable

#### Schools - Schools Financial Value Standard

- Completed, 3 Schools – (1 Partial, 2 Reasonable)

#### Special Reviews

- Special Review - Complete

#### Grant Certification

- Local Transport Block Funding – Reasonable
- Troubled Families - Reasonable



These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee

## Report on Significant Findings

Where a review has a status of 'Completed' and has been assessed as 'Partial' or 'No Assurance' or with a 'High' corporate risk, I will provide further detail to inform Members of the key findings (Priority 4 and 5) identified. For the audits completed since my last report four audits - Client Finances, Car Parking Income and Enforcement, and two Schools have been assessed as Partial assurance (some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives). In addition, there was one priority 4 finding in the Cash Handling and Collection audit which was assessed as Reasonable.

None were assessed to have a 'High' corporate risk.

The full detail of each significant finding and the agreed management action and implementation is detailed on pages 13-16.

### Client Finances – Partial

The Council provides a financial management service where it has been determined that the service user is unable to manage their finances, either as;

- 1) An Appointee to manage a service user's benefits on their behalf, or
- 2) A Deputyship where a Court Protection Order is in place, in this instance the Council will manage all finances and property

The Office of the Public Guardian (OPG) are the governing body, and has oversight of the service the Council provides.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

## Report on Significant Findings Continued

Overall the service has been delivering against its various responsibilities with some well controlled areas:

- Original Court Orders are present for granted Deputyships;
- the service was observed to have adequate resources to manage the operations of the service;
- there is a dedicated system to record client's records, which is separate to the Council's Finance system.

There were no significant findings however a number of weaknesses, particularly in monitoring, recording, declaration of interest and non-disclosure agreements were identified resulting in ten priority 3 recommendations and a partial assurance opinion.

### Car Parking Income and Enforcement - Partial

The Council operates a number of car parks across Herefordshire comprising around 4,514 off-street parking spaces and an estimated 1,600 controlled (generally by limited waiting) on-street parking spaces. The Council is responsible for the enforcement of the on-street parking restrictions throughout Herefordshire and the enforcement of all off-street car parks controlled or managed by them. The Council employ Civil Enforcement Officers (CEO's) who issue Penalty Charge Notices (PCN'S) to those vehicles that are parked in contravention of the Traffic Regulation Order (TRO) (parking restrictions) in force in the area in which the vehicle was parked. Under the powers of the Traffic Management Act (TMA) 2004 the Council also carries out enforcement of its off-street car parks within the 'rules and regulations' contained within the Off Street Parking Place Order.

However, a number of weaknesses particularly in process were identified. Nineteen recommendations (three priority 4 and sixteen priority 3) were made resulting in a partial assurance being given. Eight of the recommendations relate to the Revenues Team processes and the remainder to the Parking Services Team processes.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

## Report on Significant Findings Continued

Overall the service has been delivering against its various functions with some well controlled areas.

- Car Park charges are regularly reviewed and approved by Cabinet with the most recent review resulting in an increase in charges effective as of February 2016. This decision was shown to be well documented with evidence to support the reasoning for implementation.
- The Council has used tools such as a Priorities and Budget Consultation 2016-2020 to involve the public in discussions around raising car park charges and also had a consultation with Alpha Parking to consider key areas of Parking Services.
- The Council is clear in all reports taken to Cabinet as to the legal requirements and implications for car park income and are clear what surpluses will be spent on.
- The Council has both Company Public Liability Insurance and Professional Negligence Insurance in place to cover; employee theft, third party theft and staff/user accident however a weakness was identified with cover for cash in transit and cash held.
- Sampling showed that sufficient detail was taken in all samples when a PCN was issued
- The budgets for car parks are actively and frequently monitored

The cash collection and counting process required improvement in the following areas:

- Review of insurance arrangements regarding the transit and storage of the cash income
- In depth reviews of cash discrepancies identified between the cash counting machine and the P&D machine audit ticket
- Review of the cash security collection process to ensure that all income is collected for banking (i.e. current weight limitations) and the contract with the security company is reviewed and updated to meet the Council's needs.

Appeals have been identified as not always being dealt with consistently and promptly across the officers within the Revenues Team. A more consistent approach is needed to ensure outstanding debt from the PCN's is collected wherever possible. The Council would also benefit from agreeing and implementing a policy in relation to persistent offenders to ensure they are actively dealt with.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

## Report on Significant Findings Continued

### Cash Handling and Collection – Reasonable

The Council generally handle low levels of cash as customers are encouraged to pay for services by direct debit, online through the council website, or at the Post Office or Pay points.

Cash is accepted at the six local Customer Service Centres, mainly for trade refuse, green sacks and electricity cards; the total value of cash receipted in the last financial year was £317,000.

There are a number of other sites where Council Officers handle cash including:

- Market rents collection
- Hereford Library & Museum
- Crematorium Office

Petty cash floats are held at schools and at various Council locations; these balances are maintained on an imprest system. Excluding schools floats the total value of petty cash balances held is £4,675.

The procedures around cash handling and collection were generally found to be reasonable and well controlled, however there is a need for review and clarification to ensure that consistent policy is adopted across all cash handling sites. There were some security weaknesses around how cash is stored, however the level of cash handled by the Council is relatively low.

The review of petty cash claims identified some weaknesses where Petty Cash procedures had not been correctly followed. When the Council's procedures have been updated and communicated through further training of responsible officers, this should align consistency in practice and improve internal control.

There was one priority 4 finding where a petty cash float of £1,000 is held in a locked tin as there is no safe at this location. Under the Council insurance policy, petty cash balances are only insured up to a value of £500 where held in a locked receptacle (amounts above £500 should be stored overnight in a locked safe) and as such the storage of this petty cash float does not comply with the Councils insurance policy. Although the value of the float can be considered low; in terms of the risk of theft of cash this would be seen as an opportunity.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

## Report on Significant Findings Continued

### Schools Financial Value Standard

The Schools Financial Value Statement (SFVS) helps schools to manage their finances and provides assurance to the Local Authority that they have secure financial management in place. The SFVS standard assessment form states Governing bodies/management committees have formal responsibility for the financial management of their schools, and so the standard is primarily aimed at governors and management committees.

