

# **Herefordshire Council**

## **Constitution**

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# PART 1

## INTRODUCTION AND SUMMARY

### Introduction and summary

#### 1.1 **Our constitution**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **1.5 Citizens' rights**

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

## Part 2 – The articles

# Article 1 - The council and the constitution

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

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

#### **2.1.1 Priorities**

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

#### **2.1.2 Values**

2.1.2.1 The council is committed to maintaining high standards of conduct by its staff and councillors and has adopted the following values that underpin its work:

**People:** treating people fairly, with compassion, respect and dignity

**Excellence:** striving for excellence, and the appropriate quality of service, care and life in Herefordshire

**Openness:** being open, transparent and accountable

**Partnership:** working in partnership, and with all our diverse communities

**Listening:** actively listening to, understanding and taking into account people's views and needs

**Environment:** protecting and promoting our outstanding natural environment and heritage for the benefit of all

2.1.2.2 Everyone who is elected or appointed to public office, works for the council, or provides services on the council's behalf is required to follow general principles of ethical conduct. These principles are described in more detail in [part 5 section 1](#) of the constitution.

#### **2.1.3 Powers of the council**

2.1.3.1 The council's duties and powers are set out in the law of England. A duty requires the council to act in a particular way. A power gives the council discretion to act. The arrangements are complex and detailed.



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

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

## **2.1.4 The constitution**

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

## **2.1.5 Purpose of the constitution**

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

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

## **2.1.6 Meaning of the constitution**

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

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

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

## **2.1.9 Suspension of the constitution**

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

## Article 2 - Councillors

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

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

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

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

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

2.2.2.1 Anybody may stand for election as a councillor provided they are

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

### **2.2.3 Elections**

2.2.3.1 Anyone over 18 residing in the county is entitled to vote and be included on the electoral register.

2.2.3.2 The running of the elections is the responsibility of the returning officer. Electoral registration is the responsibility of the electoral registration officer.

2.2.3.3 The chief executive of the council is the electoral registration officer and returning officer. The council has an elections office that helps the chief executive discharge these functions.

2.2.3.4 Electoral registration and elections are subject to strict rules and further information can be obtained from the council's elections office or the Electoral Commission.

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

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

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

2.2.5.1 All councillors must:

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

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

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

#### **2.2.7 Responsibilities**

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

#### **2.2.8 Allowances**

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

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

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

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

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

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

## Article 3 – Citizens and the council

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

### **Citizens' rights**

#### 2.3.3.1 Citizens have the right:

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

### **2.3.5 Citizens' responsibilities**

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

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

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

## Article 4 - The Council meeting

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

### **2.4.1 Council meetings**

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

2.4.1.1 There are three types of Council meeting:-

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

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

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

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

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

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

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

#### **Functions**

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

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

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

### **Roles**

The chairman of the council fulfils several roles:

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



## Article 5 - The Leader and the cabinet

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

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

#### **Election**

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

#### **Role**

2.5.1.2 The leader is the political leader of the council who, together with the chief executive, provides overall leadership of the council and its staff.

2.5.1.3 The leader will normally chair meetings of the cabinet, will lead in the formulation, co-ordination and presentation of the cabinet's policies and will work closely with the chief executive on the carrying out of policies by the council.

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

2.5.1.4 The leader will stay as the leader of the council until:

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

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

### **2.5.2 The cabinet**

#### **Role**

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

#### **Membership**

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

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

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

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

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

### **2.5.3 Cabinet support members**

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

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

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

## Article 6 – Overview and scrutiny

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

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

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

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

#### **Composition**

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

#### **Role**

2.6.1.2 Between them the scrutiny committees oversee and scrutinise the work of the leader and cabinet and the council as a whole. This allows members outside the cabinet and citizens to have a greater say in council matters by investigating issues of local concern. This can include questioning cabinet members, committee chairmen, or senior officers of the council, and inviting people from outside the council to give opinions and expert advice.

2.6.1.3 The scrutiny committees also have the power to scrutinise the services provided by organisations outside the council e.g. NHS services and the work of the community safety partnership.

2.6.1.4. The scrutiny committees can make reports and recommendations to the leader, Council and some partner organisations. The decision takers are not required to implement the recommendations but do have to consider any recommendations made.

