

Agenda

Audit and governance committee

Date: **Wednesday 28 November 2018**

Time: **2.00 pm**

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

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

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Agenda for the meeting of the Audit and governance committee

Membership

Chairperson **Councillor PD Newman OBE**
Vice-Chairperson **Councillor ACR Chappell**

Councillor CR Butler
Councillor EE Chowns
Councillor EPJ Harvey
Councillor RJ Phillips
Councillor J Stone

Agenda

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1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details any details of members nominated to attend the meeting in place of a member of the committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 19 September 2018.</p>	9 - 18
5.	<p>QUESTIONS FROM MEMBERS OF THE PUBLIC</p> <p>To receive questions from members of the public.</p> <p><i>Deadline for receipt of questions is 5.00 pm on 22 November 2018 (3 clear working days from date of meeting).</i></p> <p><i>Accepted questions and answers will be published as a supplement prior to the meeting.</i></p>	
6.	<p>QUESTIONS FROM COUNCILLORS</p> <p>To receive any questions from councillors.</p> <p><i>Deadline for receipt of questions is 5.00 pm on 22 November 2018 (3 clear working days from date of meeting).</i></p> <p><i>Accepted questions and answers will be published as a supplement prior to the meeting.</i></p>	
7.	<p>ANNUAL REPORT ON CODE OF CONDUCT</p> <p>To enable the committee to be assured that high standards of conduct continue to be promoted and maintained.</p>	19 - 32
8.	<p>ANNUAL REVIEW OF THE COUNCIL'S INFORMATION ACCESS AND INFORMATION GOVERNANCE REQUIREMENTS</p> <p>To inform the committee of performance in the areas of complaints, data incidents and requests for information made to the council over the municipal year 2017/18.</p>	33 - 40
9.	<p>RECRUITMENT OF INDEPENDENT PERSONS PROGRESS UPDATE</p> <p>To update the committee on the progress of the recruitment of independent persons for standards.</p>	41 - 44
10.	<p>PROGRESS REPORT ON 2018/19 INTERNAL AUDIT PLAN</p> <p>To update members on the progress of internal audit work and to bring to</p>	45 - 68

	their attention any key internal control issues arising from work recently completed.	
11.	2017/18 ADDITIONAL EXTERNAL AUDIT FEE	69 - 72
	To consider and approve the proposed additional external audit fee charge for work completed during the external audit of the 2017/18 statement of accounts	
12.	UPDATE TO FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES	73 - 116
	To approve the updated financial procedure rules and contract procedure rules.	
13.	WORK PROGRAMME UPDATE	117 - 120
	To provide an update on the work programme for the committee for 2018/19.	

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- 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.
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Guide to Audit and Governance Committee

The Audit and Governance Committee is a non executive committee of the council. The committee consists of 7 non executive councillors and may include an independent person who is not a councillor.

Councillor PD Newman OBE (Chairman)	Conservative
Councillor ACR Chappell (Vice Chairman)	Herefordshire Independents
Councillor CR Butler	Conservative
Councillor EE Chowns	Green Party
Councillor EJP Harvey	It's Our County
Councillor RJ Phillips	Conservative
Councillor J Stone	Conservative

The purpose of the audit and governance committee is to provide independent assurance on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes. The committee do this by:

- (a) ensuring the effective and fully compliant governance of the council and in particular to ensure that all aspects of the financial affairs of the council are properly and efficiently conducted;
- (b) reviewing and approve the council's annual governance statement, annual statements of account, the contract procedure rules and financial procedure rules;
- (c) scrutinise the effectiveness of, and management compliance with, the systems identified in the annual governance statement framework;
- (d) monitor the progress made by management in implementing improvements to elements of that framework identified by external or internal audit review; and.
- (e) reviewing the constitution and recommending any necessary amendments to Council as appropriate.
- (f) reviewing the corporate risk register

Who attends audit and governance committee meetings?

Coloured nameplates are used which indicate their role at the committee:

Pale pink	Members of the committee, including the chairman and vice chairman.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
Green	External advisors - attend to present reports and give technical advice to the committee
White	Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

Minutes of the meeting of Audit and governance committee held at Committee Room 1, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 19 September 2018 at 2.00 pm

Present: Councillor PD Newman OBE (Chairman)
Councillor ACR Chappell (Vice-Chairman)

Councillors: E Chowns, EPJ Harvey, RJ Phillips, DB Wilcox and SD Williams

Officers: Richard Ball, John Coleman, Kate Coughtrie, Jacqui Gooding (SWAP), Kevin Lloyd, Andrew Lovegrove, Nick Mather (Hoople Limited), Alistair Neill, Zoe Thomas (Grant Thornton), Claire Ward,

312. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Stone and Councillor CR Butler.

313. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.7.171 of the council's constitution, Councillor DB Wilcox and SD Williams attended the meeting as substitute members for Councillors J Stone and CR Butler.

314. DECLARATIONS OF INTEREST

There were no declarations of interest.

315. MINUTES

It was agreed that minute 298 be amended to show that Councillor FM Norman had acted as a substitute for Councillor EE Chowns.

RESOLVED:

That subject to the above amendment, the minutes of the meeting held on 30 July 2018 be confirmed as a correct record and signed by the chairman.

316. QUESTIONS FROM MEMBERS OF THE PUBLIC

Questions received and responses given are attached as appendix 1 to the minutes.

317. QUESTIONS FROM COUNCILLORS

There were no questions from councillors.

318. ANNUAL EXTERNAL AUDIT LETTER - 2017/18

The chairman used his discretion to move the external audit progress report to the first item.

Following a query from a member of the committee, Grant Thornton stated that under the Local Audit and Accountability Act 2014, details of the outstanding issue cannot be disclosed. It was confirmed that this is the third year that the certificate remained opened. The S151 officer who is the council officer with responsibility for this issue, indicated that it was complicated and that there was a reliance on other parties and agencies. The S151 officer was not in a position to give an end date but that it may be completed by the end of this financial year but there was no guarantee. The committee stressed that this issue should be concluded as soon as possible and preferably within this financial year.

It was noted that the certificates would be issued as soon as the matter had been resolved.

It was proposed that the S151 officer report back as part of one of the standard items and then the committee would have the option to escalate as a matter of urgency. A named vote was undertaken as follows:

For: 4 (Councillors DB Wilcox, SD Williams, RJ Phillips, PD Newman, OBE)
Against: 3 (Councillors EPJ Harvey, EE Chowns, ACR Chappell)
Abstentions: 0

The proposal was carried.

Following a query from a member of the committee, the S151 officer confirmed that the council's website had been updated to reflect that the audit certificate had not been issued by Grant Thornton and agreed to circulate a link to all committee members to the relevant section of the website.

In response to a query from a member of the committee, Grant Thornton confirmed that capital was a significant component of the audit. This formed part of the audit plan which was presented to the committee on an annual basis.

RESOLVED

That the report be noted.

319. PROGRESS REPORT ON 2018/19 INTERNAL AUDIT PLAN

The chairman used his discretion to move the progress report on 2018/19 internal audit plan to the second item.

The progress report on the 2018/19 internal audit plan was presented and the following was highlighted:

- nine audits had been completed.
- six audits were in progress.
- two audits had been deferred to quarter 4.
- two audits were assessed as partial assurance.
- there were no significant corporate risks identified and target dates had been set for the implementation of actions. An update on the actions would be presented as part of the six monthly internal audit action tracking report.

Following queries from members of the committee, it was confirmed:

- that in relation to the schools' audits, this related to 3 primary schools and 1 secondary. Officers were aware of the identity of the schools.
- a themed report was produced for the schools audits which was then circulated to all Herefordshire schools.
- all the university recommendations had an assigned lead officer.
- The audits had been cross-referenced to the risk register.

It was noted that the council was the accountable body for the DfE funding so care needed to be taken in connection with the roles of the organisations. The council was not responsible for running the university but that assurance was sought. The SWAP audit had found weaknesses and there was regular engagement with the university. The university had its own internal and external auditors but the council will continue to use SWAP to obtain assurance. It was further noted that all the university policies were in existence at the time of the audit but were in draft form for approval so all policies should now be finalised.

RESOLVED

That the report be noted.

320. CAPITAL PROJECT MANAGEMENT AND CONTROL INTERNAL AUDIT UPDATE – CLOSURE REPORT

The S151 officer and chief executive presented the report.

The committee expressed their concern and disappointment with the lack of progress as only 2 of the 13 recommendations from the original SWAP audit in 2017 had been completed.

The chief executive explained that as soon as the issue of the overspend had been raised, a SWAP special investigation had been requested, an internal control improvement board had been established, a Local Government Association (LGA) corporate peer challenge had been arranged. It was felt that this was the greatest scale of response. The failures in the system had been identified and that the approach was to move the solutions forward.

The committee appreciated that work was being undertaken to progress the recommendations, however there was a lack of progress on 11 out of 13 and this was concerning to the committee. The following points were used as examples:

- Agreeing to compensation events without the necessary paperwork being completed.
- The chief executive providing only verbal agreement for the project control system to go live with no formal record of this action.
- The testers of the project control system only being undertaken by directorate business users in recent months and that before this it had been done by the designer and the builder of the software.

With regard to the project management system, it was noted that there was a project management plan in place. The project management system had been developed and more than 50 projects had been loaded onto the system. There had been some glitches in the system so the roll out was currently paused to ensure that the right system was being implemented.

The chief executive assured the committee that this was an area which had the full attention of the senior management team to ensure that there was an effective and strong project management system in place.

A member of the committee reiterated the disappointment with the report and asked what reassurance could the committee give members of the public that the systems and processes are in place. The issue was that there was a culture of being able to ignore rules and the committee needed the confidence to be able to say that there are proper processes in place to prevent this from re-occurring in the future.

It was agreed that SWAP would re-audit against the original recommendations and report back to the committee. The S151 officer indicated that the actions should be completed by the end of the calendar year. It was agreed that the full re-audit report would form part of the regular SWAP report and would not be a summary of the audit findings. The S151 officer and SWAP to liaise as to ensure that the re-audit is prioritised in the work plan for early in quarter 4.

The committee requested the following:

- more detail when a recommendation was marked in progress as to level of progress being made.
- assurance that the gaps on page 34 of the agenda pack had been addressed and there are no longer gaps

RESOLVED

That the members working group is stood down and that this item is reverted to the full committee's attention and a report brought to a committee meeting at the earliest opportunity.

321. CORPORATE RISK REGISTER

The business intelligence officer presented the report and highlighted the following:

- 6 new risks added since the last time the committee had received the register
- The directorate risk registers had been reviewed in line with the performance, risk and opportunity management (PROM) framework.

The following queries were raised and the business intelligence office offered to raise them with the identified leads.

- IT platforms – was the organisational risk being properly reflected in the mitigated column?
- The mitigated / unmitigated risks in connection with Integration (One Herefordshire) – assurance that there is robustness that it is a 9 after controls.
- Good decision making – given that culture and learning is a continuing issue whether the score of 2 is robust. The solicitor to the council as the risk owner explained that it was a 2 due to the implementation of the new constitution and

the use of mod.gov for report writer. However, it was agreed that this score would be reviewed in light of the comments made.

- System resilience and urgent care - an explanation of why this risk had been removed from the corporate risk register. The committee also requested that as a general principle where risks were being removed from the corporate risk register that an explanation be provided as part of the report.
- Development regeneration programme – an explanation of why overall this was a 6 given that this was the biggest item in the capital programme
- Capital programme – an explanation of the scoring in connection with this risk.
- NMITE University – an explanation of the phrasing used.

In response to a request from a member of the committee, the business intelligence officer agreed to look at providing a scoring matrix approach to assist with understanding the registers.

The S151 officer confirmed that there was a relationship between the risk register and the budget. The budget holder manages the risks but if it changes or cannot be controlled then there is the opportunity to address the issue through reserves which would be via a report to cabinet and then council. It was also noted that finance officers also have links to the risks via directorate management team meetings and management board.

The business intelligence officer confirmed that the risk of ineffective communication with residents was an existing risk on a service register.

The business intelligence officer agreed to check whether the risk of failing to implement the code of conduct was on a risk register.

It was noted that there was an opportunity via the council's website to make identify risks which should be considered. Any potential risks which were identified by a member of the public or members were sent to the relevant service area for consideration.

It was agreed that the corporate and directorate risk registers would be reviewed by the committee on a six monthly basis rather than a quarterly basis.

RESOLVED

That the report be noted.

322. COMMUNITY GOVERNANCE REVIEWS.

The democratic services manager presented the report.

The committee thanked the democratic services manager for the work undertaken

RESOLVED

That

A. It be recommended to Council that the solicitor to the council be authorised to make orders to give effect to the following with changes taking effect from 1st April 2019 ('the effective date'):

- I. That the parish boundary between the Bishopstone group parish and the Stretton Sugwas parish be moved between Stoney Street and**

Credenhill ward to enable the following properties (Bradworthy; Pear Tree Cottage; Elandwin; the Bounds; Longhope; Old Weir Farm Cottages; Sugwas Pool Cottage; Miramar; Anchorage; Heathmere, and St. Margarets Bunglalow) to be moved from the Bishopstone district group parish to Stretton Sugwas parish, and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;

- II. That consequent upon this change being made that the Council recommend to the Local Government Boundary Commission for England (LGBCE) that the boundaries of the Stoney Street and Credenhill ward be changed to ensure coterminosity with the new parish boundary;**
- III. The number of seats on Brockhampton group parish be reduced from 15 to 10 to better reflect the number of electors; the ratio of parish council seats will be 5 for the Linton Parish group member (a reduction of 1 seat); 4 for the Norton parish group member (a reduction of 2 seats) and 1 for the Brockhampton parish group member (a reduction of 2 seats), and that the electoral arrangements will remain unchanged in all other respects.**
- IV. The existing parish councils of Kilpeck, Kenderchurch, St. Devereux, Treville and Wormbridge that make up the existing Kilpeck group parish council shall all be dissolved; the existing parishes of Kilpeck, Kenderchurch, St. Devereux, Treville and Wormbridge that make up the existing Kilpeck group parish council shall all be abolished; and to form a new parish as shown on the map in appendix C and that the new parish shall be represented by a Parish Council;); the name of that new parish council shall be ‘Kilpeck Parish Council, and that the electoral arrangements will remain unchanged in all other respects**
- V. The number of seats on Peterchurch parish council be increased from 8 to 9 to accommodate current and future population growth, and that the electoral arrangements will remain unchanged in all other respects**
- VI. That the parish boundary in the Moreton on Lugg parish and the parish of Wellington be moved between Queenswood and Sutton Walls to enable two properties, namely Aylus Cottages, to move from the parish of Moreton on Lugg into the parish of Wellington (Marked A on the map contained in Appendix E and G) and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;**
- VII. That consequent upon this change being made that the Council recommend to the Local Government Boundary Commission for England (LGBCE) that the boundaries of the Queenswood and Sutton Walls ward be changed to ensure cot6erminosity with the new parish boundary;**
- VIII. The parish boundary between Wellington and Hope Under Dinmore is adjusted to enable three properties, namely the Old Fruit Farm, Bathfield and Queens Wood House to move from their current parish, Wellington, into the parish of Hope Under Dinmore (Marked B on the map contained in Appendix G); and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;**

**IX. No changes be made to the Bredenbury district group parish council;
and**

X. No changes be made to Longtown group parish council.

B. That the solicitor to the council be authorised to draft the orders for council consideration, as per the above recommendations.

323. ENERGY FROM WASTE LOAN UPDATE

The S151 officer presented the report and confirmed that the loan was performing as it should.

RESOLVED

That the report be noted.

324. GOVERNANCE ARRANGEMENTS FOR HOOPLE

The solicitor to the council presented the report and explained that the Acting Director, Economy and Place and board member of Hoople and the Chief Operating Officer of Hoople were present to answer any queries members may have.

Following a question from a member of the committee, it was explained that the board consisted of a council officer, a Member of Herefordshire Council and a representative of Wye Valley NHS Trust. Due to the small size of the board, a decision had been taken that it would be difficult to have a sub committees. As a result of this, the board schedules its meetings to ensure that all issues are discussed which included risk and audit.

It was agreed that as Hoople were now included as part of the group accounts of council that the committee would receive an annual report on Hoople as part of the annual governance statement.

With regard to the Teckal status of Hoople, it was explained that this was important to the company as it enables trading with public sector organisations. If Hoople lost its Teckal status then the council would need to procure its back office functions. It was noted that 84% of Hoople's income was derived from the two majority shareholders (Herefordshire Council and Wye Valley NHS Trust).

RESOLVED

That the report be noted.

325. WORK PROGRAMME UPDATE

Since the July meeting, it was noted that the contract procedure rules and finance procedure rules had been deferred to the November meeting at the request of the report writer and with the approval of the chairperson.

A member of the committee requested that the independent person be invited to the November meeting to answer any queries in connection with the annual code of conduct report.

It was agreed that the tracking of the external audit recommendations would be included within the six monthly report on the internal tracking of internal audit actions. This was to provide assurance that the recommendations were being progressed.

RESOLVED

That subject to the above, the work programme be agreed.

326. INDEPENDENT PERSON FOR STANDARDS

Before the discussion commenced, chairperson indicated that the committee should be able to deal with this item without making references to the personal information provided to the committee. However, if the personal information was discussed, then the committee would need to move into closed session.

Councillors DB Wilcox and RJ Phillips indicated that they knew the applicants but that there was no need to make a declaration of interest as there was no close personal association.

The monitoring officer presented the report and highlighted.

- There was currently only one independent person.
- Three applications had been received and interviews had taken place.
- The committee was being asked to make a decision as to any recommendation to Council on 12 October 2018.
- One expression of interest had been received from the Worcestershire pool of independent persons.

A member of committee expressed a view that by not accepting the applicants that it may be perceived to be unfair and that they would be proposing that all three were offered the role of independent person.