Each of the 25 questions in the SFVS requires an answer of Yes, In Part, or No depending on the extent to which the Governing Body feels that it complies with the criteria. On the returns, schools should indicate the main evidence on which the Governing Body has based its answers. In addition, any remedial action needed should be recorded. It is now a requirement for governors to monitor the progress of these actions to ensure that they are all cleared within specified deadlines.

Annual completion of the SFVS form is mandatory for Local Authority maintained schools'. A SFVS return signed by the Chair of Governors must be sent to the Local Authority each year.

Six schools were visited to assess compliance with the SFVS. Three reports are at draft report and three are completed. For the three final reports one was assessed as Partial assurance and two as Reasonable assurance. There were a significant number of well controlled areas and review of SFVS identified that in the main the schools are managing their finances and overall have secure financial management in place. Some areas were identified for improvement (21 priority 3 findings) and there were two priority 4 (significant) findings across the three reports that required more immediate action.

The significant findings identified weaknesses in the independent audit of the school fund which had not been audited for the last three years at one school and lack of evidence to support quotes/tenders for a sample of five higher value transactions at one school.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

## Added Value

Primarily Internal Audit is an assurance function and will remain as such. However, as we complete our audit reviews and through our governance audit programmes across SWAP we seek to bring information and best practice to managers to help support their systems of risk management and control. The SWAP definition of “added value” is “it refers to extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something "more" while adding little or nothing to its cost”.

A survey was sent to SWAP Partner Councils to establish how their pest control services are being delivered with regard to costs, resources and performance monitoring. The Partner Summary report has been shared with this Council and the Head of Regulatory and Development Management Services has requested to discuss the benchmarking with the Councils that contributed to the report.

## Special Reviews

Unplanned work, special reviews or projects carried out on a responsive basis are requested by the Director of Resources (Section 151 Officer).

The special review reported as in progress in my last update has been concluded. A report has been provided to Senior Management.

## Future Planned Work

As new and emerging risks are identified, any changes to the plan will be subject to the agreement of the Director of Resources (Section 151 Officer) with removal or deferral of audits to be formally agreed by the Audit Committee.

One additional audit – Catering Contract has been requested and four follow up reviews on partial assurance opinion audits identified for inclusion in the plan. The days to accommodate these audits have been taken from the remaining contingency days in the plan and in agreement with the Business Partner I propose that the audit - Telecare is deferred to quarter 1 of 2017-18.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Conclusion

Since my last update nine audits have been completed. Where low to medium control or administrative weaknesses are identified normal expectation is for reviewed areas to be assessed into the 'Reasonable' category of assurance. However, where the assessed area falls below 'Reasonable', management is expected to address the risks identified as a matter of priority and monitor their progress against the agreed action plan. Of the nine audits completed three have been assessed as Partial assurance and the significant findings have been reported in the table below. Five have been assessed as reasonable assurance and one is a non-opinion review.

Members can however take assurance that all recommendations have been agreed by management with agreed target dates for completion. Internal Audit will also complete a follow up review on all Partial assurance audits in 2017-18.

At the end of each audit review, a Customer Satisfaction Questionnaire is sent out to the service manager or nominated officer. The aim of the questionnaire is to gauge satisfaction against timeliness; quality; and professionalism. As part of the Balanced Scorecard presented to the SWAP Management Board, a target of 80% is set where 75% would represent a score of good. The current accumulative feedback for Herefordshire Council is 87%.

### High Priority Findings and Recommendations (Priority 4 or 5 only)

Note: Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
<b>Car Parking Income and Enforcement</b>					
As cash levels have increased, the insurance arrangements have not been considered for cash in transit and cash stored at the Town Hall.	The Council is not insured for cash in transit or cash stored at the Town Hall once it exceeds the limits set out in the insurance policy.	The Head of Technical and Parking Services in liaison with the Insurance Officer has agreed to investigate the Council's options in relation to the collection of the cash income from the Pay and Display machines to ensure collection arrangements are covered by the Council's insurance policy.	The insurance officer has investigated and advised that no insurer will insure amounts above the existing limits, they only allow 2 people to carry £6,000 and anything over £10,000 must be handled by a security company. The limits are designed to protect the individual not the company. The cash collection arrangements have been amended to comply with the current insurance requirements. The new arrangements were implemented on 18 July 2016.	Complete	Head of Technical and Parking Services



## High Priority Findings and Recommendations (Priority 4 or 5 only)

Note: Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
		The Senior Development Team Leader in liaison with the Head of Corporate Finance has agreed to ensure that any cash not secured in the safe is held in a strong room to ensure it is in line with the Council's insurance arrangements and to ensure the safe limit is monitored closely to ensure its limit is not breached.	Responsibility for cash counting is due to transfer to the Parking team. The intention is for the Parking team to move to the town hall in November 2016. Overseeing of cash collection will form part of their daily duties which will include ensuring only cash covered by insurance will be held on site.	31 December 2016	Parking Services Manager
The cash collection contract is dated 1994, there is no updated version available and is not present on the contracts register.	The Contract for cash collection may not be meeting the current needs of the Council or providing value for money.	The Senior Development Team Leader in liaison with the Head of Corporate Finance has agreed to ensure the contract that is held with the cash collection service is reviewed and reflective of the Council's current needs i.e. the weight amounts to be collected daily.	The contract and review dates will be included in the contracts register and actioned as appropriate.	31 December 2016	Head of Corporate Finance

## High Priority Findings and Recommendations (Priority 4 or 5 only)

Note: Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
<b>Cash Handling and Collection</b>					
A petty cash float of £1,000 is held at one site in a locked tin; there is no safe at this location. Under the Council insurance policy, petty cash balances are only insured up to a value of £500 where held in a locked receptacle (amounts above £500 should be stored overnight in a locked safe).	Cash held at this site is not held securely overnight and would not be covered under a claim on the Council's Insurance policy for amounts above £500.	The Finance Transactional Support Officer (Hoople Ltd) in liaison with the Head of Corporate Finance has agreed to ensure that the Petty cash float held at the site is securely stored overnight in an appropriate safe, to comply with the Council's Insurance requirements.	In order to comply with the Council's insurance requirements, Lead Manager Business Support is in the process of purchasing a safe, in the meantime the petty cash tin is placed away from the reception, and the tin can only be accessed by either the business support manager or business support team leader.	31 December 2016	Head of Corporate Finance