2.6.1.5. The scrutiny committees can ‘call-in’ an executive decision which has been made but not yet implemented. This enables them to consider whether the decision has been taken in accordance with the principles of good decision making. They may recommend that the decision taker reconsiders the decision. They may also be

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

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

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

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

## Article 7 - The audit and governance committee

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

### **Role**

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

### **Composition**

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

## Article 8 - Planning, licensing and other functions

This article describes the following committees which council has established:

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

### 2.8.1 Planning and regulatory committee

#### Composition

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

#### Role

2.8.1.2 The committee determines:

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

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

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

### 2.8.2 Health and wellbeing board

#### Composition

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

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

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

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

### **Role**

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

### **Standards panel**

#### **Composition**

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

#### **Role**

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

## Article 9 - Joint arrangements

This articles explains how the council works with other bodies.

### **2.9.2 Joint arrangements generally**

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

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

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

2.9.2.3 The cabinet may establish joint arrangements with one or more councils to exercise executive functions. These arrangements may involve the appointment of joint committees, including the determination of terms of reference.

2.9.2.4 Joint executive arrangements have been made in respect of:

- West Mercia Energy (with Shropshire Council, Telford & Wrekin Council, and Worcestershire County Council), and the
- the Marches Local Enterprise Partnership (with Shropshire Council and Telford & Wrekin Council)

2.9.2.5 A discharge of functions agreement is in place with Shropshire Council for the provision of director of public health services.

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

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

### **2.9.4 Access to information**



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

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

2.9.5.1 Full Council or the cabinet may delegate their respective powers and functions to another local authority or the executive of another local authority.

2.9.5.2 The decision whether or not to accept such delegation from another local authority will be taken by full Council or the cabinet as appropriate.

2.9.5.3 The council has made no such delegations to date.

## **2.9.6 Contracting out**

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

## **2.9.7 Consultative committees**

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

2.9.7.1 In accordance with the Education Act 1996 (as amended) the council has established a Herefordshire SACRE to provide advice on matters concerned with the provision of religious education and collective worship as set out in the.

2.9.7.2 The council appoints the membership in accordance with the legislation, in four groups, as follows:

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

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

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

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

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

## **2.10 Other bodies**

### **Safeguarding boards**

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

### **Community safety partnership board**

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

### **Other partnerships**

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

## Article 10 - The chief executive and other staff

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

### **2.10.1 Chief executive**

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

### **2.10.3 Senior officers**

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

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

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

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

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

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

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

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

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

## **2.10.6 Conduct**

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

## **2.10.7 Employment**

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

## Article 11 - Decision-making

This article sets out how the council takes decisions.

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

2.11.1.1 When the council takes a decision it will:

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

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

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

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

### **2.11.5 Decision rules**

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

#### **Codes**

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

## Section 1 - Council Functions

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

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

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

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



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

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

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

## Section 2 - Local Choice Functions

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

### 3.4.1 Allocation of functions

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

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

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

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

## Section 3 - Cabinet Functions

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

### **3.3.6 The leader**

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

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

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

### **3.2 Cabinet functions**

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- 3.3.2.1 The cabinet shall make decisions in relation to all of the council's areas of responsibility other than those specified as:
- a Council functions, or
  - b Overview and scrutiny functions
  - c Functions cabinet has arranged to be exercised by or with another council's cabinet

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

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

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

### **Cabinet Meeting**

A cabinet meeting will be convened for decisions that are:

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

### **3.3.4 Delegation of cabinet functions**

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

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



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

### **3.3.5 Key decisions**

3.3.5.1 A key decision is a decision:-

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

and is:

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

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

ii Any other executive decision which in the opinion of the monitoring officer is likely to be significant having regard to

- the strategic nature of the decision and or
- whether the outcome will have an impact, for a better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected.

iii Any substantive decision to bring forward proposals to Council to approve or amend an item within the budget and policy framework (not being subject to call-in).

iv Any substantive decision made to approve or amend a policy framework where Council has granted the executive power to do so (being subject to call-in)

## Section 4 - Overview and Scrutiny Functions

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

### 3.4.1 Scrutiny functions

The committees have the power;

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

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

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

### **Scrutiny rules**

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

## **Section 5 - Other functions**

<p>This section contains a description of the committees who have functions delegated to them by Council.</p>
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Those functions are those carried out as follows:

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

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

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

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

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

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

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

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

### **3.6.2 Licensing functions**

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

The licensing sub committee determines the following;

Applications for personal licences (if police objection);

Applications for personal licences with unspent convictions;

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

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

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

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

Requests to be removed as a designated premises supervisor

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

Applications for interim authorities (if police objection);

Applications to review premises licences/club premises certificate;

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

Determination of objections to temporary event notices;