The committee members who formed part of the interview panel expressed the following concerns:

- The vacancies had only been advertised digitally. The vacancies should have been advertised in The Hereford Times, Ross Gazette, the Worcester Evening News as it was felt that there were individuals who would be interested but did not see the advertisement.
- That a member of the committee would be recommending acceptance based on the exempt information provided. The view of the interview panel had been reached after careful consideration and refuted that there had been any unfairness. The panel members did individually score each applicant but had not proceeded to consider rankings and criteria for making recommendations after the interviews due to the concern about the advertising.
- The applicants had not come forward as a direct result of the advertisement but had come forward due to awareness of the vacancy raised by a member of the council.
- The scoring of the individuals indicated that there had been none of them had scored the maximum points. The applicants appeared not to have undertaken much research into the role of the independent person and the requirements of the Localism Act 2011.

The following views were expressed by members of the committee:

- Individuals have a right to be judged on their attributes and not background.
- They were grateful for volunteers for the role but on this recruitment the scores were not overwhelmingly positive. There was no information about thresholds for selection contained within the report and without that criteria it would not be possible to make a recommendation.
- The role should continue to be advertised as Herefordshire deserved good independent persons.
- Joining the Worcestershire pool of independent persons would not be fair to Herefordshire residents as the pool was not local.
- It was unfortunate that there were a lack of people in Herefordshire volunteering for the role.

The solicitor to the council confirmed that the vacancy had been advertised but that the panel felt that the manner in which it had been advertised was deficient.

It was agreed that there would be no recommendation to Council on 12 October and that the role would be re-advertised so that a wider pool could be considered. The three interviewed applicants would remain undetermined and would receive favourable consideration when recommendations are considered.

It was requested that a report come back to the committee in November 2018.

RESOLVED

That the report be noted.

The meeting ended at 5.49 pm

Chairman



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Annual report on code of conduct
Report by:	Solicitor to the council

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained.

Recommendation(s)

That:

- (a) **the annual report on code of conduct complaints be reviewed and any areas for further work be identified for inclusion in the work programme**
- (b) **the recommendations from the standards panel advising this committee, following their annual sampling exercise, are adopted.**

Alternative options

1. There are no alternative options, the constitution requires the committee to annually review overall figures and trends from code of conduct complaints. The report provides a factual summary of the work undertaken during the period municipal year 1 May 2017 to 30 April 2018 and in addition 1 May 2018 to 30 September 2018.

Key considerations

2. The monitoring officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct and for administering the local standards framework.
3. Herefordshire Council, and all parish and town councils in the county, have a statutory duty in the Localism Act 2011 to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.
4. The committee is responsible for conducting an annual review of the complaints received.
5. As requested by the committee on 30 July 2018, this report covers the municipal year 1 May 2017 to 30 April 2018 and in addition 1 May 2018 to 30 September 2018.

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 also been made available to all parish councils in the county to inform the adoption of their own code. This report considers the code as was adopted on 24 May 2017 and the version adopted on 25 May 2018.

Independent Persons

7. 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. 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. During the period the council had one independent person, Richard Stow. The monitoring officer is grateful for the time and commitment the independent member has given. A recruitment process is currently underway to recruit additional independent persons
8. During the year as part of the consultation on the annual governance statement, the independent person has raised the following concerns:
 - a. That the standards procedure supporting the code of conduct would be strengthened by greater clarity on the sanctions which may be applied and how they may be enforced – details of the sanctions available are contained within the arrangements for dealing with code of conduct complaints.
 - b. Inclusion of an appeals process – an appeals process has been implemented as from 25 May 2018.
 - c. Clarification of the basis on which a breach of the code relating to the declaration of a schedule 1 interest may be referred to the police – discussions with the police have continued.
 - d. The two rejections of complaints against senior members of Herefordshire Council without referral to the independent person – the standards panel have reviewed all complaints which were rejected without referral to the independent person and their views are incorporated into this report at a later stage.
 - e. The appeals process – this is covered later in the report.

Arrangements

9. A [revised standards procedure](#) was approved by the committee on 8 May 2018 to investigate code of conduct complaints.

Register of Interests

10. The council maintains a register of interests for members of Herefordshire Council and parish councillors; these declarations are published on the Herefordshire Council website ([parish councils](#) and [Herefordshire Council](#)).
11. Following the adoption of a new code of conduct on 25 May 2018, all Herefordshire Council members have completed a new declaration of interest form.
12. As from May 2017, the register of interests also includes the register for gifts and hospitality. Over the period covered by this report, registers have been updated in order to record offers of gifts and hospitality which have been accepted or declined.
13. Members are reminded on a six monthly basis to keep their register under review.

Dispensations

14. During the period, two dispensations have been granted under the Section 33 (2) (c) of the Localism Act as it was considered to be in the best interests of the persons living in the council's area.

Protocol with the police

15. At the audit and governance committee meeting on 19 September 2017, authority was delegated to the monitoring officer to agree a protocol with West Mercia Police in respect of referring code of conduct complaints which may be considered a criminal offence under the Act. A draft protocol is with the police's legal department for comment.

Code of conduct complaints

16. During the period 30 April 2017 to 30 September 2018, there were 64 standards complaints. Some of the standards complaints were in respect of multiple councillors and the total number of complaints against councillors received in the period were 75.
17. Below are details of the number of complaints received since the introduction of the Localism Act 2011 and the breakdown of complaints between Herefordshire ward councillors and parish councillors. As can be seen from the figures below which are based on the number of complaints received, the majority of complaints received continue to be against parish councillors.

Year	Total no of complaints received	No of complaints against Herefordshire ward councillors	No of complaints against parish councillors
2013/14	36	16	20
2014/15	11	3	8

2015/16	36	12	24
2016/17	54	9	45
2017/18	50	12	38
2018/19 (year to date – 30 September 2018)	14	4	10

18. Of these complaints, the following outcomes are recorded:

Outcome	2017/18	2018/19 (year to date – 30 September 2018)
Withdrawn by complainant	6	1
Rejected	15	9
Breach of the code of the code of conduct	6	3
No breach of the code of conduct	31	2
Other course of course / no further action	2	0
Total number of complaints received against councillors	60	15

19. In accordance with section 3.5.14 (f) of the Constitution, details of the nine upheld complaints during the period by reference to individual councillors within unitary, town and parish councils are as follows:

Individual Member	Council	Trend	Recommendation	Recommendation completed
E Holton	Herefordshire Council	Respect / Behaviour	Apology to be provided	Apology provided
Tillett	Hereford City Council	Confidentiality	Code of conduct training, particularly confidentiality duties	Training undertaken by clerk to Hereford City Council
M Brown	Border Group Parish Council	Bullying	Apology	Apology provided
M Brown	Border Group	Bullying	Apology	Apology provided

Further information on the subject of this report is available from
 Claire Ward, Tel: 01432 260657, email: Claire.Ward@herefordshire.gov.uk

	Parish Council			
T Brazier	Pencombe and Little Cowerne	Respect / Behaviour	Apology	Apology provided
G Fielding	Cradley Parish Council	Failure to declare an other interest	Code of conduct training to be provided by Monitoring Officer	Councillor has now resigned
J Kenyon	Herefordshire Council	Failure to declare an other interest	Code of conduct training to be provided by Monitoring Officer	Training provided
A Johnson	Herefordshire Council	Misleading statement to the Hereford Times	Apology and correction requested to Hereford Times	Letter sent to Hereford Times Confirmed will apologise in person
G Fielding	Cradley Parish Council	Bullying	Training to be provided by Monitoring Officer	Councillor has now resigned

20. As from 25 May 2018, where the complaint has been upheld and the monitoring officer found a breach of the code, a decision notice is published as soon as possible after the expiry of the 14 working days appeal period on the council's website and these can be viewed [here](#).
21. On analysis of all complaints received, the overall complaint trend continues to relate to a lack of respect which includes behaviour at meetings, email correspondence and social media.
22. Of the complaints received during the period, 23 complaints were received from councillors complaining about other councillors and 41 complaints were made by members of the public.
23. During the period, two complaints were referred to the Local Government and Social Care Ombudsman. They investigate complaints from members of the public of injustice and maladministration. They cannot question whether a council decision is right or wrong. They consider whether there was fault in the way the decision was reached. For the two complaints received, the Ombudsman did not proceed beyond their initial assessment. In one case because they had not seen any evidence of fault in the way the council considered the complaint and in the other complaint it was found that there was no personal injustice as a result if the alleged fault in the way the council handled the code of conduct complaint.

Standards Panel

24. As from 25 May 2018, there has been a right of appeal against monitoring officer resolution decisions. To date, there have been two appeals accepted, one from a complainant and one from a subject member.

25. The standards panel upheld the monitoring officer resolution in respect of Councillor J Kenyon, Herefordshire Council, in a finding of a breach of the code of conduct.
26. The standards panel dismissed the monitoring officer resolution decision in respect of Councillor G Fielding, Cradley Parish Council and found that Councillor Fielding had breached the Cradley Parish Council code of conduct.
27. Both decision notices are available on the Standards Panel committee page, together with the minutes of the two panel meetings.
28. At the standards panels held on 16 October 2018, the panel recommended that:
 - a. guidance be circulated to councillors in order to provide greater clarity as to the definition of close personal associate (code of conduct) and inappropriate contact (planning code). A letter was sent to all chairpersons and vicepersons on 25 October 2018 and a copy of the letter was included in the Ward Member Update on 31 October 2018.
 - b. when subject members are notified that a complaint has been received against them they made aware of the procedure and possible outcomes. This recommendation has been implemented.
 - c. The process for collecting evidence be improved.
29. The procedure to be used at the panel meetings has been developed and a copy is attached as appendix 1 for audit and governance committee members to provide comments.
30. The procedure to be used when assessing appeals lodged by subject members and complainants has also been considered. A copy of the draft procedure is attached as appendix 2 for members to provide comments.
31. As requested by the committee at its meeting on 30 July 2018, a standards panel was convened on 13 November 2018 in order to undertake a sample review of monitoring officer resolution decisions during the period municipal year 1 May 2017 to 30 April 2018 and in addition 1 May 2018 to 30 September 2018.
32. The panel sampled 37 complaints out of 59 complaints (5 complaints were excluded from the sample review as they were still open as at the date of publication of the papers for the meeting). The panel found that the procedure was appropriate and had been consistently applied. The minutes of this meeting have been published [here] and the panel's advice to this committee is attached at appendix 3.
33. The committee is asked to consider the procedures that have been developed and in particular to consider the public interest test that applies where information identifies an individual. It is always a matter for the committee to decide if the meeting should be conducted in private. It is a balancing exercise where information does identify an individual to consider if the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Our arrangements for appeals as considered by the working group and approved by this committee since May 2018 state that the meeting of the standards panel will be in private with decisions published.

Community impact

34. This report provides information about the council's performance in relation to the code of conduct
35. Having an effective process for dealing with code of conduct complaints upholds principle A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities

Equality duty

36. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
37. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a report on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

38. There are no resource implications arising directly from this report which is for information
39. The council has a statutory duty in the Local Government and Housing Act 1989 to provide the monitoring officer with sufficient resources to allow them to perform their duties.
40. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the monitoring officer.

Legal implications

41. The review evidences that the council complies with the duties required under the Localism Act 2011.

Risk management

42. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint and are dealt with by the chief executive. The fact that only recommendations can be made exposes the council to risk of

criticism, this is a result of the national framework which the committee in public life will be considering.

Consultees

43. The independent person has not been consulted on the content of this report due to annual leave but has helpfully confirmed that he will be present at the committee meeting on 28 November 2018 to answer questions from members.

Appendices

Appendix 1 Process for hearing appeals

Appendix 2 Appeals process

Appendix 3 Advice from the Standards Panel held on 13 November 2018

Background papers

None

Standards Panel

Procedure for hearing an appeal

On the day of the standards panel, the following will occur:

- A chairperson of the panel will be elected (if an independent person is not available to chair the meeting).
- Any declarations of interest will be made
- A decision will be taken by the panel as to whether or not there will be a formal resolution to exclude the press and public on the grounds that an individual may be identified and the public interest.
- Introductions of all parties will be made.
- The complainant and the subject member will be invited to present their views on the appeal (*to a maximum time of 20 minutes each*).
- The panel members may ask questions of the complainant and subject member. There will be no cross examination by either the complainant or subject member.
- The monitoring officer or deputy monitoring officer (whoever carried out the complaints process) will be available to answer any questions the panel members may have.
- The independent person who had been consulted on the complaint will also be available to answer any questions the panel members may have.
- The complainant and subject member will be invited to make a closing statement.
- With the exception of the panel, the clerk and the advisor all other attendees will be required to leave the room so that the panel can discuss and arrive at a decision.
- The subject member and complainant will be invited back into the meeting room where the outcome of the panel's discussion will be verbally delivered.
- Where there is a finding of a breach of the code of conduct, the meeting will then be opened back up to the press and public and the outcome repeated.
- A decision notice will sent to both the complainant and subject member within 10 working days of the meeting.
- Where there is a finding of a breach of the code of conduct, details will appear in the decisions of the standards panel page of the council's website within 14 working days.
- The decision is final and there are no further rights of appeal.
- If a complainant who is a member of the public remains unhappy about the process which has been followed, they may complain to the Local Government and Social Care Ombudsman.

Standards Panel Appeals Process

An appeal is received from either:

- The complainant in respect of a finding of no breach of the code
- The subject member in respect of a finding of a breach of the code

The monitoring officer or deputy monitoring shall on receipt of a complaint from a complainant accept or reject the appeal on the basis of whether new and substantial evidence / information has been provided which was not considered as part of the decision. The complainant will be advised of this decision and if the appeal is accepted, a standards panel will be convened.

On receipt of an appeal by a subject member, a standards panel will be convened and the date and time notified to the subject member and complainant, together with an invitation to attend the meeting.

On receipt of a rejection of the appeal by the complainant, a letter will be sent by either the monitoring officer or deputy monitoring officer outlining why the appeal information does not provide new substantial information / evidence.

The standards panel membership is

- An independent person* (if available) who will chair the panel
- A representative from Herefordshire Association of Local Councils (HALC)
- A member of the audit and governance committee

* if an independent person is not available, then a second representative from the audit and governance committee shall substitute.

The democratic services officer shall identify those members from the audit and governance committee who have no involvement in the complaint.

If a member is asked to sit on the panel they should consider if they are able to hear the appeal or have any conflict.

Ten days prior to a subject member appeal hearing, the subject member shall be provided with:

- Original complaint;
- Initial assessment
- The subject member's original response.
- Decision notice

They will be requested to provide any other information which they wish to present to be received by the clerk to the standards panel, one working day prior to the publication of the agenda.

Ten days prior to a complainant appeal hearing, the subject member will be sent a copy of the new and substantial evidence / information from the complainant and be asked if they wish to present anything in advance of the hearing. This information to be received by clerk to the standards panel, one working day prior to the publication of the agenda.

An agenda will be published five clear working days prior to the meeting.

The report on any appeals will be public attaching appendices that are confidential (as they will identify an individual) and restricted to the Standards Panel members, the clerk to the committee and the advisor. The appendices will be:

- Original complaint
- Details of the initial assessment
- The comments of the subject member
- The original decision notice
- Appeal information submitted by complainant
- Additional information submitted by either the complainant or subject member

The subject member and complainant will be provided with confidential copies of the appendices.

The only witnesses permitted are people referred to in the evidence, and not, for example, character witnesses. Supporters can attend but may only speak at the discretion of the chair.

DRAFT

**Advice from the Standards Panel held on 13 November 2018 to
Audit and Governance Committee**

The standards panel had sampled 37 out of the 64 complaints received during the period 30 April 2017 to 30 September 2018; it was noted that those 64 complaints related to 30 individual elected members.

The panel had noted that generally there was a good standard of governance and behaviour in Herefordshire, especially as there were approx. 1,300 parish councillors.

The panel felt that the following were welcomed:

- The introduction of a public interest test when considering a rejection of a complaint following the resignation of a councillor
- The introduction of decision notices. It was felt that longer responses would be appropriate but it was noted that occasionally legal clarity was required.
- Herefordshire Council working with the political group leadership as part of the Local Protocol on Relations between Political Groups.
- Listening to the Herefordshire Council official audio recording of committee meetings. This assisted with establishing the accuracy and context of the comments made. It was noted that the council meetings were available on the website and the audio recordings would be accessible for up to six years.

The panel felt that where there were a cluster of complaints against a town or parish council, there may need to be a recommendation of mediation. However, it was noted that this is only advisory to parish or town council.

The panel noted that an early apology of the behaviour would diffuse the situation.

The panel welcomed that there was monitoring of compliance with the recommendations made under the monitoring officer resolution. It was noted that if there was no compliance, then this may lead to a further code of conduct complaint. It was further noted that in respect of town or parish councils, the compliance would be that they had considered the recommendations made under the arrangements for dealing with code of conduct complaints.

The panel had noted that the two referrals to the Social Care and Local Government Ombudsman had been dismissed without investigation. This indicated that the Herefordshire procedure was effective.

The panel were satisfied that the approach for seeking the independent person's views was appropriate.

RESOLVED

That:

- a) **the arrangements for dealing with code of conduct complaints are appropriate and consistency applied; and**
- b) **The following be recommended to Audit and Governance Committee:**
 1. **the training and development for members include guidance on social media; appropriate usage of emails, chairing of meetings in relation to the**

- conduct of councillors at those meetings, the responsibilities of ward members representing their views at planning and regulatory committee**
- 2. the monitoring officer be supported in making a recommendation of mediation when there is evidence of a breakdown of relationships**



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Annual review of the council's information access and information governance requirements
Report by:	Customer services, information and records manager

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To inform the committee of performance in the areas of complaints, data incidents and requests for information made to the council over the municipal year 2017/18. Volumes of requests for information to the council under legislation including the Freedom of Information Act 2000 and data protection legislation are increasing, and the requests themselves are often more complex. Fewer formal complaints have been made to the council and the rate of complaints upheld by the Local Government and Social Care Ombudsman compares well with other local authorities. The council also has a system in place for monitoring data incidents and reporting data breaches to the Information Commissioner's Office.