### High Priority Findings and Recommendations (Priority 4 or 5 only)

**Note:** Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
<b>Schools - SVFS</b>					
There was no evidence of quotes/tenders sought for a sample of five high value transactions.	There is a risk that the School is not achieving best value for money.	The Chair of Governors has agreed to ensure the best value statement is reviewed and approved by the Full Governing Body and wherever possible the School ensure they are achieving best value for money by ensuring the appropriate quotes are obtained.	Best Value Statement will be reviewed and approved by the Finance and Staffing Committee, then will be reviewed yearly thereafter.  The Finance Policy and Procedures Document are going to be reviewed and therefore school will ensure best value is sought through following the processes outlined.	31 March 2017	Finance and Staffing Committee and Headteacher
The School Fund account has not been audited for the 2013/14, 2014/15 or 2015/16 financial years.	Without an independent audit, assurance cannot be given that the fund records are accurate and complete.	The Chair of Governors has agreed to ensure the school fund account is audited for 2013/14, 2014/15 and 2015/16 financial years and then yearly thereafter.	The School Business Manager has approached a local auditor who will make a decision by the end of this week. Years 13/14, 14/15 will then be audited as soon as possible. 15/16 accounts ended 31st	31 December 2016	School Business Manager

High Priority Findings and Recommendations (Priority 4 or 5 only)

Note: Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
			August and I have therefore only just received final bank statements etc.		

## Audit Framework Definitions

### Control Assurance Definitions

<b>Substantial</b>	▲ ★ ★ ★ I am able to offer substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
<b>Reasonable</b>	▲ ★ ★ ★ I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
<b>Partial</b>	▲ ★ ★ ★ I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
<b>None</b>	▲ ★ ★ ★ I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

### Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

### Definitions of Risk

Risk	Reporting Implications
<b>Low</b>	Issues of a minor nature or best practice where some improvement can be made.
<b>Medium</b>	Issues which should be addressed by management in their areas of responsibility.
<b>High</b>	Issues that we consider need to be brought to the attention of senior management.
<b>Very High</b>	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.



# Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations					
						Total	1	2	3	4	5
*Finance	Grant Certification	Heat Network Delivery Units	April 2016	Removed							
*Finance	Special Review	Link Road Scheme (LEP & HC) (additional work days from Contingency )	April 2016	Completed	Non-Opinion	1			1		
*Finance	Grant Certification	Redundant Building Grant Scheme - Round 4	April 2016	Completed	Grant Certification	–	–	–	–	–	–
*Adult care services	Operational	Brokerage	April 2016	Draft Report	Partial	7	0	0	3	4	0
*Adult care services	Operational	Client Finances	April 2016	Completed	Partial	10	0	0	10	0	0
*Finance	Operational	Car Parking Income/Enforcement	April 2016	Completed	Partial	19	0	0	16	2	0
*Finance	Operational	Cash Handling & Collection	April 2016	Completed	Reasonable	9	0	0	8	1	0
*Human resources	Operational	Recruitment - Contracts	April 2016	Draft Report	Partial	0	0	0	9	1	0
*Information and communication technology	Operational	FWI EDRMS/Mosaic Upgrade - Implementation & Assurance -	April 2016	In Progress							
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Bridstow Primary School	April 2016	Completed	Partial	9	0	0	8	1	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Pembridge CE Primary School	April 2016	Completed	Reasonable	5	0	0	4	1	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Weobley Primary School	April 2016	Completed	Reasonable	9	0	0	9	0	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Ameley Primary School	April 2016	Draft Report							
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Peterchurch Primary School	April 2016	Draft Report							
*Education and skills	School	SFVS (School Financial Value Standard) Governance - St Marys RC High School	April 2016	Draft Report							
*Finance	Special Review	Special Review	April 2016	Completed	Non-Opinion	–	–	–	–	–	–
*Information management	Follow Up	Modern Records follow up	July 2016	Completed	Follow Up						
*Finance	Grant Certification	Local Transport Block Funding	July 2016	Completed	Grant Certification	–	–	–	–	–	–
*Adult care services	Operational	Residential & Nursing Care	July 2016	Deferred to qrt 4							
*Adult care services	Operational	Deferred Payments	July 2016	Not Started							
*Adult care services	Operational	Pre Paid Cards (Direct Payments)	July 2016	Initial Meeting							
*Adult care services	Operational	Public Health Contracts	July 2016	In Progress							
*Children and families services	Operational	Children Missing Education (Safeguarding)	July 2016	In Progress							
*Consumer affairs	Operational	Food Safety	July 2016	In Progress							
*Finance	Operational	Property Services - Accounts Payable (additional work days from Contingency )	July 2016	Draft Report							
*Human resources	Operational	Use of Agency	July 2016	Planned start date 8-11-16							
*Information and communication technology	Operational	Protection from Malicious Code	July 2016	In Progress							
*Management	Operational	Performance Management Framework - Performance Indicators Corporate	July 2016	In Progress							

# Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations					
						Total	1	2	3	4	5
*Planning and building control	Operational	S106 Agreements	July 2016	Discussion Document							
*Transport and infrastructure	Operational	Concessionary Fares	July 2016	In Progress							
Procurement	Operational	Catering Contract (additional work days from Contingency )	October 2016	In Progress							
*Consumer affairs	Follow Up	Licensing	October 2016	Not Started							
*Finance	Follow Up	Treasury Management	October 2016	Completed	Follow up	0	0	0	0	0	0
*Information and communication technology	Follow Up	Changes to Role & Exit - ICT Access Controls	October 2016	Not Started							
*Transport and infrastructure	Follow Up	Home to School Transport	October 2016	Not Started							
*Finance	Governance, Fraud & Corruption	NFI	October 2016	In progress							
*Finance	Grant Certification	Troubled Families	October 2016	Completed	Substantial	3	0	0	3	0	0
*Finance	Key Control	Accounts Payable	October 2016	Not Started							
*Finance	Key Control	Accounts Receivable	October 2016	Not Started							
*Finance	Key Control	Capital Accounting	October 2016	Not Started							
*Finance	Key Control	Main Accounting	October 2016	Not Started							
*Finance	Key Control	Council Tax	October 2016	Not Started							
*Finance	Key Control	Housing & Council Tax Benefits	October 2016	Not Started							
*Finance	Follow Up	NNDR - follow up	October 2016	In Progress							
*Finance	Key Control	Payroll	October 2016	Not Started							
*Finance	Key Control	Pensions - Auto enrolment	October 2016	Not Started							
*Information and communication technology	Operational	Public Services Network Submission Assurance	October 2016	Not Started							
*Adult care services	Follow Up	Financial Assessments	January 2017	Not Started							
*Adult care services	Operational	Better Care Fund	January 2017	Not Started							
*Adult care services	Operational	Contracts & Contract Management	January 2017	Not Started							
*Adult care services	Operational	Hospital Discharges	January 2017	Not Started							
*Adult care services	Operational	Telecare - Living Aids & Equipment	January 2017	Deferred to 17-18 for Partial assurance follow ups							
*Adult care services	Operational	Transitions	January 2017	Not Started							
*Adult care services	Operational	Complex Care (LD)	January 2017	Not Started							
*Children and families services	Operational	Looked After Children	January 2017	Not Started							
*Children and families services	Operational	Early Years Funding	January 2017	Not Started							
*Children and families services	Operational	Direct Payment/Personal Budgets (Children's) - HC	January 2017	Not Started							



# Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations					
						Total	1	2	3	4	5
*Information and communication technology	Operational	Business Continuity/Disaster Recovery Processes - Data Centre	January 2017	Not Started							
*Procurement	Operational	Nottingham Rehab Contract Review	January 2017	Not Started							
Information and Communication technology	Follow Up	PCI Data Security Standard Compliance	January 2017	Not Started							
Information and Communication technology	Follow up	Mobile Phone Usage and Strategy	January 2017	Not Started							
*Adult care services	Follow up	Direct Payments (Adults)	January 2017	Not Started							
*Adult care services	Follow Up	Midland Heart	January 2017	Not Started							





<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>28 November 2016</b>
<b>Title of report:</b>	<b>2015/16 annual audit letter</b>
<b>Report by:</b>	<b>Interim director of resources</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose

To consider and note the external auditor's statutory annual audit letter (AAL) for 2015/16.

## Recommendation(s)

THAT:

- (a) the annual audit letter (AAL) for 2015/16 at appendix 1 is reviewed and the committee determine whether any issues require further action or inclusion in the committee's work programme.

## Alternative options

- 1 The AAL is a statutory process and therefore no alternative options are outlined.

## Reasons for recommendations

- 2 The code of audit practice in local government requires the external auditor to report to those charged with governance the conclusions they have drawn from their audit work and their opinion on the financial statements and value for money. It is a function of the committee to: consider reports of external audit and inspection agencies and take appropriate action where relevant to the remit of the audit and governance committee.

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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 The AAL is intended to provide the means for external audit to communicate key messages to the council and external stakeholders. The external auditors issued an unqualified opinion on the statement of accounts for 2015/16. The external auditors confirmed that the accounts were made available for audit in line with the agreed timetable and provided a good set of working papers to support them.
- 4 An unqualified conclusion was issued in respect of value for money. The external auditors are satisfied that the Council has proper arrangements in place securing the economy, efficiency and effectiveness in its use of resources.
- 5 The external auditors have confirmed that they will work with us in delivering the highways network asset revaluation work required in 2016/17. The revaluation is expected to have a significant impact on the council's 2016/17 statement of accounts, both in values and levels of disclosure and an action plan to ensure this is correctly disclosed has been prepared.

## **Community impact**

- 6 The council is responsible for ensuring that appropriate safeguards are in place to ensure that it operates effective governance arrangements and internal controls; the reports and opinions of external audit inform future improvement action.

## **Equality duty**

- 7 The content of the report has no direct impact on equality or human rights.

## **Financial implications**

- 8 There are no financial implications arising from this report.

## **Legal implications**

- 9 The AAL is shared as part of the statutory duty of the external audit function.

## **Risk management**

- 10 The AAL identifies risks and actions being undertaken to mitigate those risks.

## **Consultees**

- 11 None

## **Appendices**

Appendix 1 – annual audit letter.

## **Background papers**

None identified.

# The Annual Audit Letter for Herefordshire Council

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**Year ended 31 March 2016**

October 2016

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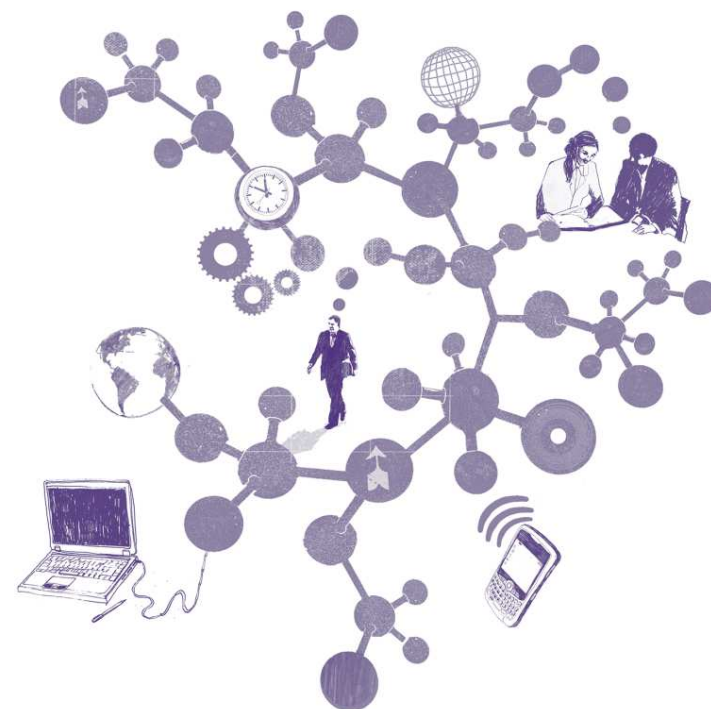
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## Appendices

A Reports issued and fees

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# Executive summary

## Purpose of this letter

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at Herefordshire Council (the Council) for the year ended 31 March 2016.