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

Revocations of licences where convictions come to light

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

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

#### **Internal Audit**

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

#### **External Audit**

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

#### **Governance**

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

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

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

### **Waste contract**

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

### **Code of conduct**

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

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

#### **Accounts**

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

### **3.6.4 Standards Panel**

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

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

### **3.6.5 Employment functions**

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

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

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

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

## Section 6 - Additional arrangements

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

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

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

### **3.7.3 Independent remuneration panel**

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

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

The independent remuneration panel shall produce a report;

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

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

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

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

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

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

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

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

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

### **Political management**

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

3.7.5.2 Each political group appoints a group leader. The group leaders have an important informal role to play in relation to the functions scheme. This role is separate and distinct from any role or function that any councillor who is a leader of a political group has under the functions scheme. Other than those functions allocated to any political group leader under the functions scheme, the political group leaders have no authority to take decisions on behalf of the council but do fulfil important informal political management functions.

3.7.5.3 In particular, the political group leaders have the following roles:

- a to provide leadership to the respective groups on all matters related to council business
- b to act as a link between the political and other groups and to meet regularly with other group leaders to discuss matters relating to the political management of the council
- c to ensure that the views of his or her group are made known to Council, the cabinet and the chief executive
- d to help identify whether there is any consensus or other ways that the groups can work together on matters related to Council functions
- e to attend Council and other meetings as set out in the constitution as a recognised group leader for the purpose of fulfilling these functions.

### **3.7.6 Champions**

3.7.6.1 The leader of the council may from time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.

3.7.6.2 Such appointments will be made following consultation with political group leaders and the chief executive.

3.7.6.3 Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.

## **Section 7 - Officer Functions**

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

The various levels of decision making are:-

Council – Committees – delegations to officers.

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

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

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

1. Operational decisions.

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

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

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

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

2. Executive decisions.

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

3. Council decisions

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

4. Local choice decisions

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

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

#### 6. Implementing decisions

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

## Section 1 - Council and committee meeting rules

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

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

### **4.1.1 Council procedure rules**

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

### **4.1.2 Application**

4.1.2.1\* All of these rules apply to the meetings of full Council. Only rules 4.1.3 – 4, 4.1.9 – 12 and 4.1.16 – 25 apply to meetings of committees, sub-committees and other decision making bodies; they do not apply to meetings of cabinet. For ease of reference the paragraph numbers of those rules applying to all meetings are underlined.

4.1.2.2\* Where there is any inconsistency between these council and committee rules and the meeting specific rules that follow in the remainder of part 4 of the constitution, the latter shall prevail.

4.1.2.3\* In the application of these rules to meetings other than full Council meetings, greater informality may be exercised at the discretion of the chairman of the meeting.

### **4.1.3 Interpretation**

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

### **4.1.4 Appointment of chairman**

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

#### **4.1.5 Council meetings**

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

#### **4.1.5.2\***

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



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

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

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

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

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

#### 4.1.7 Time of meetings

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

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

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

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

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

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

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

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

#### **4.1.11 Quorum**

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

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

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

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

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

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

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

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

#### **4.1.13**      **Petitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Supplementary questions**

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

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

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

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

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

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

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

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

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

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

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

### **Notice of questions**

4.1.15.3 A member may ask a question only if either:

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

### **Scope of questions**

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

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

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

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

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

#### **Supplementary question**

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

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

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

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

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

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

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

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

#### **4.1.16 Motions**

- 4.1.16.1 There are two types of motion: those which can be moved during debate (known as motions without notice), and those for which notice is required. Except for motions which can be moved without notice under these council rules, written notice of every motion, signed by the proposer and the seconder, must be delivered, or submitted electronically to the monitoring officer not later than midday on the seventh working day before the date of the meeting. A member cannot propose more than one motion on notice per meeting.

- 4.1.16.2 Motions on notice may be amended in consultation with the monitoring officer at any time prior to the publication of the agenda by the member(s) who have signed the notice provided that such amendment shall not change the subject matter of the motion.

- 4.1.16.3

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

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

#### **Scope**

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

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

### **Exceptions**

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

### **Motions without notice**

- 4.1.16.8 The following motions may be moved without notice:

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

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

#### **Rules of debate**

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

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

4.1.16.12 Speeches must be directed to the matter being debated.

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

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

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

### **Amendments to motions**

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



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

#### **Alteration of motion**

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

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

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

#### **Withdrawal of motion**

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

#### **Right of reply**

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

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

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

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

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

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

### **Closure motions**

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

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

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

### **Point of order**

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

### **Personal explanation**

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

### **Conduct of the debate**

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

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

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

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

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

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

#### **Voting majority**

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

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

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

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

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

#### **Recorded vote**

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

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

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

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

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

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

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

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

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

#### **Signing the minutes**

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

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

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

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

**4.1.19 Exclusion of the public**

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

**4.1.20 Members' conduct**

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

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

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

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

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

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

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

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

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

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

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

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

#### **4.1.23 Substitution**

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

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

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

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

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

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

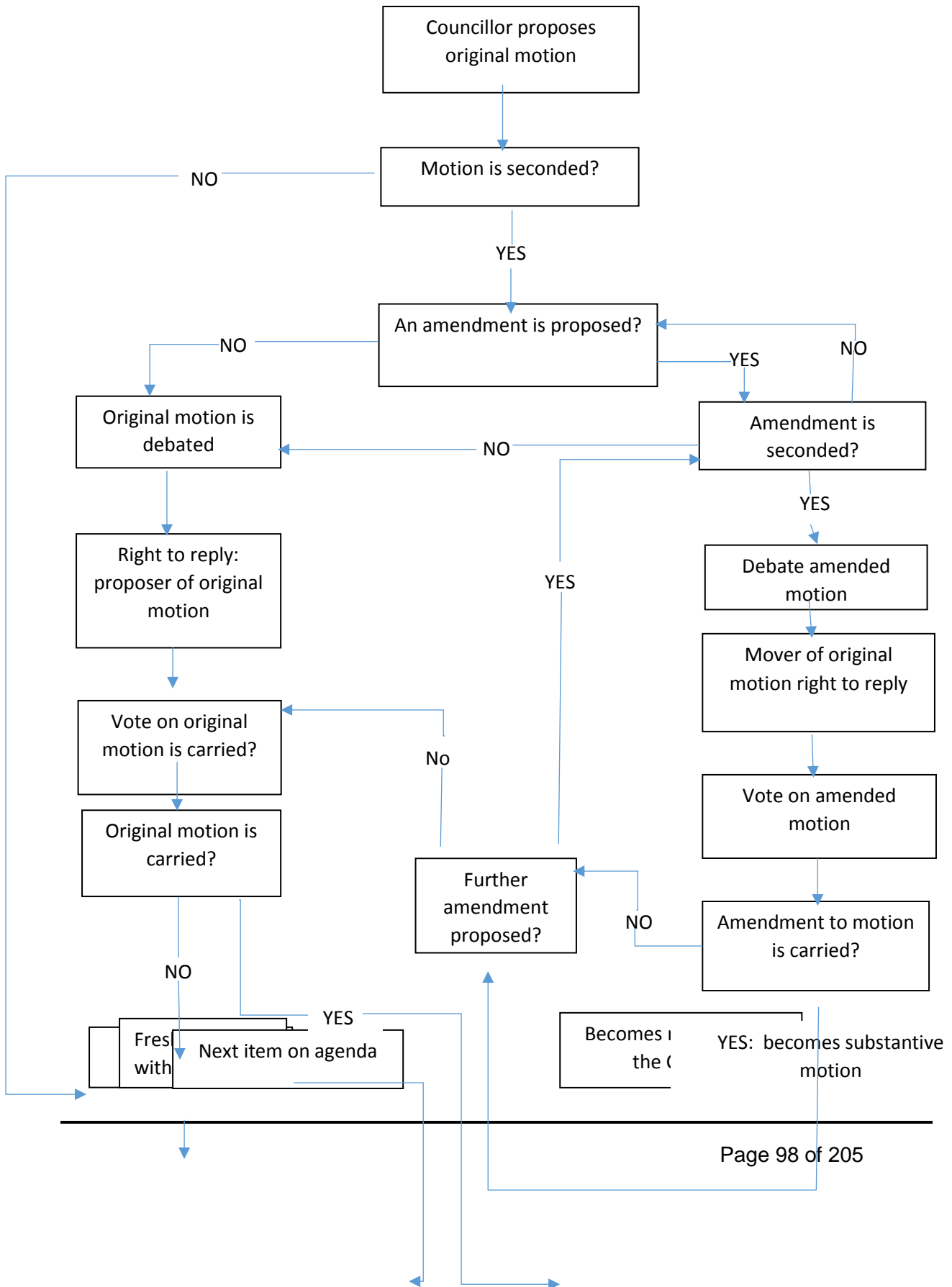
#### **4.1.x Confidentiality**

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



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

Appendix 1 Process for debate



## Section 2 - Access to information rules

### 4.2.1 Meetings covered by these rules

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

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

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

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

### 4.2.3 Rights to attend meetings

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

### 4.2.4 Notice of meetings

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

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

##### 4.2.5.1 Copies of:

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

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

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

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

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

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

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

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

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

4.2.7.1 The council will supply copies of:

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

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

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

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

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

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

## **4.2.9 Background papers**

### **List of background papers**

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

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

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

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

#### 4.2.9.2

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

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

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

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

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

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

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

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

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

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

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



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

4.2.13.1 Rules 4.2.13 – 4.2.21 apply to the public meetings of cabinet and its committees or other executive decision maker in addition to rules 4.2.2-4.2.12 above. These are drawn from the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations).