Recommendation

That:

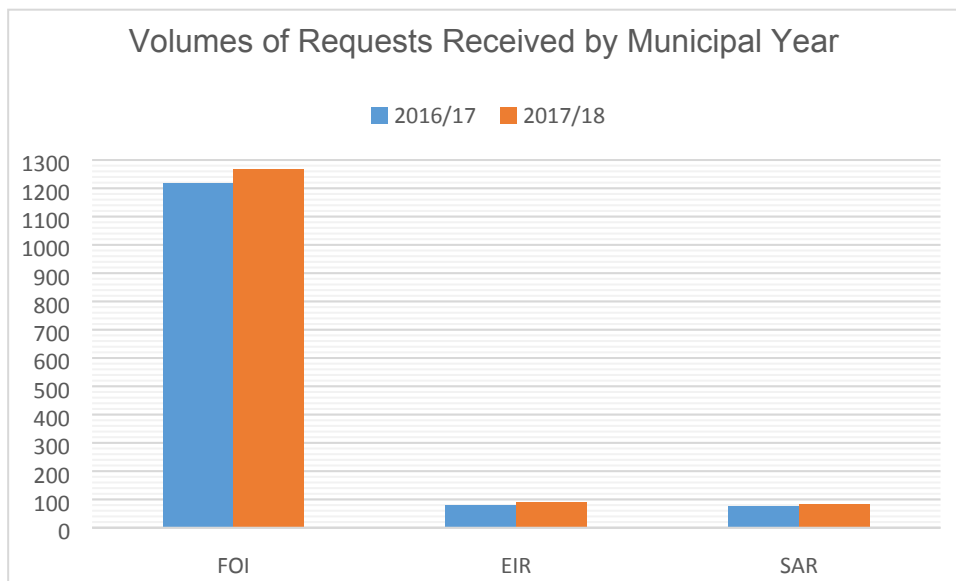
- (a) **the information set out in the report regarding requests for information and complaints over the past year be reviewed with regard to any risks arising and the committee determine any recommendations it wishes to make to improve mitigation of those risks.**

Alternative options

- 1 There are no alternative options as the report provides a factual summary of performance in order to assist the committee fulfil its function to annually review the council's information governance requirements.

Key considerations

- 2 **Requests for information:** From May 2017 to April 2018 the council dealt with 1,267 requests under the Freedom of Information Act 2000, 89 requests under the Environmental Information Regulations 2004, and 83 requests where individuals asked for data about themselves under data protection legislation. There were 41 requests across all of the aforementioned legislation that were answered outside of the statutory deadlines for responses to be made, meaning that the overall response rate was 97%, well within the Information Commissioner's Office threshold for responses within deadline. The Information Commissioner's Office is the regulator for information legislation, and for information requests in this same period there were no council cases reported for review to the Information Commissioner's Office where a decision notice was issued.



- 3 Information requests are administered by the Information Access Team within the council. There has been a notable increase in the number of requests received since the beginning of 2018, which has implications regarding capacity for responses to continue to be within deadline. The Information Access Team continue to encourage teams to publish more information in order to reduce the workload needed for responding to requests.
- 4 Equally, there has been a rise in requests requiring specialist work to consider the application of exemptions to refuse in whole or in part the information to be supplied in response to a request. Exemptions may be for information that consists of, for example, personal data, legal advice, commercially sensitive information, or information that is already publically available. An FOI/EIR Officer post has therefore been created through a restructure of the service to handle these requests and to ensure that a considered and balanced response is made. The FOI/EIR Officer will also be making further efforts with

teams to publish information proactively, and will be publishing statistics on information requests received quarterly.

- 5 Comparing volumes of requests made under the Freedom of Information Act 2000 with other local public authorities, the Wye Valley Trust received 595 requests, and West Mercia Police received 1,183 requests for the whole force area.
- 6 A significantly larger number of requests were made under the subject access provisions of the Data Protection Act 1998 in this period compared to previous periods. These requests can be complex and potentially involve many hours work so are time-consuming both from the point of view of volume and identification of exemptions. They often involve very sensitive issues and require a greater degree of engagement with the requester, such as those carried out for care leavers. Under the new data protection legislation that came into force in May 2018 – the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 - the statutory timescale for responding to subject access requests was reduced by 10 days to one month and the £10 fee was cancelled. This again has implications regarding capacity for responses to continue to be within deadline.
- 7 The information governance team deals with requests made by the police in relation to criminal investigations to view council information, and requests from other public sector organisations in relation to such matters of investigation of fraud and child protection matters concerning closed social care cases. The volumes of such requests have again remained stable over the past year compared with the last two years.
- 8 **Complaints:** When a complaint has exhausted the Herefordshire Council complaints procedure administered by the information access team, the final response always includes the Local Government and Social Care Ombudsman (LGSCO) contact details so that people can approach them independently if they want to. The role of the LGSCO is to investigate and resolve justified complaints in a way that is fair to everyone involved. For findings by the LGSCO of maladministration and injustice (where the council has been found to be “at fault”) a decision notice will give recommendations that may include compensation payments.
- 9 The volume of complaints made to the council for this period (591 complaints) is less than in the previous period (692 complaints). Whilst complaints over the past year have covered a wide range of issues, generally themes of not responding to contacts, and taking too long to provide a service have been found. Quarterly reports to directors highlight these areas and recommend action to be taken, so that complaints trend data can be actively used to inform improvement. In this way the complaints process provides a space to resolve underlying problems before they result in further issues.
- 10 The LGSCO themselves publish statistics by financial year. The LGSCO annual review of complaints covering April 2017 to March 2018 figures for comparative authorities are as follows:

Authority	Not upheld	Upheld	Uphold rate
Bedford Borough	9	4	31%
Shropshire	17	8	32%
Wiltshire	12	8	40%

Further information on the subject of this report is available from
 Anthony Sawyer, email: asawyer@herefordshire.gov.uk

Herefordshire	8	6	43%
Northumberland	12	9	43%
Solihull	4	3	43%
North Somerset	10	8	44%
Rutland	1	1	50%
Cheshire West and Chester	6	7	54%
Cheshire East	20	24	55%
East Riding of Yorkshire	8	12	60%
Cornwall	28	44	61%
Isle of Wight	5	9	64%
Central Bedfordshire	4	8	67%
Bath and North East Somerset	2	9	82%

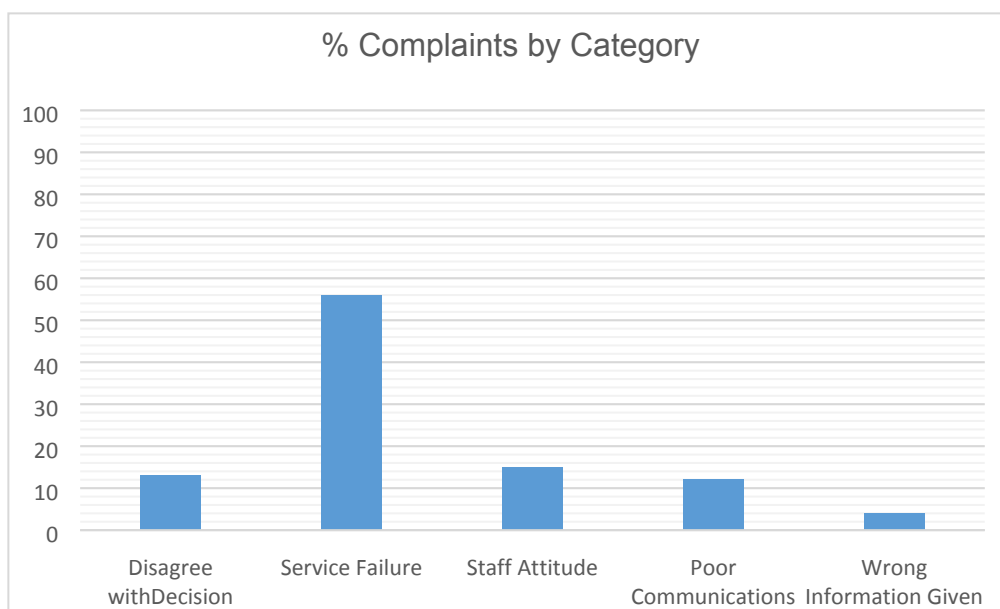
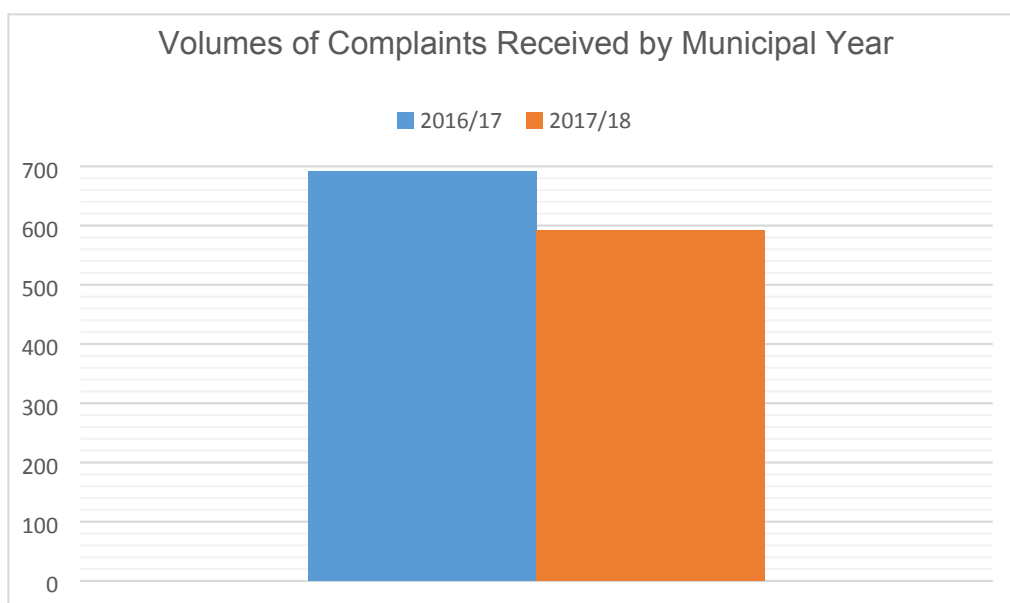
11 Herefordshire Council again is performing well amongst comparable authorities, and the uphold rate for requests is slightly down from the last period (45%). The LGSCO cases that were upheld against Herefordshire are set out on the LGSCO website <https://www.lgo.org.uk/decisions> and are summarised as follows:

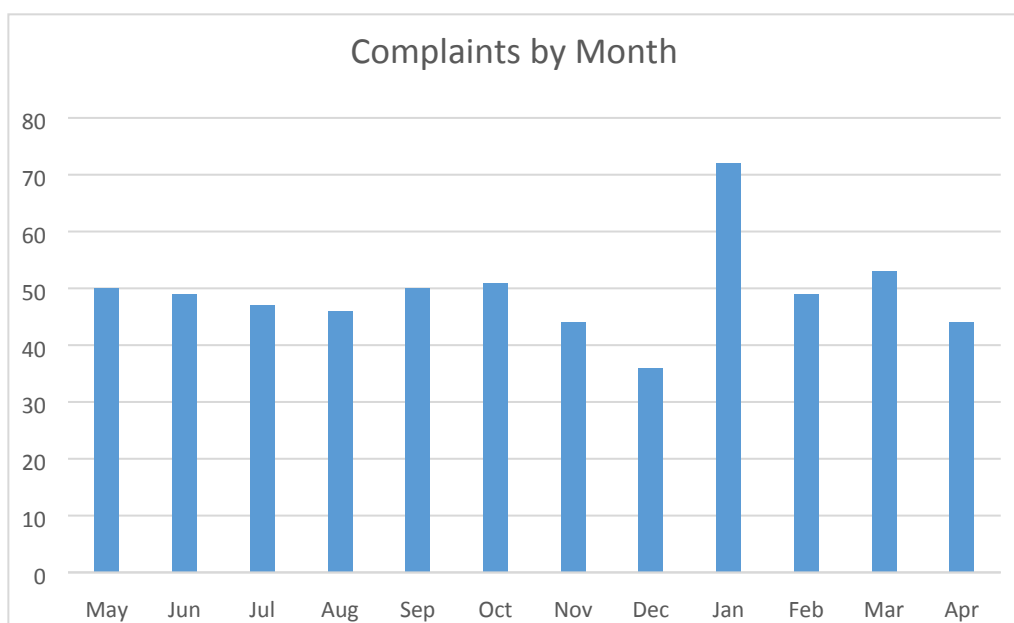
1. The council did not publicise a planning application in accordance with its Statement of Community Involvement
2. The council did not send documents within required timescales after placing children in the care of their grandmother, and did not complete an action agreed at a review.
3. Pathway planning did not run smoothly and a personal advisor was not changed quickly enough for a young person in care.
4. The council failed to promptly pass a planning enforcement case for consideration of legal proceedings after serving a breach of condition notice which did not result in compliance in the specified timescale
5. The council did not arrange additional education for a child with special educational needs for a six-month period of time.
6. The council did not provide correct information about the role of the Home Improvement Agency (HIA) in building works at a person's home.

In all cases the council has complied with the recommendations made by the LGSCO to resolve the case. In some cases compensation was recommended. The council

paid out a total sum of £2,100. There were however no findings of maladministration causing injustice.

- 12 The council dealt internally with 591 complaints, of which the council upheld or partially upheld 19%. In addition, 36 complaints were processed under the children’s complaints procedure for children’s social care. The graphs below show the volume of all complaints received by the council over the municipal year by volume and by category, plus overall complaints by month:





- 13 **Data breaches:** There have been no data breaches over the past municipal year that have been reported to the Information Commissioner’s Office. The council’s information governance team monitors low-level data security incidents, near misses, and allegations of breaches of data protection legislation, of which 73 such cases were reported and dealt with over the past municipal year.
- 14 **New data protection legislation:** The council’s information governance team completed an action plan for compliance with the General Data Protection Regulations and Data Protection Act 2018 that came into force in May 2018, including face-to-face training of council staff. The new requirements of the legislation include mandatory data protection impact assessments being completed for new programmes, projects or systems that involve processing of personal data, mandatory reporting of data breaches to the Information Commissioner’s Office, and transparency requirements to make information available on how the council processes personal data.
- 15 **RIPA:** The Regulation of Investigatory Powers Act 2000 (RIPA) restricts the circumstances in which local authorities may authorise directed (covert) surveillance. In summary, it can only be applied if it is for the prevention or detection of criminal offences if: the maximum term is of at least 6 months imprisonment; it is related to underage sale of tobacco or alcohol; serious criminal damage; dangerous waste dumping; or, benefit fraud. All applications for RIPA must have judicial approval. In the past municipal year, 2 RIPA applications were made.
- 16 **Community trigger:** The community trigger gives individuals and communities the right to review their case of anti-social behaviour or hate crime, if they are not happy with the response given by the relevant authorities. A community trigger can be applied for if an individual has reported three or more incidents of anti-social behaviour to the council, the police, or their housing association within the past 6 months, or if an individual and four or more individuals have complained separately about similar incidents of anti-social behaviour to the council, the police, or their housing association within the past 6 months. There have been fewer than 5 such instances over the past municipal year.

Community impact

- 17 In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system. Herefordshire Council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development, and review
- 18 This report provides information about the council's performance in handling complaints and requests for information from members of the public, in order to provide assurance that the council handles requests and complaints effectively and derives learning from them to improve experiences for those who receive services from the council.

Equality duty

- 19 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
- A public authority must, in the exercise of its functions, have due regard to the need to -
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 20 This report is for information only and therefore there are no equality duty implications arising directly from this report.

Resource implications

- 21 There are no financial implications arising directly from this report, which is for information. As outlined above however, there are risks of fines from the Information Commissioner's Office for breaches of data protection legislation, and compensation payments if the council has acted in a way that results in maladministration and injustice. The council has sufficiently protected the personal data it holds to not incur fines so far, it has however had to make some compensation payments following complaints and hence learning from complaints is being fed back into strategic planning.

Legal implications

- 22 There are no legal implications arising directly from this report, which is for information.
- 23 It is a function of this committee to annually review the council's information governance requirements.

Risk management

- 24 Effective operational and governance processes mitigate the risk of non-compliance with information legislation and standards, and maintaining high standards of conduct mitigates risks to the reputation of the council

Consultees

- 25 Not applicable

Appendices

None

Background papers

None identified



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Recruitment of independent persons progress update
Report by:	Solicitor to the council

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To update the committee on the progress of the recruitment of independent persons for standards.

Recommendation(s)

That:

- (a) **The committee note the progress to date of the recruitment of independent persons for standards and make any recommendations.**

Alternative options

1. Do nothing: This is not recommended as Herefordshire currently only has one independent person. In order to avoid any potential conflicts of interest in dealing with complaints, allow flexibility during periods of holiday and sickness, to ensure good governance of the standards process and to provide the existing independent person with sufficient regular support, advice to members subject to complaints, and as a member of the standards panel, it is recommended that more independent persons are appointed

Key considerations

2. Under Section 28 (7) of the Localism Act 2011 (“the Act”) the council must appoint at least one independent person as part of the arrangements under which allegations about a failure to comply with the code of conduct can be investigated and decisions on allegations made.
3. A person may not be recommended for appointment under the Act unless (i) the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public and (ii) the person has submitted an application to fill the vacancy.
4. Council delegated these two recruitment stages to the monitoring officer on 25 May 2012.
5. At the audit and governance committee meeting held on 19 September, it was requested that further advertising of the roles be undertaken.
6. A recruitment campaign was conducted as follows:

Advertisement placement	Cost:
• Hereford Times – (for week 1) from 27 September to 4 October	£252
• Hereford Times (for week 2) and The Malvern Gazette – for 1 week from 5 to 12 October	£513
• Ross-on-Wye Gazette – for 1 week from 3 to 10 October	£278
• Herefordshire Council website – from 15 to 26 October	Free
• Volunteer Centre Bureau – website from 15 to 26 October	Free
• Hoople web-site – from 26 September to 26 October	Free
Total:	£1,043 (inclusive of VAT)

7. As a result of this advertisement, 7 applications have been received.
8. The monitoring officer can shortlist the candidates against the essential and desirable criteria for the post as set out in the information pack for applicants and recommend for interview or all applicants can be interviewed. Given that three interviews have already taken place the committee is asked for their views on this next stage of the process.
9. The independent person for standards has suggested that consideration be given to a payment to independent persons to acknowledge the time commitment which will be needed in order to cover the time spent in attending any Standards Panel meetings. If the committee wish to consider this a report can be provided at the next committee.
10. A provisional interview date has been identified as 12 December 2018 so that recommendations can be put forward to audit and governance committee in January 2019 with a view to making recommendations on appointment of independent persons for standards at the February council meeting.