This Letter is intended to provide a commentary on the results of our work to the Council and its external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice (the Code) and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'.

We reported the detailed findings from our audit work to the Council's Audit and Governance Committee as those charged with governance in our Audit Findings Report on 22 September.

## Our responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Council's financial statements (section two)
- assess the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Council's financial statements, we comply with International Standards on Auditing (UK and Ireland) (ISAs) and other guidance issued by the NAO.

## Our work

### Financial statements opinion

We gave an unqualified opinion on the Council's financial statements on 22 September 2016.

### Value for money conclusion

We were satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources during the year ended 31 March 2016. We reflected this in our audit opinion on 22 September 2016.

### Whole of government

We completed work on the Council's consolidation return following guidance issued by the NAO and issued an unqualified report on 18 October 2016, although we did refer to one mismatch in our submission to the NAO.

### Certificate

We cannot formally conclude the audit and issue an audit certificate in accordance with the requirements of the Act and the Code until we have completed our consideration of matters brought to our attention by the Authority.

### Certification of grants

We also carry out work to certify the Council's Housing Benefit subsidy claim on behalf of the Department for Work and Pensions. Our work on this claim is not yet complete and will be finalised by 30 November 2016. We will report the results of this work to the Audit and Governance Committee in our Annual Certification Letter.

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

**Grant Thornton UK LLP**  
**October 2016**

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# Audit of the accounts

## Our audit approach

### Materiality

In our audit of the Council's accounts, we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for our audit of the Council's accounts to be £6,637,000, which is 1.8% of the Council's gross revenue expenditure. We used this benchmark, as in our view, users of the Council's accounts are most interested in how it has spent the income it has raised from taxation and grants during the 2016/17 year.

We also set a lower level of specific materiality for certain areas such as cash, senior officer remuneration and auditor's remuneration.

We set a lower threshold of £332,000, above which we reported errors to the Audit and Governance Committee in our Audit Findings Report.

### The scope of our audit

Our audit involves obtaining enough evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error.

This includes assessing whether:

- the Council's accounting policies are appropriate, have been consistently applied and adequately disclosed;
- significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the narrative report and annual governance statement to check they are consistent with our understanding of the Council and with the accounts on which we give our opinion.

We carry out our audit in line with ISAs (UK and Ireland) and the NAO Code of Audit Practice. We believe the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Our audit approach was based on a thorough understanding of the Council's business and is risk based.

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.



# Audit of the accounts - Council

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk
<p><b>Accounting for the Better Care Fund</b></p> <p>The 2015/16 financial statements included a new material pooled budget under a s75 agreement.</p> <p>The accounting treatment of this arrangement was complex in line with accounting standards in relation to Joint Arrangements (IFRS11)</p>	<p>We have performed the following procedures:</p> <ul style="list-style-type: none"> <li>• Obtained and reviewed the s75 agreement in place between the Council and Herefordshire CCG</li> <li>• We have established the Council's control environment in relation to the Better Care Fund and performed walkthroughs of key controls to ensure they are operating effectively</li> <li>• We have reviewed the reasonableness of the judgements made by the participants in assessing the control over the funds, and hence the accounting treatment</li> <li>• We have agreed BCF transactions, balances and disclosures in the accounts to the appropriate underlying evidence</li> </ul> <p><b>No significant matters arose from our work.</b></p>
<p><b>Valuation of pension fund net liability</b></p> <p>The Council's pension fund asset and liability, as reflected in its balance sheet, represents a significant estimate in the accounts and comprises 43% of its total liabilities.</p> <p>The values of the pension fund net liability is estimated by specialist actuaries.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> <li>• Documented and walked through the key controls put in place by the Council to ensure they were designed as expected.</li> <li>• Reviewed whether the experts used by the Council were sufficiently knowledgeable and independent for us to rely on their work</li> <li>• Reviewed the Council's instructions to its actuary and tested the information on staff and pensioners it gave them to calculate the pension fund liability.</li> <li>• Reviewed the key assumptions made by the actuary using the work of an actuarial expert and tested whether any assumptions specific to the Council were appropriate.</li> <li>• Checked that the Council had correctly made entries in its accounts following the report from the actuary.</li> </ul> <p><b>Our audit work has not identified any issues in respect of the valuation of the pension fund liability</b></p>

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# Audit of the accounts

## Audit opinion

We gave an unqualified opinion on the Council's accounts on 22 September 2016, in advance of the 30 September 2016 national deadline.

The Council made the accounts available for audit in line with the agreed timetable, and provided a good set of working papers to support them. The finance team responded promptly and efficiently to most of our queries during the course of the audit.

## Issues arising from the audit of the accounts

We reported the key issues from our audit of the accounts of the Council to the Council's Audit and Governance Committee on 22 September 2016.

This financial year the adoption of the accounting standard IFRS 13 (Fair Value Measurement) was reflected in the CIPFA Code of practice for 2015/16. The standard, which has been applied prospectively from 2015/16, provides a new definition and brings together fair value guidance into one standard that is applicable to almost all fair value estimates. We found that the financial statements were not in compliance with the enhanced disclosure requirements arising from the new standard in any respect. A number of enhanced disclosures were therefore made.

A significant change is reflected in the CIPFA code in relation to the 2016/17 accounts and will require valuation of the Council's network assets. Further detail is included later in this report. This is a significant task involving finance, highways staff and valuers and the impact on the accounts is expected to be highly material. We will be looking to see that the Council is making appropriate plans for the implementation of this change and would expect that appropriate assurance is provided to the Audit Committee by officers that this is being properly implemented.