4.2.13.2 The requirements in these rules do not apply to meetings whose sole purpose is for officers to brief councillors.

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

4.2.14.1 Where an executive decision-making body intends to hold a private meeting (meaning a meeting or part of a meeting of that body from which the public are excluded in accordance with paragraph 4.2.11) then subject to paragraphs 4.2.16 (general exception) and paragraph 4.2.17 (special urgency):

- a at least 28 clear calendar days before the private meeting a notice of that intention must be made available at the designated office and on the council's website, including a statement of reasons for the meeting to be held in private;
- b at least five clear working days before such a meeting a further notice of that intention must be made similarly available, including a statement of reasons for it to be held in private, details of any representations received about why the meeting should be open to the public and a statement of its response to any such representations.

4.2.14.2 Where the date by which such a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where agreement has been obtained that the meeting is urgent and cannot reasonably be deferred from:

- a the chairman of the relevant overview and scrutiny committee, or

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

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

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

- 4.2.15.1 Where a decision maker intends to make a key decision, that decision must not be made until a document has been published 28 clear calendar days before the decision and made available for public inspection at the council's designated office and on its website stating:
- a that a key decision is to be made
  - b the matter in respect of which a decision is to be made
  - c where the decision taker is an individual, their name and title, if any, and where the decision taker is a decision making body, its name and a list of its members;
  - d the date on which, or the period within which, the decision is to be made;
  - e a list of the documents submitted to the decision taker for consideration in relation to the matter in respect of which the key decision is to be made;
  - f the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - g that other documents relevant to those matters may be submitted to the decision maker; and
  - h the procedure for requesting details of those documents (if any) as they become available.

#### **4.2.16 General exception**

- 4.2.16.1 Subject to 4.2.17, where the publication of the intention to make a key decision under 4.2.15 is impractical, the decision may still be taken if:
- a the monitoring officer has informed the chairman of the relevant overview and scrutiny committee, or, if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
  - b the monitoring officer has made copies of that notice available for public inspection at the designated office and published it on the council's website; and
  - c at least five clear working days have elapsed since the monitoring officer complied with (a) and (b).
- 4.2.16.2 As soon as reasonably practicable after paragraph 4.2.16.1 has been complied with, a notice setting out the reasons why compliance with paragraph 4.2.14 is impracticable must be published on the council's website.

#### **4.2.17 Special urgency**

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

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

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

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

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

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

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

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

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

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

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

That statement will include:

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

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

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

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

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

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

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

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

There is no entitlement under 4.2.24 to disclose:

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

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

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

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

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

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

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



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

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

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

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

For the purposes of these rules:

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

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

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

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

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

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

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

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

## Section 3 - The budget and policy framework rules

### 4.3.1 The budget and policy framework

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

### 4.3.2 Process for developing framework items

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

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

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

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

4.3.3.1 Subject to the virement arrangements in the [financial procedure rules \(section 4.7.18\)](#), the cabinet, a committee of the cabinet, cabinet members, or officers may only take decisions that are in line with the budget and policy framework. If any of these bodies want to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by Council unless it is an urgent decision as defined in these budget and policy framework rules.

4.3.3.2 If the cabinet, a committee of the cabinet, a cabinet member or officer want to make such a decision, they shall take advice from the chief executive, monitoring officer and chief finance officer as to whether the decision they want to take would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of any of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body to Council for decision, unless the decision is a matter of urgency in which case the provisions relating to urgent decisions apply as defined in these budget and policy framework rules.

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

4.3.4.1 The cabinet may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. The decision may only be taken:

- a if it is not practical to convene a quorate Council meeting; and
- b if it is taken by cabinet collectively; and
- c if the chairman of the relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

4.3.4.2 The reason why it is not practical to convene a Council meeting must be clear and noted on the record of the decision.

4.3.4.3 The chairman of the relevant overview and scrutiny committee's agreement must be noted on the record of the decision.

4.3.4.4 In the absence of the chairman of the relevant overview and scrutiny committee, the consent of the chairman of the council, and if they are unavailable or unable to act, the vice-chairman of the council, will suffice.

4.3.4.5 Following the decision, the cabinet will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

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

4.3.5.1 Any decisions that involve an in year change to the budget and policy framework must be approved or adopted by Council unless:

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

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

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

4.3.6.2 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was contrary to or not wholly in accordance with the budget and policy framework, a report will be prepared and presented to Council.