Community impact

11. In accordance with the code of corporate governance Herefordshire Council is committed to behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law
12. Ensuring that there are sufficient numbers of Independent Persons to facilitate an effective and robust standards process, and that the appointment of those Independent Persons has been carried out in an objective, transparent and lawful way assists us in upholding the principles of the code of corporate governance and the council's values.

Equality duty

13. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
14. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. The council's recruitment process ensure compliance with equality legislation.

Resource implications

15. The cost of advertising the post in the local press was £1,043 (inclusive of VAT) and was met from existing budgets within Democratic Services.

Legal implications

16. The legal implications are set out in the key considerations section above

Risk management

17. There is a reputational risk to the council if it is unable to manage effectively its standards complaints process. There is also a risk to councillors in Herefordshire if there are no independent mechanisms in place to support them in their responsibilities towards good governance and adhering to the members' code of conduct. This further recruitment exercise mitigates these risks.

Consultees

18. None

Appendices

None

Background papers

None identified.



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Progress report on 2018/19 internal audit plan
Report by:	Chief finance officer / internal audit

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

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. To enable the committee to monitor performance of the internal audit team against the approved plan.

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 are reviewed and progress to an appropriate recommendation to cabinet if 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.

Recommendation(s)

That:

- (a) **performance against the approved plan be reviewed and any areas for improvement identified; and**
- (b) **the committee consider the assurances provided and the recommendations which the report makes, commenting on its content as necessary.**

Further information on the subject of this report is available from

Jacqui Gooding, email: Jacqui.Gooding@swapaudit.co.uk

Alternative options

1. There are no alternative recommendations; it is a function of the committee to consider these matters in fulfilling its assurance role.

Key considerations

2. The internal audit progress report is attached at appendix A. In the period covered by the report, four priority 2 recommendations were made. A summary of the significant findings is provided in the report.
3. The annual plan summary and a glossary of terms is also provided in the report.

Community impact

4. The council's code of corporate governance commits the council to managing risks and performance through robust internal control and strong public financial management and to implementing good practices in transparency, reporting, and audit to deliver effective accountability. 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

5. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
6. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

7. 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

8. None.

Risk management

9. 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.
10. Risks identified by internal audit are mitigated by actions proposed by management in response. Progress on implementation of agreed actions is reported to this committee every six months.

Consultees

11. None.

Appendices

Appendix A – SWAP Internal Audit plan progress report 2018-19 – quarter 2

Background papers

None identified.

Herefordshire Council

Report of Internal Audit Activity

Plan Progress 2018/19 Quarter 2

Contents

The contacts at SWAP in connection with this report are:

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Our audit activity is split between:

- **Operational Audit**
- **School Themes**
- **Governance Audit**
- **Key Control Audit**
- **IT Audit**
- **Grants**
- **Other Reviews**



Role of Internal Audit

The Internal Audit service for Herefordshire Council is provided by SWAP Internal Audit Services (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 the CIPFA Local Government Application Note. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 21 March 2018.

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
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Review

Outturn to Date



Internal Audit Work Programme

The schedule provided at Appendix C contains a list of all audits as agreed in the Annual Audit Plan 2018/19. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “assurance opinion” rating together with the number and relative ranking of recommendations that have been raised with management. In such cases, the Committee can take assurance that improvement actions have been agreed with management to address these. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as detailed in Appendix B of this document.

To assist the Committee in its important monitoring and scrutiny role, in those cases where weaknesses have been identified in service/function reviews that are considered to represent significant service risks, a summary of the key audit findings that have resulted in the audit receiving a ‘Partial Assurance Opinion’ is given as part of this report.

In circumstances where findings have been identified which are considered to represent significant corporate risks to the Council, due to their importance, these issues are separately summarised.

Internal Audit Plan Progress 2018/2019

Outturn to Date



Internal Audit Work Programme

This is the quarter 2 update for 2018-19. Six audits have been completed since my last update and there are five audits at Draft report and 14 audits in progress. Two audits were assessed as Partial assurance and four priority 2 findings were identified across the two audits with four audits returning a Reasonable assurance opinion and one a follow up audit.

The following audits have been completed since the last update:

Audit	Assurance
Patch Management	Reasonable
ICT Access Controls - Mosaic and other systems used by AWB and CWB	Partial
Council Tax	Reasonable
Housing Benefits and Council Tax Reduction	Reasonable
Data Sharing Protocols	Follow Up
ICT Cloud and Externally Hosted Services – Third Party Agreements	Partial

Significant Corporate Risks

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



Significant Corporate Risks

We provide a definition of the 3 Risk Levels applied within audit reports. For those audits which have reached report stage through the year, I will report risks we have assessed as 'High'.

In this update there are no final reports included with significant corporate risks.

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SWAP Performance - Summary of Partial Opinions

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.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Two audits finalised in the period were awarded Partial assurance. The significant findings from both audits have been summarised below.

ICT Access Controls - Mosaic and other systems used by AWB and CWB – Partial

The audit scope of the audit was to provide assurance that application users are properly authorised and have only the approved permissions for their roles, and that access to sensitive data is restricted appropriately.

The following applications were reviewed:

- CareforIT
- Abacus
- Sentinel
- Servelec Synergy

These applications contain some of the most sensitive personal data held by the Council.

The audit identified that the Council's ICT Access Control Policy requires updating to reflect the trend of Council services procuring externally hosted / Cloud applications to introduce further controls to manage those groups of users in order to ensure that staff leavers are immediately removed from third party hosted applications, as the Council's key control of deactivating a user's Active Directory account is not effective in the Cloud environment.

The Webformed CareforIT application, used by the Home First Team lacks the expected functionality to provide an adequate audit trail of when specific records are accessed, by whom and to provide management information as to when a user last logged in.

There were good controls in place for the induction and training of application users, user responsibilities are outlined, confidentiality agreements are signed which link to the disciplinary process and there are dedicated application owners for each application

The two priority 2 findings related to review of users for the Sentinel application and the CareforIT application.

SWAP Performance - Summary of Partial Opinions

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.



Summary of Partial Assurances and significant service findings (Priority 1 and 2)

Sentinel - There were no reviews of Nursery staff who had access via the internet to a part of the Sentinel Early Years and Nurseries application. There is a risk that because users access this application remotely, via the cloud, that if user's accounts are not deactivated on the application, leavers could still access sensitive data from a personal device, and share data inappropriately. The Education Systems Manager has reissued a new third-party access agreement to all External Users to remind them of their responsibilities, and all accounts for users who did not return them within a month have been deactivated.

CareforIT - During the audit instances where users had left the organisation and the application had not been updated were identified and there were no local procedures or formally documented responsibilities to ensure that leavers were removed from the application immediately upon leaving. The leavers were addressed immediately during the audit. We also noted that the CareforIT application can be down-loaded onto a smart-phone other than the one supplied by the Council.

The Service Transformation Lead has agreed to spot check instructions given to the Team Manager and Deputy Manager of having controls in place to ensure leavers are removed and will complete an audit against open cases. An implementation date of 1 November 2018 has been agreed.

ICT Cloud and Externally Hosted Services – Third Party Agreements – Partial

The scope of the audit was to provide assurance to the Senior Information Risk Owner (SIRO) that third-party security controls are adequately assessed to meet the requirements of the Council's policies, legislation and National Cyber Security Centre guidance.

The Council processes numerous electronic transactions and digitised information within its IT systems and has traditionally retained its records on internal systems in the security of Data Centres within the Council offices. In recent years, technology developments have enabled software creators to offer their products in hosted environments outside of the Council's data centres. This offering is commonly referred to as Cloud – Software as a Service (SaaS). Where contracts are signed with external companies (third parties), the Council needs to ensure that the third party has adequate security controls in place to meet the requirements of the Council's policies,

SWAP Performance - Summary of Partial Opinions

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.



legislation and guidance.

Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

The process of creating Privacy Impact Assessments (PIA), scrutinising application suppliers with formal questions, the technical assessment and approval by the Information Governance Steering Group has evolved over recent years between the Council and IT service provider. However, during our audit testing we found that there had been gaps in the assessment process which led to our conclusion that all tasks within the process required documenting together with responsibilities across the Directorate, Commercial Services, Information Governance Team and the IT service provider. There is also no register of proposed and implemented third party / cloud hosted applications that are used by the Council and the Council's IT Policies does not contain any specific reference to cloud or externally hosted environments.

There were good controls in place with the IG Steering Group have oversight and provide the assessment and approval of new applications. The IT service provider appraises systems and provide advice to Directorates and procure systems where requested.

The two priority 2 findings related to the IT Policies and the assessment questionnaire for providers.

The Council's IT Policies do not contain any specific reference or special considerations regarding third party hosted / Cloud services. There are also no specific details regarding the assessment and the approval process undertaken by the Information Governance Manager, and the Hoople Ltd Information Security Manager.

The Information Governance Manager has agreed to update the Information Security Policy and Personal Responsibilities Policy to ensure that specific reference is made to externally hosted / cloud services and that the assessment and approval process is documented. This will include the requirement for Providers to re-submit a further assessment when any changes are made to the externally hosted / cloud service which impact on the original stated controls. An implementation date of the 30 November has been agreed for both actions.

SWAP Performance - Summary of Partial Opinions

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.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Follow Up Audits

Follow Up audits are completed where the auditor could only provide partial assurance. The follow-up audit is to provide assurance to the Director, Senior Management and the Audit and Governance Committee that the key risks have been mitigated to an acceptable level of risk. Evidence is obtained to demonstrate implementation and progress made in relation to all 2017-18 priority 4 and 5 recommendations. For the priority 3 recommendations progress reported is based on self-assessment by relevant officers. The following table demonstrates progress against agreed actions at the time of the follow up audit for Data Sharing protocols

Priority of recommendation	Complete	Overdue	Not yet due	In Progress	Superseded
3	4	0	0	1	0
4	2	1	0	0	0

Since the 2017/18 audit report, progress has been made to complete six out of the eight recommendations to mitigate the risk.

The priority 3 recommendation still in progress is not due until December 2018 and therefore the status is acceptable.

The priority 4 recommendation - The Equality and Compliance Manager has agreed that during the period between the Information Audits being completed and introduction of the GDPR in May 2018, the Equality and Compliance Manager will schedule time with the Directorate service teams to ensure that Data Sharing and Data Exchange Agreements and Privacy Impact Assessments are in place and that officers are made aware of the new GDPR requirements prior to the legislation changes.

This action is overdue with an original deadline of May 2018, to be in place prior to the introduction of the new GDPR legislation. Although Information Audits have taken place, there are still four outstanding before the gathered data can be compiled into an Action Plan spreadsheet. An updated completion date of October 2018

Internal Audit Plan Progress 2018/2019

has been advised.

Added Value

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.



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”.

The followings audits have provided a cross comparison survey for the SWAP Partners:

Sickness Management - A questionnaire was sent to SWAP Partners to collate information relating to the management of staff sickness levels and the return to work process.

Other Funding/Grants - A review of other funding was undertaken to establish ways of supplementing the General Fund in covering the cost of providing both statutory and discretionary services in support of the ongoing budgetary reforms.

The findings of each survey have been shared with the SWAP Partners.

Internal Audit Plan Progress 2018/2019

SWAP Performance - Summary of Audit Opinions

At the conclusion of audit assignment work each review is awarded a "Control Assurance Definition";

- Substantial
- Reasonable
- Partial
- None

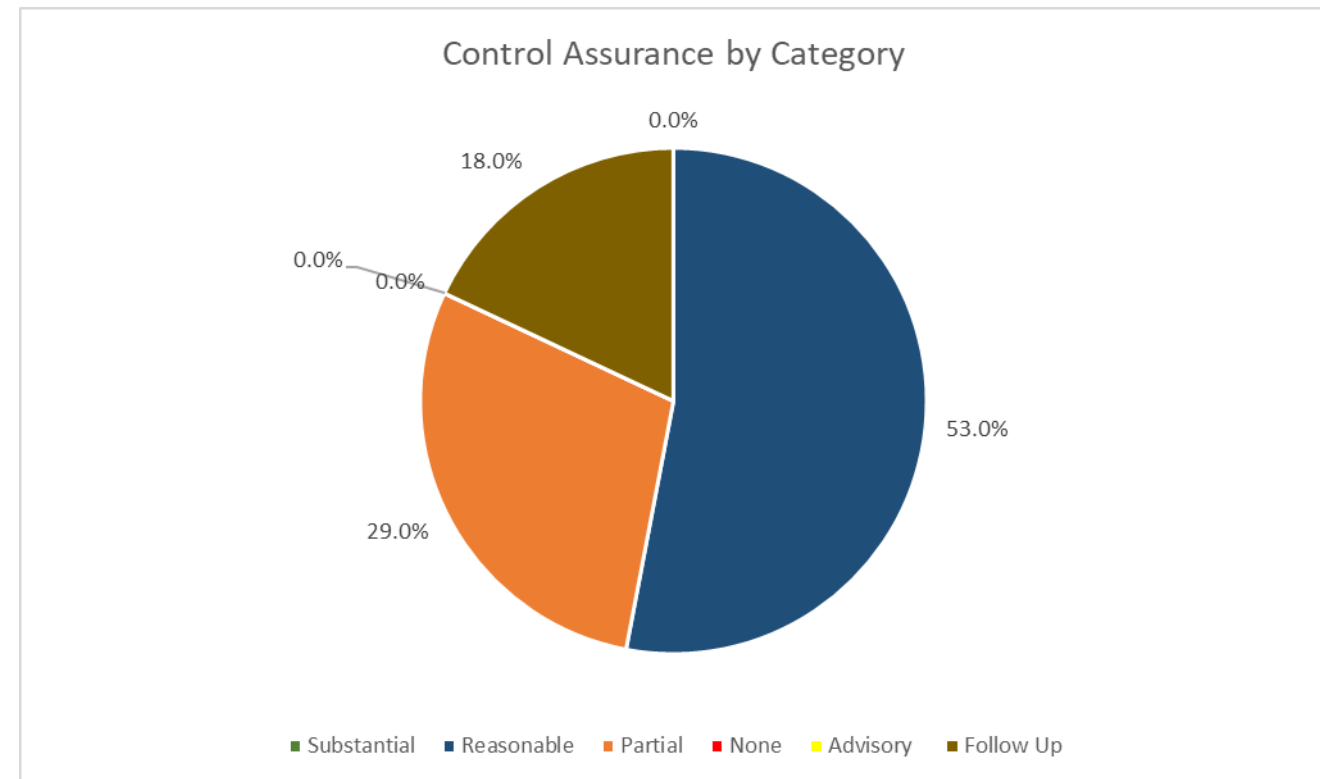
We also undertake Advisory / Non-Opinion work on a consultancy basis where we have been asked to look at a specific area of potential concern.

Where we follow up on a previous adverse audit opinion the opinion is stated as follow up.



Summary of Audit Opinion

Of the reviews that have a final report, the opinions offered are summarised below.



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Internal Audit Plan Progress 2018/2019

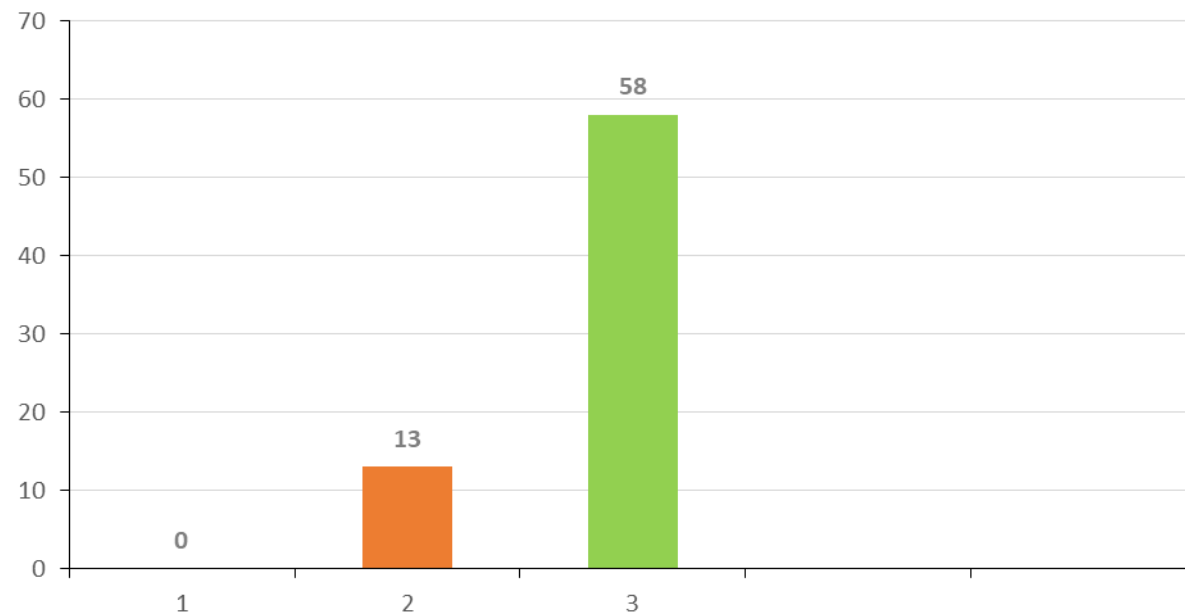
Summary of Audit Recommendations by Priority

We rank our recommendations on a scale of 1 to 3, with 3 being medium or administrative concerns to 1 being areas of fundamental concern requiring immediate corrective action.