## Annual Governance Statement and Narrative Report

We are also required to review the Council's Annual Governance Statement and Narrative Report. It published them on its website with the draft accounts in line with the national deadlines.

Both documents were prepared broadly in line with the relevant guidance and were consistent with the supporting evidence provided by the Council. We did suggest that specific reference was made to the weakness in capital reporting, officers confirmed the AGS action plan already identifies actions to improve record keeping data quality.

## Whole of Government Accounts (WGA)

We carried out work on the Council's consolidation schedule in line with instructions provided by the NAO. We issued a group assurance certificate which made a reference to a mismatch which we had investigated and concluded that it was correctly stated from Hereford Council's perspective.

## Other statutory duties

We also have additional powers and duties under the Act, including powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Council's accounts and to raise objections received in relation to the accounts.

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# Value for Money conclusion

## Background

We carried out our review in accordance with the NAO Code of Audit Practice (the Code), following the guidance issued by the NAO in November 2015 which specified the criterion for auditors to evaluate:

*In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.*

## Key findings

Our first step in carrying out our work was to perform a risk assessment and identify the key risks where we concentrated our work.

The key risks we identified and the work we performed are set out in table 2  
3  
8  
overleaf.

Based on our review, we are satisfied that, in all significant respects, the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources. In our Audit Findings report we provided detailed findings against each of these criteria. However our high level observations were as follows:

### Health and Social Care Integration

The Sustainability and Transformation Plan (STP) is being developed as part of the DOH five year forward view. We expect the plan to be published soon. This plan covers Herefordshire and Worcestershire and locally builds on the Health and Social Care Transformation programme, 'One Herefordshire'. The County has struggled to achieve significant 'transformation' to date to address the underlying financial and operational challenges. As with other STP plans nationally, we expect that the plans may propose some significant changes to what services are provided locally and how they are delivered, in order to achieve the levels of savings needed.

The Council is operating in a challenged health and social care economy. The Council's main partners in the county and the wider STP footprint area continue to report risk around their financial positions and are struggling to achieve the constitutional targets in a number of areas.

Pooled budget arrangements have been in place for a number of years but this year the CCG and Council extended these arrangements with the introduction of the 'Better Care Fund'. We concluded that the Council has adequate arrangements around the financial operation of these pooled budgets.

### Waste Incinerator PFI scheme

The annual accounts reflect further planned commitments to the PFI scheme. We reviewed the financial arrangements and concluded that these were appropriate. This scheme continues to be a high profile matter locally with further challenge in October through the Information Commissioner regarding disclosure of redacted information in the waste contract to be made public.

### Ofsted inspection of children's services

The Council has a current, 2014/15, adequate overall OFSTED judgement of "requires improvement" to be good for its child protection and looked after children's services. This is an improvement on its previous judgement in 2012/13. The Council has set an ambition to be graded overall good for these services in 2017, although this will depend on the OFSTED cycle and OFSTED framework.

There are financial pressures around the service with Children's Services directorate overspending against budget year on year. Whilst there are on-going financial and operational risks around children's services and 'looked after' children we are satisfied that the Council is taking steps to respond to these risks.

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# Value for Money conclusion (cont)

## **Local Enterprise Partnership**

As part of our review of risks, we considered the arrangements the Council has in place around partnership arrangements, specifically those around the Marches Local Enterprise Partnership. We found that whilst there are clearly set out and approved governance and accountability arrangements, in practice these are still evolving.

## **Capital monitoring**

We reviewed the arrangements that the Council has in place around capital budget monitoring. There have been some well-documented errors in financial reports, however we do not consider that these indicate a weakness in the underlying monitoring arrangements. There is scope to improve both the quality control of committee reports and to improve transparency in reporting around individual schemes. We will continue to review progress the Council is making in improving its reporting as part of the 2016/2017 audit

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## **Overall VfM conclusion**

We are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2016.

# Value for Money

**Table 2: Value for money risks**

Risk identified	Work carried out	Findings and conclusions
<p><b>Health &amp; Social Care Integration</b> The Council is working in a challenged health and social care economy. The Council is seeking to deliver wide ranging changes and greater integration to ensure the financial sustainability of adult health and social care services through its transformation agenda and through working with partners in health.</p>	<p>We reviewed the project management and risk assurance frameworks established by the Council to establish how it is identifying, managing and monitoring these risks.</p>	<p>The Council is operating in a challenged health and social care economy. In line with national requirements the partners in the STP footprint area are developing the Sustainability and Transformation Plan. It is expected that this will build on local initiatives including the 'One Herefordshire' plan but also looking at solutions across the wider area. The area has struggled to deliver any significant changes and It is hoped that the STP plan and new leadership in the area will give much needed impetus to transformational change.</p> <p>The introduction of the better care fund and incentive to pool budgets with partners in the health sector is a complex arrangement and requires robust governance and project management to ensure delivery and VFM is being delivered. We are satisfied from the evidence gathered that the Council has established arrangements around the integration with health services which will provide appropriate oversight. This is due to the extensive board structure in place taking into consideration representatives of both parties to the s75 agreement, as well as NHS providers that are not party to the agreement, and thus encompassing fully the concept of collaboration.</p> <p>Finally, the reporting process is thorough and frequent enough to keep up to date with emerging issues in a timely manner. The breadth of involvement is conducive to informed decision making by the relevant party and as such we consider that appropriate arrangements are being put in place to mitigate the risk, whilst recognising the overarching inherent financial risks within the system.</p> <p><b>On that basis we concluded that the risk was sufficiently mitigated and the Council has proper arrangements</b></p>