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



## Section 4 - Cabinet rules

### **4.4.1 The cabinet**

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

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

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

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

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

### **4.4.7 Quorum**

- 4.4.7.1 The quorum of the cabinet is three.

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

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

4.4.8.2 In addition the following rules apply:

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

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

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

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

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

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

#### **4.4.9 Decision taking**

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

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

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

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

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

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

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

Any other matters set out in the agenda for the meeting

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

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

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

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

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

- 4.4.11.7 The chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, or would prefer not to ask the question in person, the chairman will put the question on their behalf
- 4.4.11.8 A questioner who has put a question in person may, at the discretion of the chairman, also put one supplementary question without notice to the member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in 4.4.11.5 above, or if the question takes the form of a statement, or more than a minute to ask.
- 4.4.11.9 An answer to a question or a supplementary question will be provided by the cabinet member with the relevant portfolio. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.
- 4.4.11.10 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question
- 4.4.12 Questions from members**
- 4.4.12.1 A period of up to 15 minutes will be allocated for questions and supplementary questions from members of the council. This period may be varied at the discretion of the chairman.
- 4.4.12.2 A member may ask the chairman a question relating to a matter of the agenda or otherwise within the remit of cabinet only if notice has been given by delivering it in writing or by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) to the monitoring officer no later than 5.00pm two clear working days before the day of the meeting (e.g.. 5.00pm on Monday where the meeting is on a Thursday).

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

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

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

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

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

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

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

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

#### **4.4.16 Urgent decisions**

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



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

## Section 5 - Scrutiny rules

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

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

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

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

### **4.5.3 Co-option**

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

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

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

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

#### **4.5.4 Quorum**

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

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

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

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

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

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

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

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

4.5.5.6

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.5.12.1 Following any investigation or review, the committee or task and finish group shall prepare a report. Any report from a task and finish group will first be considered by the relevant overview and scrutiny committee and if adopted will be dealt with in accordance with the following rules.

4.5.12.2 If any review is in response to a request from Council, in accordance with paragraph 4.5.9.3 above, the overview and scrutiny committee shall report its findings to Council.

4.5.12.3 In all other cases the report will be submitted to the chief executive for consideration by the executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3 Section 3), the chief executive shall arrange for that cabinet member(s) to consider the report.

4.5.12.4 If the recommendations in an overview and scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the cabinet shall consider the scrutiny recommendations and report the matter with its response to the scrutiny recommendations to Council.

4.5.12.5 If the recommendations in the scrutiny report are in line with the budget and policy framework, the cabinet or the cabinet member shall consider the scrutiny



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

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

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

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

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

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

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

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

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

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

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

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

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

#### **4.5.16 Call in**

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

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

- 4.5.16.5 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:
- a) that there has been inadequate consultation with stakeholders prior to the decision being made;
  - b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
  - c) that the decision materially departs from the budget and policy framework;
  - d) that the decision is disproportionate to the desired outcome;
  - e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
  - f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the monitoring officer and the chief finance officer, as appropriate, or has failed to have sufficient regard to that advice;
  - g) that the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision; or
  - h) that the access to information rules have not been adhered to.
- 4.5.16.6 Advice should be sought from the monitoring officer on these matters.
- 4.5.16.7 When a decision is made by the cabinet or an individual cabinet member that decision will be published widely by electronic means. This includes:-
- a displaying it at on the website of the council
  - b sending a copy of the decision electronically to all members of the council identifying which scrutiny committee's remit the decision falls within
- 4.5.16.8 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of four working days after the date of publication, unless it is called in under these call in rules.

- 4.5.16.9 To call the decision in a call in notice must be received by 5.00pm on the working day before the implementation date specified on the notice of decision by the monitoring officer (or their nominated officer) in writing or electronically which:
- a clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
  - b clearly states the grounds for the call in as laid out in rule 4.5.16.5 above as applied to each decision being called-in and the evidence on which the grounds are based
  - c is signed by seven elected members of the council (not including co-optees) who are not all members of the same political group. If electronic notification is being used an email in accordance with the requirements of 4.5.16.9 must be submitted by each member supporting the call in.