Summary of Recommendations

Audit Recommendations by Priority



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Internal Audit Plan Progress 2018/2019

We keep our audit plans under regular review to ensure that we are auditing the right things at the right time.



Approved Changes to the Audit Plan

Unplanned work, special reviews or projects carried out on a responsive basis are requested through the Chief Finance Officer (Section 151 Officer). As new and emerging risks are identified, any changes to the plan will be subject to the agreement of the Chief Finance Officer (Section 151 Officer) and reported to this Committee.

At the request of this Committee a further follow up on progress against the recommendations for Blueschool House has been planned for quarter 4 and at the request of the Section 20 Task and Finish group an audit to review Section 20 Orders has also been planned for quarter 4. Both audits have been agreed with the Chief Finance Officer and the days will be allocated from the Property Services (Schools) audit and the Children's centres audit. Both replaced audits will be included in the 2018-19 audit plan in quarter 1.



Conclusion

Sixteen audits have been completed and there are five audits at draft report and a further 14 audits are in progress. The completed audits are currently reporting 53% reasonable assurance and 29% partial assurance. There have been no significant corporate risks identified.

Whilst recommendations have been made for improvement at service level, I do not consider there to be any areas of significant corporate concern for the areas reviewed. Where weaknesses have been identified all findings have been accepted by management and a target date agreed for implementation.

At the close of each audit review a Customer Satisfaction Questionnaire is sent out to the Service Manager or nominated officer. The aim of the questionnaires is to gauge satisfaction against timeliness, quality and professionalism. A score of 80% would reflect the fact that the client agreed that the review was delivered to a good standard of quality, i.e. agreed with the statement in the questionnaire and satisfied with the audit process and report. The current feedback score for the Council is 100%.

At the conclusion of audit assignment work each review is awarded a “Control Assurance Definition”;

- Substantial
- Reasonable
- Partial
- None
- Advisory



Audit Framework Definitions

Control Assurance Definitions

Substantial	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.
Reasonable	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.
Partial	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.
None	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.

Advisory - In addition to our opinion-based work we will provide consultancy services. The advice offered by Internal Audit in its consultancy role may include risk analysis and evaluation, developing potential solutions to problems and providing controls assurance. Consultancy services from Internal Audit offer management the added benefit of being delivered by people with a good understanding of the overall risk, control and governance concerns and priorities of the organisation.



Recommendation are prioritised from 1 to 3 on how important they are to the service/area audited. These are not necessarily how important they are to the organisation at a corporate level.



Audit Framework Definitions

Risk	Reporting Implications
	In addition to the corporate risk assessment it is important that management 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. Each recommendation has been given a priority rating at service level with the following definitions:
Priority 1	Findings that are fundamental to the integrity of the service’s business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Each audit covers key risks. For each audit a risk assessment is undertaken whereby with management risks for the review are assessed at the Corporate inherent level (the risk of exposure with no controls in place) and then once the audit is complete the Auditors assessment of the risk exposure at Corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Definitions of Risk

Risk	Reporting Implications
	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

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Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Governance, Fraud & Corruption	NMITE Project (University)	1
Governance, Fraud & Corruption	Joint Use Agreement - Ledbury Rugby Club	1	Draft Report					
Governance, Fraud & Corruption	Highways Projects - Capital Spend	1	Draft Report					
Operational	Building Control	1	Completed	Reasonable	7	0	0	7
Operational	Special Educational Needs Transport	1	Draft Report - Escalated					
Operational	Property Maintenance - Schools	1	Removed to 2018-19					
Operational	Internal Communications	1	Deferred to qrt 4					
Operational	Records Management	1	Draft Report					
Schools	Schools Financial Value Standard - School 1	1	Completed	Partial	13	0	5	8
Schools	Schools Financial Value Standard - School 2	1	Completed	Reasonable	5	0	1	4
Schools	Schools Financial Value Standard - School 3	1	Completed	Partial	8	0	2	6
Schools	Schools Financial Value Standard - School 4	1	Completed	Reasonable	7	0	0	7
Operational	Safer recruitment - Children's Wellbeing - Staff and Agency Staff	1	Completed	Reasonable	6	0	0	6
ICT	Patch Management	1	Completed	Reasonable	4	0	0	4
ICT	IT Access Controls –Mosaic and other systems used by AWB and CWB	1	Completed	Partial	6	0	2	4
Follow Up	Deprivation of Liberties	1	Completed	Follow Up	-	-	-	-
Key Control	Council Tax	2	Completed	Reasonable	2	0	0	2

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Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Key Control	Housing Benefit and Council Tax Reduction	2
Governance, Fraud & Corruption	NMITE Project (University) End of July 18 assurance	2	Draft Report					
Governance, Fraud & Corruption	Corporate Peer Challenge	2	Not Started					
Governance, Fraud & Corruption	Internal Control Improvement Board	2	Completed	Follow up	-	-	-	-
Grant Certification	Local Transport Block Funding – Grant Certification	2	Completed	Reasonable	1	0	0	1
Governance, Fraud & Corruption	Effectiveness of programme Boards for major system changes/projects	2	Not Started					
Operational	Health and Safety	2	Discussion Document					
Operational	Compliance with contract and financial procedure rules – revenue	2	In Progress					
Operational	Hoople	2	Initial meeting 14 November					
Operational	Integrated Short Term Support and Care Pathway - DToC plan – Front Door Customer Service – Redirected.	2	In Progress					
Operational	Client finance System - Interface between all systems	2	Initial meeting					
Operational	Use of regional framework for foster care	2	Initial Meeting 7 November					
ICT	Third Party Agreements (including Cloud)	2	Completed	Partial	6	0	2	4
Key Control	Accounts Payable	3	Not Started					
Key Control	Main Accounting	3	In Progress					
Key Control	Payroll	3	In Progress					

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Key Control	Accounts Receivable	3
Key Control	Capital Accounting	3	In Progress					
Key Control	NNDR - Business rates avoidance	3	Not Started					
Governance, Fraud & Corruption	NMITE Project (University) End of October 18 assurance	3	In Progress					
Governance, Fraud & Corruption	Declaration of personal and business interests	3	Not Started					
Grant Certification	Redundant Building Grant Funding	3	Not Started					
Operational	Local population forecast using for future planning such as house building requirement	3	Not Started					
Grant Certification	Troubled Families – Monthly assurance on claims to end of March 2019	3	In Progress					
Operational	Integrated Short Term Support and Care Pathway - Carers Assessment	3	Not Started					
Governance, Fraud & Corruption	Children’s centres – governance and financial control – replaced with Section 20 Orders - Children’s Service	3	Removed to 2018-19					
Operational	Care Workforce Project – support to Domiciliary Care Agencies recruitment	4	Not Started					
Operational	Contract Monitoring	4	Not Started					
Governance, Fraud & Corruption	NMITE Project (University) End of January 19 assurance	4	Not Started					
Governance, Fraud & Corruption	EU General Data Protection Regulation	4	Not Started					
Operational	P- Cards	4	Not Started					
Operational	Mandatory Training	4	Not Started					
Governance, Fraud & Corruption	Blue Badges	4	In Progress					

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Operational	Development Regeneration Partnership	4
Operational	Contract Management	4	Not Started					
Governance, Fraud & Corruption	Quality Assurance Framework	4	Not Started					
Operational	Homepoint - Review of new provider	4	Not Started					
Schools	Prevention of Fraud (Schools)	4	Not Started					
Follow Up	Serious and Organised Crime Audit checklist	4	Not Started					
Follow Up	Data Sharing Protocols with partners and third parties	4	Completed	Follow Up				
Follow Up	Market Intelligence	4	In Progress					
Follow up	Emergency Planning - Public Health	4	In Progress					
Follow Up	Data Quality	4	In Progress					
Follow Up	Annual Care Assessment -Social Care Workforce Performance	4	In Progress					
Follow Up	Short Breaks - Childrens Wellbeing	4	Not Started					
Follow Up	Public Health Contracts	4	Not Started					
Follow Up	Data Quality - Decision Making Reports and Corporate Budget Performance Reports	4	In Progress					
Follow Up	CHC Funding	4	In Progress					



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	2017/18 additional external audit fee
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

For the committee to consider and approve the proposed additional external audit fee charge for work completed during the external audit of the 2017/18 statement of accounts.

The additional fee is in relation to extra time cost incurred by Grant Thornton in completing the external audit requirements

Recommendation(s)

That:

- (a) an additional fee of £6,686 to Grant Thornton for additional work carried out to complete the 2017/18 statement of accounts external audit be approved.**

Alternative options

1. To not agree the additional charge. This is not recommended, the additional fee represents additional time spent by Grant Thornton in completing the 2017/18 statement of accounts statutory external audit. PSAA are responsible for fee setting and will take into account the council's view but will ultimately agree (or not) to grant the fee variation request.

Key considerations

2. It is a function of the committee to:
 - review and agree the External Auditors annual plan, including the annual audit fee and annual letter and receive regular update reports on progress; and
 - comment on the scope and depth of external audit work and to ensure it gives value for money.
3. The council's external auditor contract is managed by Public Sector Audit Appointments Limited (PSAA). Grant Thornton's proposed 2017/18 external audit fee was £124k, based on the same scale fee applied in 2016/17 and 2015/16 as proposed by the PSAA and approved by the committee on 10 May 2017.
4. The scale fee covers the audit of the statement of accounts, value for money conclusion and review of the whole of government accounts. It is based on the reasonable expectation of the auditor on the work required on the accounts and working papers.
5. The scale fee excludes any additional work outside that reasonable expectation. Following identification of additional work, variations to the agreed fee can occur and there is a validation process that needs to be followed. This is where the auditor agrees the proposed fee variation locally, first with officers and then with the audit and governance committee. Following this Grant Thornton approach PSAA for their verification ahead of the variation becoming payable. In 2016/17 an additional fee of £15,500 was approved by the committee. This reflected additional costs arising from unplanned work mainly undertaken in August and September 2017.
6. The 2017/18 external audit findings report presented to the committee in July included "additional time to plan has been spent when drafting the plan on group accounts and PPE (property, plant and equipment) in particular. We have yet to assess the impact." Grant Thornton are now requesting a fee variation of £6,686 in relation to the additional work undertaken.
7. The proposed additional fee reflects an overrun on the final accounts audit. The overrun is in relation to the additional time spent on clearing the PPE matters, specifically ensuring the council's assets are presented at a materially correct valuation. Grant Thornton determine the materiality level, it has been recognised that at £5.9m on an PPE carrying amount of £643.0m the materiality level set resulted in additional work that could have been avoided if a higher materiality level was set specifically in relation to PPE. This approach is taken with other clients and is expected to be adopted by Grant Thornton when completing the 2018/19 external audit work.
8. The cost overrun was also as a result of the first time implementation of group accounts. The 2017/18 statement of group accounts included Hoople Ltd, this was a decision made by the council in April 2018 in consultation with Grant Thornton and the Audit and Governance Committee. The chief finance officer proposed that Hoople Ltd be included as a council subsidiary undertaking due to the council being its majority shareholder and to aid transparency of group performance in financial reporting.
9. The above issues resulted in additional external audit work being recorded by senior officers, specifically, 31 hours additional PPE and 15.5 hours for group accounts.

Community impact

10. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that those making decisions and delivering services are accountable for them. To support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner.
11. An efficient and effective audit service supports the council in demonstrating compliance with its code of corporate governance and its corporate plan priority to secure better services, quality of life and value for money

Equality duty

12. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

14. The annual external audit fee has remained at £124k pa for the last three years; the 2014/15 external audit fee totalled £166k. The additional fee proposed in this report will be funded by the existing resources budgets.

Legal implications

15. The Local Audit and Accountability Act 2014 provides that the audit has to be conducted under a Code of Audit Practice.
16. The duty to prescribe scales of fees for work undertaken in accordance with the Code is a statutory function delegated to PSAA by the Secretary of State for Communities and Local Government.
17. The scale fees for individual audited bodies are normally based on the scale fee for the previous year and are based on the expectation that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.

18. PSAA can approve proposed variations to the scale fee for an individual audited body, to reflect changes in circumstances. PSAA will consider the views of the council when finalising the fee.

Risk management

19. The fee variation proposed has no direct impact on risk management. The external audit work required continues to evolve until the completion of the audit therefore a cost overrun is a possible inherent risk.

Consultees

20. None

Appendices

None

Background papers

None identified



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November 2018
Title of report:	Update to financial procedure rules and contract procedure rules
Report by:	Chief Finance Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To approve the updated financial procedure rules attached at appendix 1 and contract procedure rules at appendix 3.

To ensure council financial and contract procedure rules are up to date and provide clarity of roles, accountabilities and process in order to ensure transparency about how public resources are used and to mitigate the potential for fraud.

Summary of financial procedure rules changes:-

- a. Approval for spend without an order must be obtained from either a deputy finance officer (if below £500,000) or the chief finance officer (where in excess of £500,000)
- b. Clarification on approval required for budget virements.
- c. Confirmation non-compliance may be a disciplinary matter.
- d. Confirmation that the council prohibits the use of electronic payment facilities such as PayPal (unless specific authority has been obtained).

Summary of contract procedure rules changes:

- e. To allow the process for obtaining quotations in some instances to be obtained without utilising the e-tendering portal.

Recommendation(s)

That:

- (a) The financial procedure rules attached at appendix 1 be approved; and
- (b) The contract procedure rules at appendix 3 be approved.

Alternative options

- 1. The council could continue with its current financial and contract procedure rules; however they would then not be up to date or provide clarity of roles and processes.

Key considerations

Financial procedure rules

- 2. The financial procedure rules, forming part of the council's constitution, were approved in May 2017.
- 3. The rules (at appendix 1) have been substantially changed having regard to the design principles for a refreshed constitution which were approved by council in December 2016, and which sought to ensure that:
 - 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; and
 - d) The council welcomes public engagement and makes accountability real.
- 4. The format has been revised to separate the rules from the accompanying guidance, as had already been the case with the contract procedure rules. The revisions and changes will enable officers to work effectively and efficiently and to ensure controls are in place against financial risk. The key changes proposed are summarised below:
 - a. Approval for spend without an order must be obtained from either a deputy finance officer (if below £500,000) or the chief finance officer (where in excess of £500,000)
 - b. Clarification on approval required for budget virements, shown below:-

Value	Approval required	Required to obtain consent from
Up to £100,000 – within a directorate	Spend Manager(s)	Finance Manager
Up to £100,000 – across directorates	Director / assistant director or head of service	Finance Manager
Between £100,001 & £250,000 – within a directorate	Budget holder	Chief finance officer
Between £100,001 & £250,000 – across a directorate	Director / assistant director or head of service	Chief finance officer and Portfolio holder
Between £250,001 & £500,000 – within a directorate	Director / assistant director or head of	Deputy S151

Further information on the subject of this report is available from
Josie Rushgrove, Tel: 01432 261867, email: jrushgrove@herefordshire.gov.uk

	service	
Between over £250,001 – across directorates	Director and Portfolio holder receiving budget	Chief finance officer, directors and Portfolio holders reducing budget
Over £500,001 – within a directorate	Director	Chief finance officer and Portfolio holder

- c. Treasury management section is a new section added, confirming requirements as defined in the Prudential Code and the responsibility of the chief finance officer.
 - d. Confirmation that non-compliance with the rules may be a disciplinary matter.
 - e. New reference to capital budget setting and control, in line with the existing capital guidance policy as approved by the Capital Strategy Project Board and issued in September 2018.
 - f. Confirmation that the council prohibits the use of electronic payment facilities such as PayPal (unless specific authority has been obtained).
 - g. A new section is included for earmarked reserves that confirms that the level of reserves for the next three years will be reviewed at least annually as part of the annual budget setting cycle.
5. The financial procedure rules will be published on the council website and intranet as part of the council's constitution.
 6. The finance procedure rules will be communicated as part of the induction programme and included in financial training provided. Compliance will be monitored and reported as part of the annual governance process.

Contract procedure rules

7. There are two amendments (attached at appendix 3) proposed to the contract procedure rules.
8. These are recommended to Clauses 4.6.11 and 4.6.23 of Section 6 of the Contract Procedure Rules, the detail is provided in the appendix and summarised below:-
 - a. To vary clause 4.6.11 to allow the process for obtaining quotations in some instances to be obtained without utilising the e-tendering portal subject to agreement by the relevant commercial team Category Managers. Current experience suggests that some quotation processes would be most efficiently delivered through a quotation process which does not utilise the council's e-tender portal. Examples include particularly specialist services, one off services or simple low value/low risk services where suppliers may not yet have joined the portal supplier database. By operating a simple quote process by email (or other form not currently identified) this will simplify the quotation process significantly. However this approach should be seen as the exception rather than the rule due to inherent risks of using email particularly as a mechanism to receive quotes hence approval to utilise these approaches should ultimately come from Category Managers. The recommended amendments ensure that design principles a) and c) are adhered to by making clear what process officers must comply with and ensuring that the process is efficient.

- b. To delete clause 4.6.23 (which currently states “Admissions agreements and TUPE. To be inserted.”). Compliance with admissions agreements and TUPE legislation is not a matter for the procedure rules but will be addressed within the guidance documentation when it is next updated.
9. The contract procedure rules will be communicated as part of the induction programme and included in procurement training provided by the Commercial Services team. Compliance will be monitored and reported as part of the annual governance process.

Community impact

10. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system.
11. To ensure clear and transparent processes are in place to govern how resources of the council are effectively managed supports the council’s corporate plan objectives to manage finances effectively and to demonstrate one of the council’s values, namely to be open, transparent and accountable.

Equality duty

12. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:
- A public authority must, in the exercise of its functions, have due regard to the need to -
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

14. The proposed revisions to the financial and contract procedure rules are designed to ensure that the council complies with all of the relevant financial regulations which govern the council’s financial conduct and ensures that the council follows effective processes.

Legal implications

Further information on the subject of this report is available from
Josie Rushgrove, Tel: 01432 261867, email: jrushgrove@herefordshire.gov.uk

15. 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 includes a description of the rules and procedures for the management of the council's financial affairs including: procedures for auditing and financial rules. These are the rules that officers follow in the day to day operation of the council set within this council's budget and statutory framework of local government finance.
16. The committee's delegation of the approval of the finance and contract procedure rules within constitution was effective on 1 January 2017 following council's decision on 16 December 2016.