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# Value for Money

**Table 2: Value for money risks**

Risk identified	Work carried out	Findings and conclusions
<p><b>PFI scheme – waste incinerator</b> The council is a party to a significant PFI contract for a waste incinerator. This is a significant financial commitment and has been a high profile matter.</p> <p>This links with arrangements for planning finances effectively to support the sustainable delivery of strategic priorities and to maintain statutory functions.</p>	<p>We obtained an understanding of where the council are in this project and how the financial implications are being managed and factored into financial plans.</p>	<p>We are satisfied that the Council has adequate arrangements in place to secure value for money in the delivery of the waste incinerator PFI agreement. This is supported by the stable financial position of the partnership, a forecast surplus for the Council and timely management of relationship and dispute issues resulting in limited financial impact.</p> <p>It is evident from our review of documents and through discussions with client personnel that the scheme has been factored in to the long term financial projections of the Council with loan repayments spread up to 2042 or the useful economic life of the plant.</p> <p>The borrowing necessary has also been undertaken in line with the relevant prudential strategy and in a responsible manner. The majority of debt is sourced from PWLB at rates favourable to the council and thus resulting in a surplus on repayment.</p> <p>We have gained assurance that governance procedures are being implemented to a satisfactory level which has included the audit committee discussing the scheme regularly and providing appropriate oversight at their meetings.</p> <p>Finally, the financial and operational aspects of the scheme have also been reported on positively by external third parties, specialising in their respective areas. As such, we do not consider the waste incinerator PFI scheme to pose a threat to our value for money conclusion, no further work is proposed on this matter.</p> <p><b>On that basis we concluded that the risk was sufficiently mitigated and the Council has proper arrangements</b></p>

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# Value for Money

**Table 2: Value for money risks**

Risk identified	Work carried out	Findings and conclusions
<p><b>Ofsted inspection of children's services</b></p> <p>The Council has a current, 2014/15, adequate overall OFSTED judgement of "requires improvement" to be good for its child protection and looked after children's services. This is an improvement on its previous judgement in 2012/13. The Council has set an ambition to be graded overall good for these services in 2017, although this will depend on the OFSTED cycle and OFSTED framework, until such time this remains a significant risk to the council's arrangements.</p>	<p>We reviewed the improvement plan, risk register, financial reports and met with the Children's services financial lead. No follow up inspection has taken place.</p>	<p>The Council has responded to the Ofsted inspections. There has been some change in senior staff which is providing challenge to some of the existing culture and arrangements. Following the inspection there has been a detailed improvement plan developed and we have seen evidence that this is monitored and updated regularly.</p> <p>There has yet to be a follow up to the 2014/15 Ofsted inspection to assess whether the actions are addressing the underlying problems. Many of the weaknesses are being addressed by further reviews, not all of which have been completed. It would therefore be premature to conclude that the Council will achieve its stated ambition of being 'good' during 2016/17.</p> <p>The Children's Services Directorate continues to overspend as reflected in a £2m overspend on the £24m budget in 2015/16. Quarter 1 financial information was not available at the time of our review, although it is anticipated that this will continue to show budget challenges although the council is taking steps to reduce risks.</p> <p>Discussion with responsible finance officers indicates new measures are being taken this year, for example a fundamental change to the use of agency staff which should have recurring positive financial impact. Any new initiatives will take time to impact on the underlying financial position.</p> <p><b>Whilst there are on-going financial and operational risks around children's services and 'looked after' children we are satisfied that the Council is responding appropriately to these risks. On that basis we concluded that the risk was sufficiently mitigated and the Council has proper arrangements</b></p>

# Value for Money

**Table 2: Value for money risks**

Risk identified	Work carried out	Findings and conclusions
<p>Governance arrangements, from Herefordshire Council perspective around the Local Enterprise Partnership</p>	<p>We reviewed the governance arrangements around the LEP to assess whether or not these are adequate and whether adequate information is supplied to those Charged with Governance (TCWG) to fulfil their responsibilities.</p>	<p>In 2015/16 the LEP received around £16m of income. Transactions that related to Herefordshire Council were not material but are expected to increase in future periods.</p> <p>Accounting arrangements for the LEP are properly established and reflect the fact that the LEP is not an entity. The LEP has produced an annual report in 2015/16 which is important in view of the increasing amount of projects and funding going through the organisation.</p> <p>The LEP has an agreed accountability framework which sets out the decision making and governance responsibilities of the Board, and Joint Committee. Governance arrangements in practice have been evolving over the last two years. It is the responsibility of the joint committee for 'ensuring accountability of budget making and policy decision'. However the committee has not met frequently and we have seen little financial information being reported to it.</p> <p><b>Appropriate accountability and reporting arrangements are in place in relation to the LEP. On that basis we concluded that the risk was sufficiently mitigated and the Council has proper arrangements</b></p>
<p>Adequacy of the Council capital reporting</p>	<p>We reviewed reports to Council in relation to the 2015/16 capital programme.</p>	<ul style="list-style-type: none"> <li>The capital budget for 2015/16 as presented in the revised 2015 MTFS differs to that presented in the 2016 MTFS, both in total and by a number of individual schemes.</li> <li>The revised presentation of the restated 2015/16 capital outturn report makes it difficult to track through what was originally approved in the 2015 MTFS (£67,929 restated total budget) to the 2016 MTFS 2015/16 budget and also to the reported out-turn (both £77,089 budget) by individual project.</li> <li>The Council has highlighted a number of errors in its reports over the period. The June outturn report was reissued.</li> </ul> <p>There are clearly lessons to be learned around quality control of financial reporting to committee. It appears to us that these are errors, omissions and oversights rather than there being a deliberate intention to mislead.</p> <p>Officers have acknowledged a need to review both the presentation of budget reports and the quality control surrounding their publication as part of the 2016/17 work plan.</p> <p><b>We concluded that the risk was sufficiently mitigated and the Council has proper arrangements</b></p>



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# Working with the Council

## Our work with you in 2015/16

We are really pleased to have worked with you over the past year. We have established a positive and constructive relationship. Together we have delivered some great outcomes.

An efficient audit – Our audit team are knowledgeable and experienced in your financial accounts and systems. Our relationship with your team provides you with a financial statements audit that continues to finish ahead of schedule releasing your finance team for other important work.

329 We ran a Better Care Fund Workshop which meant we were able to agree with you and your partners the appropriate accounting and disclosures around the arrangement prior to the accounts being drafted.