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

- 4.5.17.1 The call in procedure is restricted to any cabinet or individual cabinet member decisions, decisions made by joint committees and decisions made by officers.
- 4.5.17.2 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4 section 2), that decision will not be subject to call in.
- 4.5.17.3 The call-in procedure will also not apply where the decision taken needs to be implemented urgently. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public interest.
- 4.5.17.4 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the monitoring officer should confirm that as such it is not subject to call in.
- 4.5.17.5 The chairman of the relevant overview and scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **4.5.21 Party whip**

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

#### **4.5.22 Public questions**

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



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

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

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

### **Answers to public questions**

- 4.5.22.10 An answer to a question or a supplementary question will be provided by the chairman of the committee. The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the question is asking for an item to be considered for future inclusion in the work programme the questioner will be advised that they will be informed of the outcome of the committee's consideration of the request once it has been considered as part of the overall work programme prioritisation. If the reply cannot be conveniently given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided. A record of all questions, supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

- 4.5.22.11 Unless the chairman decides otherwise, no discussion will take place on any question or a supplemental question

### **Questions from members**

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

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

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

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

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procedure rules

## Section 8 - The planning rules

### Councillor involvement in planning applications

#### 4.8.1 Initial submission of applications

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

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

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

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

#### **4.8.3 Post Decision**

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

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

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

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

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

#### **4.8.5 Conditional Redirection**

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



#### **4.8.6 Other Circumstances**

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

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

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

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

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

#### **4.8.9 Procedure**

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

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

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

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

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

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

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



## Section 9 - Employment rules

### 4.9.1 Employment and dismissal of senior officers

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

- a the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- b the proper officer has notified every member of the cabinet of:
  - i the name of the person to whom the appointor wishes to make the offer;
  - ii any other particulars relevant to the appointment which the appointor had notified to the proper officer; and
  - iii the period within which any objection to the making of the offer is to be made by the leader on behalf of the cabinet to the proper officer; and
  - iv the leader has, within the period specified in the notice notified the appointor that neither s/he nor any other member of the cabinet has any objection to the making of the offer;
- c the proper officer has notified the appointor that no objection was received by him/her within that period from the leader; or
- d the appointor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.1.7 In paragraph 4.9.1.8, “dismissor” means, in relation to the dismissal of an officer of the council, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.

4.9.1.8 Notice of the dismissal of an officer referred to in paragraph 4.9.1.2 must not be given by the dismissor until:

- a the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- b the proper officer has notified every member of the cabinet of:
  - i the name of the person who the dismissor wishes to dismiss;
  - ii any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - iii the period within which any objection to the dismissal is to be made by the leader on behalf of the cabinet to the proper officer; and either:
- c the leader has, within the period specified in the notice notified the dismissor

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

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

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

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

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

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

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

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

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

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

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

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

- 4.9.3.5 Where the appointment is to the post of head of paid service, the leader of the council will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.
- 4.9.3.6 The short-listing and interview of candidates for posts specified in paragraph 4.9.1.2 above will be carried out by the employment panel.
- 4.9.3.7 Every appointment of any officer specified in paragraph 4.9.1.2 above shall be made by the employment panel, save that the appointment of a head of paid service must be approved by full Council.
- 4.9.3.8 The employment panel shall be advised by the head of paid service or in the event of the appointment of the head of paid service by the officer nominated for that purpose by the leader of the council.
- 4.9.3.9 The leader of the council (in relation to the appointment of the head of paid service) and the head of paid service in consultation with the leader in relation to those officers to be appointed by the employment panel may appoint external recruitment consultants to assist or advise the employment panel.

#### **4.9.4 Disciplinary action – head of paid service, section 151 officer and monitoring officer**

- 4.9.4.1 The head of paid service, section 151 officer and monitoring officer may not be dismissed unless the procedure set out in the following paragraphs is complied with. The head of paid service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the head of paid service in which case the leader of the council will nominate an officer to carry out these steps.
- 4.9.4.2 The council has established a panel (being the employment panel with the addition of such independent persons as set out at 4.9.4.3 below) which will meet at least 20 working days before the full Council meeting which will consider whether to dismiss.
- 4.9.4.3 A “*independent person*” means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;



- (c) a relevant independent person who has been appointed by another authority or authorities.
- 4.9.4.4 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Localism Act.
- 4.9.4.5 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, Council must take into account, in particular -
  - (a) any advice, views or recommendations of the panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.

#### **4.9.5 The employment panel**

- 4.9.5.1 The employment panel consists of five members of the council and must include at least one member of the cabinet.

#### **4.9.6 Terms and conditions of employment**

- 4.9.6.1 The employment panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.1.2 above, and will be a consultee on overall employment terms and conditions (including policies) to be determined by the head of paid service.

#### **4.9.7 Voting on appointments**

- 4.9.7.1 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the employment panel in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.