Risk management

17. The current regulations and standing orders are out of date, in some places, and this creates potential for confusion, errors and misunderstandings. Updating the rules will attempt to deal with these issues and problems and ensure that the council continues to have sound financial management policies in place.
18. There is a risk that officers may be unaware of the new rules, which will be mitigated by communication of the changes and a training programme for relevant officers.

Consultees

19. None

Appendices

- | | |
|------------|---|
| Appendix 1 | Updated financial procedure rules |
| Appendix 2 | Financial procedure rule guidance notes |
| Appendix 3 | Tracked changes to contract procedure rules |

Background papers

None identified

Section 7 - Financial Procedure Rules

Approving payments – post securing spend authority - with an order (alternative arrangements must obtain chief finance officer approval)

Value (before VAT)	Approval level
Up to £25,000	Officers as agreed by the director
Between £25,001 and £100,000	Managers that report to Head of Service (up to and including HC12 pay grade)
Between £100,001 and £250,000	Head of Service (HC13 pay grade)
Between £250,001 and £500,000	Assistant Directors (HoS1 and HoS2 pay grade)
Above £500,001	Directors or chief finance officer (pay in excess of HoS2)

Approving payments without an order (alternative arrangements must obtain chief finance officer approval)

Value (before VAT)	Approval level
Up to £500,000	Deputy S151
Over £500,001	chief finance officer

Budget movements (virements)

Value	Approval required	Required to obtain consent from
Up to £100,000 – within a directorate	Spend Manager(s)	Finance Manager
Up to £100,000 – across directorates	Director / assistant director or head of service receiving budget	Both directorate finance managers
Between £100,001 & £250,000 – within a directorate	Budget holder	Deputy S151
Between £100,001 & £250,000 – across a directorate	Director / assistant director or head of service receiving budget	Chief finance officer and director / assistant director or head of service reducing budget
Between £250,001 & £500,000 – within a directorate	Director / assistant director or head of service	Chief finance officer
Over £250,001 – across directorates	Director and Portfolio holder receiving budget	Chief finance officer, director and Portfolio holder reducing budget
Over £500,001 – within a directorate	Director	Chief finance officer and Portfolio holder

Debt write off approval

Value	Approval required	Reported to
Up to £20,000	Deputy S151	
Over £20,001	Chief Finance Officer	Cabinet

Amendments to the approved capital programme

Change required	Approval required	Comment
New capital scheme	Council	Cabinet / Cabinet member report post Council approval required before spend can be incurred
New 100% funded externally scheme	Chief finance officer	
Revenue contributions to capital schemes	Chief finance officer	

Introduction

7.1 Procedures

Any organisation with a large financial turnover needs to lay down the procedures to be observed in its financial dealings. Such procedures are especially necessary in the case of a local authority which is limited by legislation in what it is able to do, is subject to statutory audit and must account for its actions and stewardship to the general public.

7.2 Purpose of Financial Procedure Rules

The purpose of these rules is therefore to set out, for the benefit of members, officers and the public, basic financial rules and guidance in order that everyone works to an approved common standard in the financial dealings of the council.

The rules are to be followed post obtaining the necessary decision approval required before incurring expenditure.

They do not over-ride the requirement to observe statute, including European Union Directives, in everyday matters.

These Financial Procedure Rules apply to all areas of the council and should be read in conjunction with the rest of the council's constitution.

7.3 Emergency situations

The provision of these rules does not prevent the council acting through the Chief Executive and director(s) from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or situation relating to Section 138 of the Local Government Act 1972. This is subject to the action being reported as soon as practicable to the appropriate authority.

7.4 Non-compliance with rules

Any non-compliance with these rules will follow the relevant council performance management procedure and may result in disciplinary action being taken, or criminal investigation as appropriate.

7.5 Approval of Chief Finance Officer or Nominated Officer

The Chief Finance Officer or nominated officer or a nominated representative must approve all financial implications on all decision reports and the relevant implications section of the report template must be completed.

7.6 Approval changes

The Head of Paid Service may agree changes to the approval authority where directors or chief finance officers are either working their notice or employed on an interim basis.

Internal audit and internal control

7.7 Regulations

The Chief Finance Officer or nominated officer shall in accordance with the Accounts and Audit Regulations for the time being in force and future

amendments, arrange for a continuous and current internal audit of all activities of the council.

7.8 Financial irregularities with regard to council functions

Where matters arise which involve or are thought to involve financial irregularities this will be referred to audit and follow the relevant procedures as disclosed in the anti-money laundering, anti-bribery, fraud and corruption and whistleblowing policies (with reference to Treasury Management Practice Statement 9) as necessary.

Treasury management

7.9 Activities of treasury management

All treasury management activities will be carried out in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2017 and the "Treasury Management Policy Statement" as currently approved by the Chief Finance Officer and included in the Treasury Management Policy approved by Council.

Banking Arrangements

7.10 Arrangements with council's bankers

No officer has authority to open a bank account without prior specific written delegation of that authority by the Chief Finance Officer or nominated officer.

7.11 Officer Involvement

Officers must declare an interest and absent themselves from any managerial involvement in any financial matter from which they or their family could directly or indirectly benefit as required in the employee code of conduct.

Revenue Expenditure - Control

7.12 Budgetary Control

Directors and the Chief Executive must ensure, that their Assistant Directors / Heads of Service are managing their budgets, including commitments, appropriately by requiring regular reports are presented to Management Board and their Department Management monthly budget monitoring meetings.

7.13 Role of Directors

Budgets are allocated to Directors to enable them to deliver services approved by Members through the budget setting process. Directors are required to ensure budgets are deployed in accordance with these rules to deliver policies and plans determined by members, and to ensure that there are processes and procedures in place within their directorates to be compliant with systems of internal control.

Financial Procedure Rules- Guidance notes

Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:
<http://www.opsi.gov.uk/legislation/uk>

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1 Scope of Financial Procedure Rules

The purpose of the finance procedure rules is to ensure that:

- Directors, Assistant Director and Heads of Service remain within their budget and only spend what they have in their budget;
- Directors, Assistant Director and Heads of Service maintain adequate commitment records;
- Directors, Assistant Director and Heads of Service monitor their budgets;
- Where there are any problems with overspend or failure to perform, these problems are reported at the earliest opportunity;
- Directors, Assistant Director and Heads of Service should have effective reporting arrangements from their budget holders;
- Directors and Assistant Directors should have effective reporting arrangements from their Heads of Service.

2 Approval of Chief Finance Officer or Nominated Officer

Where matters are to be considered by the Management Board that in any way affect the finances of the Council or that require the supply of financial information by the Chief Finance Officer or nominated officer, the Chief Finance Officer or nominated officer must be notified by the Director or Head of Service / Assistant Director (or equivalent) concerned, in sufficient time, to enable the Chief Finance Officer or nominated officer to report.

The Legal Framework

3 Current Regulations

The Statutes and Statutory Instruments and Regulations which currently affect these rules are as follows:

1. The Accounts and Audit Regulations 2015 – Regulation 5 requires the accounting system, the form of its accounts and supporting accounting records to be determined by the responsible Financial Officer who shall ensure that the accounting systems determined by them are observed and that the accounts and supporting records of the body are maintained in accordance with proper practices and kept up to date.

4 Review of the Systems of Internal Control – Regulation 4

Regulation 4 of the Accounts and Audit Regulations 2015 requires the Council to carry out a review of the effectiveness of the system of internal control. The results of this review, contained in the Annual Governance Statement, are considered by the Audit and Governance Committee.

5 Accounting Records - Regulation 5

Regulation 5 of the Accounts and Audit Regulations 2015 also requires that the accounting records required by the Financial Officer will be sufficient to show the Council's transactions and to enable the responsible Financial Officer to ensure that any statement of accounts, income and expenditure account, balance sheet or record of receipts and payments and additional information to be provided by way of notes to the accounts comply with the Accounts and Audit Regulations 2015.

In particular this means that accounting records must contain:

- a. Entries from day to day of all sums of money received and expended by the body and the matters to which the income and expenditure or receipts and payments account relate;
- b. a record of the assets and liabilities of the body; and
- c. a record of incoming expenditure of the body in relation to claims made or to be made by them for contribution grant or subsidy from any Minister of the Crown, a body to whom such a Minister may pay sums out of monies provided by Parliament or an European Union Institution.

Regulation 5 requires that the accounting controls systems ensure that the financial transactions of the Council are recorded as soon and as accurately as reasonably possible, that there are measures in place to enable the prevention and detection of inaccuracies and fraud and there is the ability to reconstitute any lost records.

Regulation 5 also requires that the duties of Officers dealing with financial transactions are identified and the division of responsibilities of those Officers are identified in relation to significant transactions and that procedures for uncollectable amounts including bad debts will not be written off except with the approval of a responsible Financial Officer or a member of staff nominated by the responsible Financial Officer.

6 Internal Audit – Regulation 6

Regulation 6 of the Accounts and Audit Regulations 2015 require the Council to carry out an effective internal audit of its accounting records and system of internal control in accordance with "proper practices" in relation to Internal Control. Officers must implement accepted recommendations from internal audit. This is monitored by the Audit and Governance Committee.

7 Local Government Finance Act 1988 – Section 114

The s151 Officer will report to the Council if they have reason to believe that the Council or any part of the Council:

- a. has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful, or
- b. has taken or is about to take a course of action which if pursued to its conclusion would be unlawful and likely to

- cause loss or deficiency on the part of the Authority, or
- c. is about to enter an item of account the entry of which is unlawful.

Under Section 114 of the [Local Government Finance Act 1988](#), the s151 Officer will make a report if it appears to them that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

Accounting and System Development

8 Accounting Procedures

All accounting procedures and records of the Council and its Officers shall be determined by the Chief Finance Officer or nominated officer in consultation, where necessary, with the appropriate Director or Head of Service / Assistant Director (or equivalent) concerned. Such procedures shall have regard to Section 151 of the Local Government Act 1972 and shall be in accordance with the relevant legislation and guidance for the time being in force and such other statutory provisions which affect the financial affairs of the whole Council or any specific service.

9 Responsibility of Chief Finance Officer or Nominated Officer

The Chief Finance Officer or nominated officer shall be responsible for the compilation of the main accounting records for the Council.

The Chief Finance Officer or nominated officer may from time to time issue written “financial instructions” dealing with detailed procedures to be followed in certain matters. Such instructions shall be issued after consultation with the Director, assistant director or Heads of Service affected.

The Chief Finance Officer or nominated officer shall be responsible for the maintenance of a management information system, the General Ledger.

10 Allocation of Accounting Duties

The following principles shall be observed in the allocation of accounting duties by all employees or consultants engaged by the Council:

- The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

Internal Audit and Internal Control

11 Role of Internal Audit

This service is currently provided by the South West Audit Partnership (SWAP). SWAP will assist Directors, Assistant Directors, Heads of Service and Senior Managers in the effective discharge of their responsibilities by giving assurance on financial and management control systems, identifying weaknesses, giving advice on how to resolve financial and management problems and improve control, investigating suspected irregularities and by undertaking Value for Money (VFM) reviews and management studies.

12 Accounts and Audit Regulations required by the Secretary of State

Any Member or Officer will make available documents relating to financial or other records of the Council which relate to their accounting. Other records, as appear to the Section 151 Officer necessary for the purpose of Internal Audit, will be supplied together with any such information and explanation as the Section 151 Officer considers necessary for that purpose.

13 Powers of Internal Audit (SWAP)

The Chief Finance Officer or nominated officer and all authorised Internal Audit staff are empowered to enter at reasonable times any premises or land owned by or in the control of the Council, if appropriate, and require employees to produce Council property and records under their control.

14 Financial Irregularities with Regard to Council Functions

Where matters arise which involve or are thought to involve financial irregularities this will be referred to audit or follow Anti-money Laundering procedures and Treasury Management Policy Statements as necessary.

Treasury Management

15 Chief Finance Officer Decisions Involving Finance

All chief finance officer recommendations on borrowing, investment or financing is required to act in accordance with the Code and the "Treasury Management Policy Statement".

Banking Arrangements

16 Arrangements with Council's Bankers

All arrangements with the Council's bankers must be made by or under arrangements approved by the Chief Finance Officer or nominated officer, who is authorised to operate such banking accounts and other electronic transactions as they may consider necessary.

17 Funds Held on Behalf of Others

All funds held on behalf of others (Trust or Private) shall be subject to an annual audit, which shall be undertaken by a suitably qualified person. A copy of all audit reports and the final accounts shall be made available, on request, to Internal Audit for information. In respect of Schools, the audit report and the findings shall be presented to their School Governors.

18 Value Added Tax

The appropriate officers who are responsible for the administration of Trust or Private funds shall be responsible for ensuring that all Value Added Tax is correctly accounted for, and shall have due regard to the treatment of Value Added Tax on donated funds (as detailed in Section 15 of the Local Government Act 1972).

19 Investment

Officers shall be responsible for ensuring that Trust and Private Funds are appropriately invested for the benefit of the fund. Advice as to the most appropriate method of investment will be obtained from the Chief Finance Officer or nominated officer.

Financial Planning ‘Accounting’ and the Budget Process

20 Financial Strategy

The medium term financial strategy will set out the parameters for the budget build process for the coming year in the light of likely grant settlement, service pressures, available balances, and consultation with clients and partners of the Council. The Budget and Policy Framework will be followed and the strategy will be approved by Council.

21 Capital and Revenue Budgets

The detailed form of Capital and Revenue budgets shall be determined by the Chief Finance Officer or nominated officer consistent with the general directions of the Management Board. The Budget and Policy Framework will be approved by Council following recommendation from cabinet.

22 Capital Programme

The Chief Finance Officer will maintain a Capital Strategy to feed into the annual Capital Programme. Directors and their nominated budget holders, in consultation with the Chief Finance Officer or nominated officer, shall jointly prepare for consideration by the Management Board, a draft Capital Investment Budget alongside the revenue income and expenditure budgets. These must be prepared in accordance with the policies and timescales determined by the Cabinet. The Budget and Policy Framework, including the Capital Programme, will be approved by Council.

23 Approval of Estimates

The estimates, once approved by the Council shall become the Council’s Revenue Budget and Capital Investment Budget for the next financial year.

Approval of the annual estimates by the Council will confer authority on the Directors, Assistant Directors and Heads of Service of the Council to incur revenue expenditure so provided for the next financial year subject to compliance with the relevant provisions of the Contract Procedure Rules.

Revenue Expenditure - Control

24 Role of Directors

It is the responsibility of each Director to ensure that the budgets for which they are responsible are used to deliver the Service Plan and are not overspent. Where budget pressures indicate that overspending may occur, then the Director must apply the rules set out under cash limited budgets below.

Directors are responsible for allocating responsibility for managing each cost centre within their service. They must inform the Chief Finance Officer or nominated officer of the allocation and any changes as soon as they occur.

Directors must ensure that their managers who are budget holders are properly trained in budget management and apply adequate budgetary control through local commitment accounting by requiring regular reports from budget holders.

25 Moving Budgets between Cost Centres

The rules for moving budgets between revenue cost centres (virement) are shown in the table in the financial procedure rules.

The following transfers will not count as virement for these purposes:

- (a) Budget movements which occur as a result of year end procedures
- (b) Transfers of budgets when a whole or part service transfers from one directorate to another as a result of a service restructure or change in line management responsibilities
- (c) Income and expenditure budget changes reflecting additional grants not included in the Council's approved budget
- (d) Transfers arising from changes in legislation
- (e) Any support service recharges (allocation of overheads) for accounting purposes.

Any in year unplanned contributions from reserves will need to be reported in line with the reserves policy; those at year end are considered by Cabinet as part of approving the Council's financial statements. The use of funds in an emergency are set out in the financial procedure rules (Emergency Situations).

26 Unauthorised Overspend

The unauthorised overspend of a cost centre budget may lead to disciplinary action being taken against the budget holder. The unauthorised overspend overall by a service may lead to disciplinary action being taken against the Head of Service / Assistant Director (or Director).

27 Monthly Forecasting

The Chief Finance Officer works with the Head of Management Accounts to provide monthly forecasting in accordance with the Directorate / corporate Management Team Meetings.

28 Cash Limited Budgets

Budgets are limited to the net annual budget for the relevant

service. The Council maintains a general reserve which is to be used in exceptional circumstances where there is an uncontrollable overspend position at the end of the financial year. Therefore, Directors must ensure that they and their budget holders do not overspend their service budgets.

Revenue Expenditure may not be incurred which cannot be met from the amount provided in the revenue budget under the Service for that Head of Service / Assistant Director (or equivalent) to which the expenditure would be charged unless alternative funding sources have been secured or agreed.

The Head of Service / Assistant Director (or equivalent) can present overspend to the relevant Director who can consider whether the overspend can be contained within the overall service grouping. The Director and Head of Service / Assistant Director (or equivalent) will then report to Management Board for consideration and approval.

The CHIEF FINANCE OFFICER must be consulted on overspends. Management Board need to take a view on what is a significant overspend in terms of the overall budget for the Council and anything which they consider significant should be reported to Cabinet. Approval from the CHIEF FINANCE OFFICER will only be given in exceptional circumstances. In all cases Financial Procedure Rules must be complied with. The approval of the additional expenditure budget may include provision for the repayment of the overspend.

29 Exceeding Cost Centre Estimate

Directors, excluding interims and those working their notice period, may authorise expenditure which would otherwise exceed the estimate for a cost centre, provided that the expenditure:

- can be met from savings or under spending on other cost centres within the same service with the exception of windfall increases in income or decreases in expenditure;
- will not constitute Capital Expenditure or result in:
 - (a) a change in the level of service provision; or
 - (b) a commitment to incur expenditure in future years; or
 - (c) a change in policy; or
 - (d) a breach of the Council's Workforce Strategy.
- is not a virement from a support service recharge code.
- is notified in the prescribed form to the Chief Finance Officer or nominated officer who may if they consider that the expenditure is significant, require a report to be submitted to Cabinet.