Sharing our insight – we provided regular audit committee updates covering best practice. Areas we covered included Innovation in public financial management, Knowing the Ropes – Audit Committee; Effectiveness Review, Making devolution work, Reforging local government. We have also shared with you our insights on advanced closure of local authority accounts, in our publication "Transforming the financial reporting of local authority accounts" and will continue to provide you with our insights as you bring forward your production of your year-end accounts.

## Working with you in 2016/17 Highways Network Asset

The Code of Practice on Local Authority Accounting (the Code) requires authorities to account for Highways Network Asset (HNA) at depreciated replacement cost (DRC) from 1 April 2016. The Code sets out the key principles but also requires compliance with the requirements of the recently published Code of Practice on the Highways Network Asset (the HNA Code), which defines the assets or components that will comprise the HNA. This includes roads, footways, structures such as bridges, street lighting, street furniture and associated land. These assets should always have been recognised within Infrastructure Assets.

The Code includes transitional arrangements for the change in asset classification and the basis of measurement from depreciated historic cost (DHC) to DRC under which these assets will be separated from other infrastructure assets, which will continue to be measured at DHC.

This is expected to have a significant impact on the Council's 2016/17 accounts, both in values and levels of disclosure, and may require considerable work to establish the opening inventory and condition of the HNA as at 1 April 2016.

Under the current basis of accounting values will only have been recorded against individual assets or components acquired after the inception of capital accounting for infrastructure assets by local authorities. Authorities may therefore have to develop new accounting records to support the change in classification and valuation of the HNA.

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# Working with the Council

The nature of these changes means that Finance officers will need to work closely with colleagues in the highways department and potentially also to engage other specialists to support this work.

Some of the calculations are likely to be complex and will involve the use of external models, a combination of national and locally generated rates and a number of significant estimates and assumptions.

This significant accounting development is likely to be a significant risk for our 2016/17 audit, we have a date in the diary for some preliminary discussions with the Council to assess the progress it is making in this respect. . We will be considering the following matters and will report to you any concerns in relation to the following matters:

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- Whether the Council has an implementation plan, and whether this in accordance with LAAP Bulletin 100 "Project Plan for Implementation of the Measurement Requirements for Transport Infrastructure Assets by 2016/17"
  - Monitoring / progress against plan
  - Level of resources allocated
  - Issues arising on work completed to date on inventory and accounting records and in particular any gaps in assurance and how completeness is being determined
  - Frequency and method of condition surveys
  - If significant estimates are being used to create opening inventory and condition reports
  - Support for locally generated rates for replacement of assets and
  - Where the Council is not intending to use standard national models specified under the Tools section of the CIPFA Website

# Appendix A: Reports issued and fees

We confirm below our final fees charged for the audit and **provision of non-audit services**.

## Fees

	Planned £	Actual fees £	2014/15 fees £
Statutory audit of Council	124,405	124,405	165,873
Audit of subsidiary company Hoople Limited	14,000	tbc	N/a
Housing Benefit Grant Certification	4,571	tbc	7,220
<b>Total fees (excluding VAT)</b>	<b>142,976</b>		<b>173,093</b>

## Fees for other services

Service	Fees £
<b>Audit related services:</b>	
• Teachers pension (tbc)	<b>4,200</b>
• SFA grant (tbc)	<b>3,000</b>
<b>Non-audit services</b>	<b>7,000</b>

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## Reports issued

Report	Date issued
Audit Plan	March 2016
Audit Findings Report	September 2016
Annual Audit Letter	October 2016



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<b>Meeting:</b>	<b>Audit and governance committee</b>
<b>Meeting date:</b>	<b>28 November 2016</b>
<b>Title of report:</b>	<b>Future work programme for audit and governance committee</b>
<b>Report by:</b>	<b>Democratic services officer</b>

## Classification

Open

## Key decision

This is not an executive decision.

## Wards affected

Countywide

## Purpose

To provide an update on the Committee's work programme for 2016/17.

## Recommendation(s)

**THAT:**

**Subject to any updates made by the committee, the updated work programme for 2016/17 for the audit and governance committee be agreed.**

## Alternative options

- 1 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.
- 2 The programme was discussed and agreed by the committee in September 2016. However, following discussion, adjustments to timescales and content may be required and amended from time to time.

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Further information on the subject of this report is available from  
Caroline Marshall, democratic services officer on Tel (01432) 260249

## **Reasons for recommendations**

- 3 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.
- 4 The Committee is asked to consider any further adjustments.

## **Key Considerations**

- 5 The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.

## **Community impact**

- 6 A clear and transparent work programme provides a visible demonstration of how the committee is fulfilling its role as set out in the council's constitution.

## **Equality duty**

- 7 This report does not impact on this area.

## **Financial implications**

- 8 There are no financial implications.

## **Legal implications**

- 9 The work programme reflects any statutory or constitutional requirements.

## **Risk management**

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

## **Consultees**

- 11 Internal and external auditors, head of corporate finance, monitoring officer and governance manager have contributed to the work programme

## **Appendices**

Appendix A – audit and governance work programme 2016-17

## **Background papers**

- None identified.

Audit and Governance Work programme 2016-17	
Meeting	Items
January 2017	<ul style="list-style-type: none"> <li>• Annual governance statement progress</li> <li>• Performance report (audit recommendations)</li> <li>• External audit progress</li> <li>• Working group update</li> <li>• Corporate risk register</li> <li>• Contract procedure rules</li> <li>• Finance procedure rules</li> </ul>
March 2017	<ul style="list-style-type: none"> <li>• Internal audit plan 2017/18</li> <li>• External Audit update</li> <li>• Future work programme 2017/18</li> <li>• Biannual forecast of revenue and capital outturn</li> <li>• Internal audit charter</li> <li>• Internal audit progress report</li> <li>• Performance report (audit recommendations)</li> <li>• Energy from Waste (EFW) Loan Update</li> <li>• Working group update</li> <li>• Corporate risk register</li> <li>• Internal tracking of audit recommendations</li> <li>• Update to the council's accounting policies</li> </ul>
May 2017	<ul style="list-style-type: none"> <li>• Annual governance statement</li> <li>• Internal audit progress report</li> <li>• Performance report (audit recommendations)</li> <li>• Working group update</li> </ul>