30 Carry Forward of Under and Overspends

Genuine provisions for liability as recognised by the Code in force must be accounted for in accordance with this guidance. Where budget holders wish to carry forward any unspent monies into the

next financial year, then they must provide a business case (<https://apps.herefordshire.gov.uk/financetoolkit/SitePages/Business%20Case%20templates.aspx>) to the Chief Finance Officer.

These cases will be assessed against the relevant accounting guidance and the explanations provided in the case. The final decision for the carry forward of under spends is for the Chief Finance Officer.

Overspends are not permitted to be carried forward; all known overspends where no action can take place to rebalance budgets should be corrected via service repayments and approved by the Council when setting the next financial year's budget.

31 Coding of Expenditure and Income

All expenditure and income must be charged / credited to the cost centre and appropriate account code to which it relates. Miscoding expenditure / income distorts the Council's financial information and, therefore, may result in disciplinary action being taken against the Officer responsible.

The detailed form of Capital and Revenue budgets shall be determined by the Chief Finance Officer or nominated officer consistent with the general directions of the Management Board and after consultation with Cabinet.

Journal transfers may only be actioned by the finance support team.

Budget holders may only charge expenditure against budgets for which they are responsible.

32 Earmarked reserves

When establishing reserves the council needs to ensure that it is complying with the Code of Practice on Local Authority Accounting and in particular the need to distinguish between reserves and provisions.

A reserve is a budget amount kept to fund a future event.

A provision is recorded as a cost against a cost centre when the council has a present obligation as a result of a past event, it is probable that the cost will be paid to settle the obligation, and a reliable estimate of the value of the cost can be made.

New reserves may be created at any time, but must be approved by The Cabinet member when a reserve is established. The setting, reporting and reviewing of reserves must be in accordance with the councils reserves policy.

The Chief Finance Officer has a fiduciary duty to local tax payers and must be satisfied that the decisions taken on balances and reserves represent proper stewardship of public funds.

The overall level of reserves balances will be reported to Cabinet at least annually or when new reserves are proposed.

The annual budget report to Council will include:

- A statement of movements in reserves for the year ahead and the following two years;
- A statement of the adequacy of general reserves and provisions in the forthcoming year and in the Medium Term Financial Strategy; and
- A statement on the annual review of reserves.

The level of reserves for the next three years will be reviewed at least annually as part of the Annual budget setting cycle. The Chief Finance Officer will review the Councils earmarked reserves for relevance of propose and adequacy.

Any amendments to earmarked reserves will be reported to the Cabinet for approval.

Once a reserve has fulfilled the purpose for which it was established, any remaining balance should be reallocated to another similar purpose earmarked reserve or surrendered to General Reserves.

Capital Expenditure - Control

33 Council Approval of Capital Investment Budget

Council's approval of the Capital Investment Budget, known as the capital programme, – The Budget and Policy Framework - constitutes allocation of:

- Capital expenditure to be incurred in the budget year and for commitments to be made on capital schemes included for the budget year and for the previous years to the extent that provision has already been made. This is not an authority to spend, this requires executive approval to proceed;
- Expenditure to be incurred or commitments to be made for advance site acquisition, design fees and other associated preliminary expenditure but only if an appropriate budget allocation has been approved in the relevant year within the Capital Strategy and Programme.
- All authority is to be in line with the capitalisation policy that describes the process to be followed in relation to feasibility woks, new capital schemes and monitoring of those schemes.

34 Variations to the Approved Capital Strategy and Programme

The Council's Capital Strategy and Programme, which forms an integral part of the Council's Budget and Policy Framework, is agreed by Council. External grant funded schemes can be approved by the CHIEF FINANCE OFFICER, the rules for capital budgets are shown in the table in the financial procedure rules.

35 Other Additional Expenditure Requests

Any other additions to capital budgets outside the agreed Budget and Policy Framework must be approved by Council.

36 Official Orders

Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments (rent + rates), petty cash purchases, or such exceptions as the Chief Finance Officer or nominated Officer may approve. Orders must clearly state the quantity of the goods and nature of the work or services and whether covered by contract or an agreed price and discounts specified therein or an estimated value. In line with the Councils no PO no pay, no payment will be made to suppliers without a purchase order having been raised. Unless payment falls within the procurement card policy.

37 Raising a Purchase Requisition

The Head of Service / Assistant Director (or equivalent) shall nominate those Officers eligible to raise Purchase Requisitions on the Council's financial system. The Finance system converts the Purchase Requisition into a Purchase Order upon the approval of the Budget Holder or nominated Authorising Officer.

38 Placing an Order

Unless the service has a budget an order should not be placed. Placing an order commits the Council to spending the money.

All official orders for goods and services must be raised using the Council's Financial System. Exceptions to this requirement require written approval from the Chief Finance Officer or nominated Officer. Purchases made using a Corporate Procurement Card do not require a purchase order. Requirements for use of the Corporate Procurement Card are contained within the Corporate Procurement Card Policy and should also be adhered to at all times.

The Council's Finance system will generate the appropriate commitment accounting record of outstanding orders. Verbal orders must not be made except as a matter of genuine urgency and must be confirmed immediately with a written order produced through the Council's Finance System.

Other than in cases of genuine emergency, no supplier shall be asked to provide goods or services before a purchase order has been issued to them.

39 Regular Periodic Payments

Any circumstances causing the cessation or variation of a regular periodical payment must be notified immediately to the Payments Manager.

40 Approval of Order

The ability to raise a requisition for goods or services and the subsequent approval and creation of the Order must only be undertaken by Officers nominated by the Director. Nominations shall be set up by submitting an authorised signatory form in the financial system which will workflow for the relevant approval before the roles are allocated.

Orders can be approved in line with the approval limits detailed in

the financial procedure rules.

Goods properly supplied or work done without an official order due to a genuine emergency must be covered as soon as possible by a confirmation order.

Whenever practicable the duties of requisitioning goods or services and the subsequent confirmation of their receipt (goods received note process) shall not be performed by the Officer authorising the Order.

Each Head of Service / Assistant Director (or equivalent) shall be responsible for all orders issued from their Service.

41 Goods Received Process

The Head of Service / Assistant Director (or equivalent) or Delegated Officer shall ensure that the Corporate Finance System is promptly updated when goods or services are received. Before completing the Goods Received Note process the verifying Officer shall, save to the extent that the Chief Finance Officer or nominated Officer may otherwise determine, be satisfied:

- that the goods have been duly received examined and approved as being in accordance with the specification or match the official order and are satisfactory;
- that the works done or services rendered have been satisfactorily carried out and that, where applicable, the materials used were of the requisite standard;
- that the proper entries have been made in the inventories or stores records, where appropriate;
- that the Council's purchasing guidance has been followed.

Payment of Accounts

42 Payment of Invoices

It is the Council's policy to pay all invoices within 30 days of invoice date. It is therefore the responsibility of all staff to assist the Payments Team in ensuring invoices can be processed for payment as soon as possible through full compliance with all the relevant financial procedures.

43 Other Payment Requests

Payment requests shall be prepared in accordance with the format determined by the Chief Finance Officer or nominated Officer who if satisfied, shall process and pay in accordance with a timetable prepared by them.

44 Destination of Invoices

Invoices for payment must be sent in the first instance to the Payments Team in Plough Lane.

45 Amendments and Deletions

Amendments to or deletions from an invoice must only be made in exceptional circumstances and must be authorised by the Chief Finance Officer or nominated officer. Where changes are required

they must be made in ink of a distinctive colour and initialled by, or on behalf of the Head of Service / Assistant Director (or equivalent), and the reasons, if not obvious, briefly stated on the invoice. No alterations to a Value Added Tax invoice may be made but a new invoice or credit note must be sought from the supplier. To avoid the possibility of duplicate payments photocopies or faxes are not accepted as valid invoices except in emergencies.

46 Payment of Invoices

The Chief Finance Officer or nominated officer shall pay all invoices and other payment requests which they are satisfied are in order, apart from petty cash imprest accounts or Local Bank Accounts.

The Chief Finance Officer shall ensure that appropriate arrangements are in place for ensuring that invoices received by the Payments Team are matched against official orders. Payment of invoices shall only be made when:

- the ordering Service has confirmed that the goods have been duly received, examined and approved;
- the prices are in accordance with the order;
- the payment is in accordance with Council Policy and legally payable;
- the account is correct, and that VAT is properly accounted for where appropriate;
- the item has not been previously passed for payment and is a proper liability of the Council.

The normal method of payment of money due from the Council shall be by cheque, electronic transfer or other instrument drawn on the Council's bank account by the Chief Finance Officer or nominated officer. Alternatively credit cards are used to pay for goods, these transactions are uploaded onto the financial system and payment made to the card supplier in the normal process.

The Chief Finance Officer shall be responsible for authorising the issue of corporate procurement cards and determining spending limits. Cardholders are required to comply with the policy issued by the Chief Finance Officer regulating the use of corporate credit cards. Purchases must be made in accordance with the contract procedure rules. This policy will include the requirement for cardholders to obtain a receipt for each transaction and monthly coding of all transactions on the Smart Data OnLine (SDOL) banking system, within 7 days of the monthly card statement being available on line.

Directors shall provide the CHIEF FINANCE OFFICER with a list of authorised officers showing their signing levels as specified below, with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.

Authorisation limits are shown in the financial procedure rules.

47 Examination of Accounts

The Chief Finance Officer or nominated officer may at their

discretion examine the verified accounts passed for payment, as to their compliance with the minutes and Council regulations, contracts, accepted tenders or other authorities and for this purpose shall be entitled to receive such information and explanation as may be required.

Local Bank Accounts - Imprest / Petty Cash Accounts

48 Imprest / Petty Cash Advances

The Chief Finance Officer or nominated officer will provide imprests and petty cash advances, where appropriate, to Officers for the purpose of defraying expenses. A receipt shall be signed in respect of each advance by the Officer concerned, who shall be responsible for accounting for monies. A receipt should be signed in respect of floats issued to Officers.

49 Changes to Officers

Any changes to Officers responsible must be immediately notified to the Chief Finance Officer or nominated officer. An outgoing imprest holder must reconcile the imprest to the total amount held, whilst the incoming responsible Officer should satisfy themselves that all is in order before accepting responsibility for the imprest.

50 Disbursements

Vouchers for disbursements must be obtained, and attached to claims for reimbursement. Claims must be properly certified and forwarded for payment to the Payments Team at specified intervals, normally not exceeding one month.

51 Security of Cash

Heads of Service are responsible for ensuring that all cash is kept in a safe and secure place and that bank accounts are reconciled on a regular basis, not less than monthly. A bank statement must be received at least monthly for all imprest bank accounts.

52 Use of Imprest Accounts

Imprest accounts can be used for amounts agreed by the Chief Finance Officer or nominated officer:

- to pay for local purchases by cheque at the time of collection or delivery;
- to secure discounts or take advantage of special offers;
- to reimburse staff who have purchased small value items directly; All such payments must be supported by VAT invoices or receipts.

53 Use of Imprest Funds

Imprest funds must never be used to pay salaries, wages, or other employee expenses i.e., travel/subsistence and removal/relocation expenses, without the specific approval of the Chief Finance Officer or nominated officer. Such payments may attract liability to Income Tax or National Insurance contributions and must therefore be made via the payroll system.

54 Examination of Local Bank Accounts

The Chief Finance Officer or nominated officer may at their discretion examine and reconcile Local Bank Accounts and for this purpose shall be entitled to receive such information and explanation as may be required.

Income

55 Collection of Monies

The framework and regulation of the collection of all monies due to the Council shall be subject to the approval of the Chief Finance Officer or nominated officer and shall comply with these Financial Procedure Rules.

The general ledger shall be updated promptly of all monies due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer or nominated officer shall have the right to inspect any documents or other evidence in this connection as they may decide.

56 Invoicing for Sums Due

Each Head of Service / Assistant Director (or equivalent) shall establish procedures to ensure that invoices are raised on the Council's Finance System in respect of work done, goods supplied, services rendered and all other amounts due to the Council. These procedures must ensure that all invoices due are raised promptly in order to assist recovery of the debts.

57 Payment of Amounts Due

All accounts rendered in respect of amounts due to the Council shall contain a statement that payment must be made direct to the Chief Finance Officer or nominated officer and that cheques, money orders, and postal orders should be made payable to Herefordshire Council.

All cheques, money orders and postal orders received in any Service Unit shall be crossed "Herefordshire Council". Personal Cheques must not be cashed out of the money held on behalf of the Council.

Our preferred payment method is though utilising the Bankers Clearing Automated System (BACS)

58 Introduction of New Electronic Payment Facility

The Chief Finance Officer or nominated officer shall be consulted at an early stage on any proposals to introduce a new electronic payment facility. No such facility shall go live without the specific authorisation of the Chief Finance Officer or nominated officer.

The Council prohibits the use of any PayPal or any similar electronic payment facilities (unless specific authority has been obtained).

59 Payment into Council Account

All monies received by an Officer on behalf of the Council shall, without delay, be paid to the Chief Finance Officer or nominated

officer. No deduction may be made from such money save to the extent that the Chief Finance Officer or nominated officer may specifically authorise.

Officers who bank money shall enter on the paying in slip and on the reverse of each cheque a reference to the related debt (receipt number or the name of the debtor) or otherwise indicate the origin of the cheque.

The name of the originating Service/Section shall be recorded on the paying in slip.

60 Issue of Receipts

Every sum received by a cashier or other Officer of the Council shall be immediately acknowledged by the issue of an official receipt, ticket or voucher except in the case of cheques other arrangements may only be established with the express approval of the Chief Finance Officer or nominated officer.

All official receipts, tickets, books and other cash tokens shall, except by special arrangements approved by the Chief Finance Officer, be controlled and issued by the Chief Finance Officer or nominated officer, who shall keep a register of their receipt and issue. Departments shall keep proper records of the issue and use of all receipts, tickets and cash tokens.

61 Recording Receipt of Monies

Each Officer who receives monies on behalf of the Council, or for which they are accountable to the Council, shall keep records in a form approved by the Chief Finance Officer or nominated officer.

62 Transfer of Monies

Every transfer of official money from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving Officer.

Write-Offs - Income

63 Discharge of Debts

No debt due to the Council, after it has been correctly established, shall be discharged otherwise than by payment in full or by the writing-off of the debt or the unpaid portion of it, on the authority of the Chief Finance Officer or nominated officer where either:

- (a) the debt is not enforceable or that attempted recovery is likely to involve expensive litigation with limited hope of success; or
- (b) the cost of recovery would be disproportionate to the amount involved.

64 Written-off Debts

The approval limits for debt write offs are set out in the financial procedure rules.

Budget Holders will be provided with details of those debts where write off is appropriate. Such details are to include information on recovery action already taken.

In exceptional circumstances Corporate Finance may recommend to the CHIEF FINANCE OFFICER that a debt should not be written off to the service budget but will be written off corporately.

Charging for Services

65 Review of Service Charges

As per Fees and Charges Policy (<http://hc-modgov:9070/documents/s50005729/Cabinet.pdf>)

66 Unmet Estimates

Where it appears that income targets as set out in the Council's estimates will not be met then the Head of Service / Assistant Director (or equivalent) shall either meet the shortfall from within the service budgets or apply for an additional budget.

Salaries and Wages

67 Responsibility for Payments to Employees

The Chief Finance Officer shall be responsible for making arrangements for the payment of all salaries, wages, pensions and other payments to all current and former employees of the Council.

Travelling and Subsistence

68 Claims for Payment

All claims for payment of officer car allowances, subsistence allowances, travelling and incidental expenses shall be made through Business World

Officer's claims should be submitted promptly at the end of each month in which the journeys were made or the expenses incurred. The Chief Finance Officer or nominated officer may refuse to make payment of claims over 2 month old.

Stocks / Stores

69 Responsibility for Stocks

Each Head of Service / Assistant Director (or equivalent) shall ensure:

- the proper custody of their stocks and stores in their Service Unit and shall ensure that they are subject to an effective system of stock recording and control;
- that stores are held in reasonable quantities and that consideration has been given to turnover, value, delivery quantities and delivery periods;
- that practicable steps are taken to ensure that a delivery note is submitted by a supplier for every delivery at the time of delivery;
- as soon as practicable after the delivery has been made that goods are checked to ensure that the correct quantity has been delivered and that they meet the appropriate quality standard;
- that no articles or goods are removed from

stock without proper authority;

- that an annual review of stocks held is undertaken with a view to reducing the number of slow moving items and disposing of obsolete stock items;
- that obsolete or other stocks no longer required for the purpose acquired are disposed of under the disposals policy;
- that accounts and records are maintained in connection with the receipt and issue of stores in such form and timetable as the Chief Finance Officer ;
- that on the 31st March each year the value of stocks held is certified and reported to the Chief Finance Officer or nominated officer.

70 Surplus or Deficiency

Where any surplus or deficiency is revealed in excess of £5,000 in any item of stock the Chief Finance Officer shall be advised and disciplinary action taken where necessary.

71 Checking of Stock

The Chief Finance Officer or nominated officer is entitled to check stores and be supplied with any information relating to the accounting, costing, and financial records of the Council.

Disposal of Surplus or Obsolete Goods, Plant and Stocks

72 Authorisation for Disposal

Surplus or obsolete goods or plant, whether held in store, on inventories or otherwise up to the value of £2,000 per item or group of like items, must not be disposed of either by sale or destruction except upon the authorisation of the appropriate Director of the Service Unit concerned. Where the value is between £2,001 and £10,000 the authorisation of the Deputy S151 Officer or nominated officer must also be obtained. Where the value exceeds £10,000, authorisation from the Chief Finance Officer must be obtained.

In relation to inventory items (e.g. IT equipment etc.) all items surplus to requirements should, in the first instance, be offered to other Council departments, schools etc. prior to being disposed of.

73 Sale of Stock

Sale must be effected by public tender except when, in the opinion of the appropriate Head of Service / Assistant Director (or equivalent) concerned and the Chief Finance Officer or nominated officer, the financial interest of the Council is better served by disposal by any other means. This could be by public auction.

74 Recording Disposal

A record of each disposal should be maintained (i.e. the approval, the price obtained and if appropriate the alternative method of disposal used). Inventories or stock records should be up-dated in a timely fashion to reflect the disposal. Officer decisions for

disposals in excess of £50,000 must be published.

75 Income from Disposal

Income from disposals shall be credited to the cost centre unless a capital receipt. Capital receipts are sales of assets recorded on the asset register in excess of £10,000. These are credited to the capital receipts reserve and used to fund the capital investment budget.

76 VAT

Value Added Tax shall be accounted for on the sale proceeds if appropriate and the amount identified when banking the income. The Chief Finance Officer or nominated officer should be contacted if clarification of the VAT position is required.

Insurance

77 Responsibility for Insurance

The Chief Finance Officer or nominated officer is responsible for the arrangement of risk funding on advice from Internal Audit. The administration and resolution of all losses is the responsibility of the nominated officer in consultation with other Officers where necessary by reporting to the Chief Finance Officer or nominated officer.

78 Record of Insurances

The Chief Finance Officer will keep a permanent record of all insurances, risks covered, premiums paid and of all self-funded risks and losses paid. This includes third parties arranging insurance where the Council has an insurable interest. Documents to be permanently retained must include policy schedules and all liability insurance certificates for every period of insurance. Such responsibilities may be delegated to the nominated officer.

79 Incident / Accident Reporting

Every event with the potential to give rise to a financial loss, or involving injury to a member of staff, an elected Councillor or client of the Council, must be reported in accordance to the Health & Safety Arrangements Policy.

80 Review of Risk Financing Arrangements

The Chief Finance Officer or nominated officer and Internal Auditor shall annually review the Council's risk financing arrangements and look at adequacy of provision in the light of changes in the environment including new legislation, imposed or contractual responsibilities, legal precedent, newly identified and quantified risks, or other concerns identified.

81 Consultation

Before any indemnity requested from the Council is provided, the Head of Service / Assistant Director (or equivalent) responsible shall obtain written agreement from the Chief Finance Officer or the nominated officer. Generally Heads of Service should not allow burdens or responsibilities to be imposed on the Council through contract that would not otherwise be imposed by common law or

Security

82 Responsibility for Security

All Heads of Services are responsible for maintaining proper security at all times for all information, buildings, stocks, stores, furniture, equipment and cash under their control. They should report to Facilities Management where they consider security is thought to be defective or where they consider special arrangements are needed.

Appropriate security controls for all assets shall be identified by the risk assessment process and by referring to security standards and procedures. Arrangements shall be agreed as above.

Maximum limits for cash holdings shall be identified by the risk assessment process and agreed with the Chief Finance Officer or nominated officer and shall not be exceeded without permission.

Key holders for safes and similar security receptacles are to be agreed by each Head of Service / Assistant Director (or equivalent) in conjunction with the Chief Finance Officer or nominated officer. The loss of keys shall be reported immediately using the security incident reporting procedures.

83 Data Protection Legislation

The Chief Executive in conjunction with the Chief Operating Officer (Hoople Ltd) and Corporate Support, and in consultation with Heads of Service and the Data Controller, will ensure that all computer systems and written records, (including those in the possession of elected Councillors) which store sensitive personal data are operated in accordance with the Council's Data Protection Policy, Data Protection legislation, and that proper security and confidentiality is maintained.

Estates

84 Responsibility of Directors in Relation to Asset Register

The CHIEF FINANCE OFFICER or nominated officer will maintain an asset register of all land and properties owned by the Council recording the purpose for which the property is held, the location, extent and plan reference(s), purchase details where available, details of interest and rents payable and particulars of tenancies of other interests granted. This register is also updated by the assets team as appropriate.

All changes to the asset register must be communicated through business world.

The Chief Finance Officer is responsible for producing an Asset Management Plan which is approved at Full Council as part of the Capital Strategy in line with the Budget and Policy Framework.

85 Valuation of Assets

The Chief Finance Officer or nominated officer shall ensure that all assets are valued (reinstatement and open market valuation) for capital accounting purposes in accordance with the latest CIPFA

code.

86 Notification of Purchase or Disposal of land and / or buildings

Any purchases or disposals of property must be actioned on Business World (including requiring a valuation prior to disposal).

Section 6 - Contract Procedure Rules

Whole contract period total Value	Competition	Advertising and Process	Authority to procure	Authority to appoint contractor (signing/sealing)
Low value Below £5,000	Best value must be demonstrated	None required and the procurement process can be undertaken outside of the council's e-tendering portal	Director's delegated authority under Scheme of Delegation	Officers as authorised by the Director up to £25,000.
Medium Value £5,001 to £75,000	<p>Minimum 3 competitive quotes sought from appropriately qualified and competent suppliers.</p> <p>Where 3 suppliers cannot be identified, the opportunity must be openly advertised or make the purchase via a compliantly let framework agreement.</p>	<p>None required if obtaining 3 quotes directly. The procurement process should normally be undertaken utilising the council's e-tender portal, or another method which has been determined as more appropriate with the written consent of the relevant procurement category manager.</p> <p>Where advertising the opportunity to all suppliers, the opportunity should be advertised and undertaken, utilising the council's e-tendering portal. The opportunity should also be advertised using :</p> <ul style="list-style-type: none"> • trade journals and other publications if appropriate (recommended); • Central Government's Contracts Finder when over £25,000 (mandatory). • make the purchase via a compliantly let Umbrella Agreement. <p><i>*Note: framework agreements must have more than one supplier.</i></p>	<p>No decision report is required for procurement under £50,000. Officers must be able to evidence compliance with CPRs.</p> <p>Procurement above the key decision value (£500,000) must be subject to approval by cabinet/cabinet member.</p>	<p>Managers who report to heads of service may authorise payments up to £100,000</p> <p>Heads of service (as defined by head of service pay grades) may authorise payments up to £250,000</p> <p>Assistant directors (as defined by assistant director pay grade) may authorise procurement activity up to £500,000</p> <p>Directors must authorise all payments in excess of £500,000</p>
High Value £75,001 to • £181,302 (goods and services)	Open tendering procedures must be followed.	<p>The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using :</p> <ul style="list-style-type: none"> • trade journals and other publications if appropriate 		<p>All amounts exclude VAT.</p> <p>The following must be sealed by the council:</p>

Whole contract period total Value	Competition	Advertising and Process	Authority to procure	Authority to appoint contractor (signing/sealing)
<ul style="list-style-type: none"> £4,551,413 (works) £615,278 (light touch regime services) 		(recommended); and, <ul style="list-style-type: none"> Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Umbrella Agreement. <i>*Note: framework agreements must have more than one supplier.</i>		contracts above the key decision value (£500,000); all building and works-related contracts; and, other high risk contracts (as advised by Legal Services) where a longer limitation period of 12 years is required.
EU Tenders. Over: <ul style="list-style-type: none"> £181,302 (goods and services) £4,551,413 (works) £615,278 (light touch regime services) 	Use EU compliant procedures	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using : <ul style="list-style-type: none"> OJEU advert (mandatory); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Umbrella Agreement. <i>*Note: framework agreements must have more than one supplier.</i>		
<u>Umbrella agreements</u>	<u>New framework</u> Use one of the above procedures relative to the framework value.	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using: <ul style="list-style-type: none"> OJEU advert (where above EU threshold); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Framework Agreement. You must follow the procedure set out in the framework agreement for direct awards and mini competitions 		New frameworks must be sealed by the council

- 4.6.1 The Local Government Act 1972 requires the council to have standing orders for how it enters into contracts. These Contract Procedure Rules (CPRs) are the standing orders required by the 1972 Act. They form part of the council's Constitution and are, in effect, the instructions of the council to officers and elected members for entering into contracts on behalf of the council. The purpose of these CPRs is to set clear rules for the purchase of works, goods, services, consultancy, grants and concessions for the council and are intended to promote good purchasing practice, public accountability and to deter bribery and corruption, in which the probity and transparency of the council's procurement process will be beyond reproach or challenge. In acting on behalf of the council, officers must also have regard to any guidance and procedures issued to support compliance with CPRs.
- 4.6.2 The council is also subject to EU law with regard to public procurement, which requires all contract procedures, of whatever value, to be open, fair and transparent. These CPRs and associated guidance provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the council has a procurement regime that is fully accountable and compliant with EU law.
- 4.6.3 The council is under a legal duty to promote Best Value and to consider the Public Services (Social Value) Act 2013 and the Public Sector Equality Duty and every officer engaged in the letting of contracts shall have regard to these duties. Where compliance with these duties contradicts the requirements of any statutory legislation or specific best practice guidance, the views of legal and commercial services teams must be obtained.
- 4.6.4 The CPRs apply to all contracts for the supply of works, goods, services, consultancy, grants and concessions **to** the council, regardless of value.
- 4.6.5 The CPRs do not apply to:
- (a) Contracts for the actual purchase or sale of any interest in land (including leasehold interests) for which the financial regulations applies. Note that this does not apply to any external professional services linked to the purchase or sale.
 - (b) Contracts of employment for the appointment of individual members of staff, including members of staff sourced through employment agencies under a corporate contract.
 - (c) Grant agreements, where the council is giving an unconditional grant.
 - (d) Sponsorship agreements regulated by the sponsorship rules.
 - (e) Supply of Works, Goods and Services **by** the council. However, the solicitor to the council must be consulted where the council is contemplating this route.
 - (f) Contracts procured in collaboration with other local authorities where the council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the council). The CPRs of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own contract procedure rules.
 - (g) Litigation advice and services

4.6.6 Authority to conduct procurement activity.
The authority for an officer to undertake;

- (a) A procurement;
- (b) award a contract;
- (c) extend or vary a contract.
- (d)

is provided by either of the following;

1. scheme of delegation either as an operational or non-key executive decision,
 - 2 any key executive decision for example through a Cabinet or Cabinet member decision.

4.6.7 Where the scheme of delegation provides the authority and in accordance with financial procedure rules:

- (a) officers as agreed by the director may authorise procurement activity, contract award / variation up to £25,000
- (b) managers who report to heads of service may authorise procurement activity , contract award / variation up to £100,000.
- (c) heads of service (as defined by head of service pay grades) may authorise procurement, contract award / variation activity up to £250,000.
- (d) assistant directors (as defined by assistant director pay grade) may authorise procurement activity, contract award / variation up to £500,000
- (e) directors or the chief executive must authorise all procurement activity, contract award / variation in excess of £500,000.

4.6.8 Where the authority is from a key decision taken the scope of the authority will be set out in the decision.

Where an awarded or extension of contract is above £50k, there is a requirement to publish the decision. Additionally, a decision must be sought for:

- (a) Procurement of contracts jointly with one or more other contracting authorities
- (b) Contract variations of medium, high and above EU threshold value contracts
- (c) Extension of contracts where not incorporated as part of the original contract agreement.
- (d) Price increases in contracts where the proposed price increase is either:
 - Above that provided for in the contract; or
 - Above inflation (consumer price index (CPI))

4.6.9 At the start of any commissioning activity, the commissioners must develop and present service specifications and/or existing service designs for approval that identify as a minimum:

- (a) Why is the service being commissioned; what is the need?
- (b) What is the best form of community or service-user engagement or consultation? Consideration should be given to how service users can actively participate in the designing, delivery and quality-monitoring of their service.

- (c) Which social value outcomes we need to achieve from the commissioning exercise, and how can it contribute towards meeting the council's overall priorities.

- 4.6.10 **Low value contracts/purchases (under £5,000)** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the CPRs have been followed and can be evidenced.
- 4.6.11 **Medium value contracts/purchases (between £5001 and £75,000)**
No contract with an estimated total cost over £5,000 shall be let, or any purchase of that value made, unless at least three written quotations have been sought from appropriately qualified and competent suppliers. The council's e-tendering portal should normally be used to obtain three quotations; **other mechanisms may be used having secured written approval from the relevant commercial team Category Manager where the value of the contract is very low and/or the contract is of a specialist nature.** For purchases where three appropriately qualified and competent suppliers cannot be identified you must either: advertise the opportunity to all suppliers using the council's e-tendering portal; or, make the purchase via a compliantly let Framework Agreement. Regard should also be given to advertisement of the opportunity within trade journals and other publications as appropriate. Contracts with an estimated total cost of over £25,000 (that are openly advertised) must also be advertised on Central Government's Contracts Finder.
- 4.6.12 **High value contracts/purchases (between £75001 and up to relevant EU Limit)**
Open tendering procedures must be followed. All tenders must be advertised on Central Government's Contracts Finder and the council's e-tendering portal.
- 4.6.13 **Above the relevant EU threshold limit (currently £181,302 for goods and services, £4,551,413 for works and £615,278 for light touch regime services)**
Contracts with a value in excess of the relevant EU threshold must be let in accordance with the relevant procurement legislation. The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice must be sought from the commercial services team before commencing projects of this nature (including ensuring sufficient time is allowed to carry out a compliant process, which can take up to 18 months to prepare).
- 4.6.14 **Awarding a contract (signature and sealing).**

Contracts can be signed by the authorized officer as 4.6.7 However contracts must be executed as deeds and are sealed by the council by affixing the common seal. In the event of a dispute, the council can make a claim under the contract for up to 12 years. The following contracts must be sealed:

- (a) contracts above the key decision value – unless agreed otherwise by legal services;
- (b) new framework agreements;
- (c) all building and works-related contracts – unless agreed otherwise by legal services;

- (d) where there is no consideration (i.e. money or money's worth) by one party (e.g. grant agreements, where the council is paying a voluntary sum to an organisation but the organisation is not giving anything in return); and,
- (e) other high risk contracts (as advised by legal services) where a longer limitation period of 12 years is required.

- 4.6.15 Before a contract can be sealed by the council, the officer must provide legal services with the relevant decision to award in writing from the appropriate decision maker. The sealing of the contract by legal services is simply affixing the common seal and does not indicate that legal advice has been sought or that legal services approve the contract.
- 4.6.16 The commissioning officer is to ensure that each contract is entered into by an officer in accordance with the finance procedure rules.
- 4.6.17 **Exemptions from the council's contract procedure rules.**
An exemption to the CPRs is a permission to proceed without complying with one or more of the rules. Officers are responsible for ensuring that exemptions to the rules are approved in advance of any action undertaken in all instances where CPRs cannot be complied with such as, but not limited to: no quotations have been sought or the purchase cannot be made via a compliant framework agreement. If an application to let a contract without genuine competition is granted, the officer responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exemption to the rules.
- 4.6.18 Blanket waivers may be approved in certain situations where the normal process to be followed is considered inappropriate. Such waivers must be fully supported with justifiable reasons and will only remain in force for one year from the date of approval.
- 4.6.18 The normal procedure for the completion of exemption forms is for the responsible officer to obtain the signature of their director on the form to demonstrate their approval of the request, and then forward the form to the commercial services team who, if satisfied, will forward to the solicitor to the council or their deputy for final approval and signature and retain a register of all approved exemptions.

Urgent decisions

- 4.6.20 Tenders need not be invited in accordance with the provisions of the council's CPRs if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least 3 credible quotations must be sought and any decision made or contract awarded shall be reported to the relevant director and cabinet member. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the CPRs at the earliest practical opportunity.
- 4.6.21 An exemption cannot be granted for contracts over the EU threshold unless agreed with legal services that there are no cross-border competition requirements.

- 4.6.22 **Contracts register.** All contracts over £5,000 are to be entered on the council's contract register by the contract holder in order to comply with the transparency information/code. Contracts and commissioning officers are to update and add additional contracts to the register, as they are let, using the register to inform work planning.



Meeting:	Audit and governance committee
Meeting date:	Wednesday 28 November
Title of report:	Work programme for 2018/19
Report by:	Democratic services officer

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 2018/19.

Recommendation(s)

THAT:

Subject to any updates made by the committee, the work programme for 2018/19 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.

Reasons for recommendations

- 2 The work programme is recommended as the committee is required to define and make known its work. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.
- 3 The committee is asked to consider any further adjustments.

Further information on the subject of this report is available from
Caroline Marshall, democratic services officer on Tel (01432) 260249

Key Considerations

- 4 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

- 5 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

- 6 This report does not impact on this area.

Financial implications

- 7 There are no financial implications.

Legal implications

- 8 The work programme reflects any statutory or constitutional requirements.

Risk management

- 9 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

- 10 The chief finance officer and monitoring officer have contributed to the work programme

Appendices

Appendix 1 – audit and governance work programme 2018-19

Background papers

- None identified.

**Audit and Governance Work Programme
2018/19**

Function area	Report	Purpose
January 2019		
Governance (Annual)	Annual governance statement progress	Review of the effectiveness of the council's governance process and system of internal control. Update on the progress of the annual governance statement
External audit	Annual Certification Letter	Report on the grant claims completed in 2017/18 plus an update on fees.
External audit (Annual)	External auditors annual plan	Review and agree the external auditors' annual plan, including the annual audit fee and annual letter.
Internal audit (Bi-annual)	Internal tracking of audit recommendations	Monitor implementation of action plans agreed in response to recommendations made by internal audit
Governance (Quarterly)	Corporate risk register	To consider the quarterly status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework
Code of conduct (when required)	Recruitment of independent persons	To make recommendations to council on the appointment of independent persons for standards
Governance (every meeting)	Work programme	To note the current work programme of the committee
Governance (as and when there are working groups)	Working group update	To provide an update
March 2019		
External audit	External audit progress update	Update on progress to date in order to comment on the scope and depth of external audit work and ensure that it gives value for money and includes interim audit findings and the informing the risk assessment document.
Internal audit (Annual)	Internal audit plan for 2019/20	To consider the internal audit plan for 2019/20.
Internal audit	Progress report on 2018/19 internal audit plan	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.
Internal audit (annual)	Internal audit charter	To approve the internal audit charter

**Audit and Governance Work Programme
2018/19**

Function area	Report	Purpose
Governance (as and when there are working groups)	Working Group Update	To note progress of the working group
Governance (Annual)	Future work programme for 2019/20	To note the work programme for 2019/20.