#### **4.9.8 Declarations and member involvement**

- 4.9.8.1 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or head of paid service as appropriate

- 4.9.8.2 No member will seek support for any person for any appointment.
- 4.9.8.3 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council

## **Code of Corporate Governance**

### **Introduction**

1. Herefordshire Council must meet high ethical and other standards in everything it does; it must comply with legal requirements; it must serve the people of Herefordshire well; and it must use public money and other resources economically, efficiently and effectively, accounting fully for its actions.
2. This code of corporate governance sets out how this will be done.

### **Responsibilities**

3. All councillors and officers have a responsibility to ensure the proper governance of the council's affairs and the stewardship of its resources. In particular, under the overall responsibility of the chief executive, the council's chief financial officer is responsible for the effective application of this code in matters of financial probity, performance and risk; and the monitoring officer is responsible for the effective application of the code in respect of legal obligations and ethical standards.

### **Reporting**

4. The annual governance statement reported to audit and governance committee will take account of annual reviews undertaken by the chief finance officer, monitoring officer and caldicott guardian on the council's compliance with this code.

### **The principles of this code**

5. This code adopts the following five principles of good governance:
  - a) To provide the best possible service to the people of Herefordshire
  - b) To define the roles of councillors and officers, ensuring that they work together constructively, and improving their effectiveness
  - c) To require high standards of conduct
  - d) To take sound decisions on the basis of good information
  - e) To be transparent and open, responsive to Herefordshire's needs and accountable to its people.
6. The rest of this code demonstrates how the council will put these principles into action.

7. To- provide the best possible service to the people of Herefordshire, the council will
    - Set out a strategic plan to improve the quality of life for the people in the county, and be clear about its intended outcomes for citizens
    - Provide high quality services representing excellent value for money;
    - Develop and sustain effective partnerships where there are benefits in doing so
    - Encourage public participation in Herefordshire local government
    - Identify and manage risk
    - Measure performance rigorously and improve it where necessary
  
  8. To define the roles of councillors and officers, ensuring that they work together constructively, and improving their effectiveness, the council will
    - Encourage and support effective leadership, and constructive working relationships, at all levels
    - Make clear the roles of councillors and officers, the way in which decisions are taken, and the nature and limits of delegated authority
    - Determine remuneration in a transparent and open way, with recommendations on councillors' allowances made independently
    - Ensure that councillors and officers have the training and support they need to be effective; that their performance is appraised; and that development needs are addressed
  
  9. To require high standards of conduct, the council will:
    - Create and maintain a climate of openness, mutual support and respect
    - Ensure that councillors and officers display consistently high standards of conduct
    - Be punctilious in ensuring that governance and decision-making reflect these high standards
    - Take effective action to investigate any concerns raised and take appropriate action if we fall short of the standards set.
  
  10. To take sound decisions on the basis of good information the council will
    - Be open about how and why decisions are taken
    - Demonstrate and record the evidence and analysis underpinning decisions
    - Enable and support effective scrutiny of those decisions
    - Guard against any conflict of interest
    - Ensure that the principles of good decision making are upheld
  
  11. To be transparent and open, responsive to Herefordshire's needs and accountable to its people the council will:
    - Be open about its actions and plans, subject to the requirements of the law or of personal or commercial confidentiality
    - Give a high priority to communicating and explaining its policies
-

- Respond readily to public needs and aspirations
- Take prompt and effective action on complaints
- Publish a comprehensive annual report on compliance with this code ensuring it is kept under appropriate review.

Left blank for:

- Councillor code of conduct
- Employee code of conduct
- Use of council resources by members
- Member and officer relationships
- Code on gifts and hospitality

## Section 3 - Whistleblowing code

### 5.3.1 Introduction

- 5.3.1.1 People working for an organisation are often the first to realise that there may be something seriously wrong within it. However, they may not express their concerns either because they feel that speaking up would be disloyal to their colleagues or to the organisation or they may fear harassment or victimisation. In these circumstances they may feel it easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 5.3.1.2 The council is committed to the highest possible standards of openness, probity and accountability. Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Employees should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of without fear of victimisation, subsequent discrimination or disadvantage.
- 5.3.1.3 The code, comprising the policy and procedure that follow, applies to all employees of the council (excluding those employed at a school by a school governing body where separate arrangements will apply), temporary employees, trainees and independent contractors. The code also applies to those engaged through an external agency. For ease throughout the code the term 'employees' is used.
- 5.3.1.4 Even where safeguards are already in place, poor practice can still exist and an employee may have a concern about an aspect of service provision or the conduct of officers, members of the council or others acting on behalf of the council. This may be about something that:
- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the council subscribes to; or
  - is against the council's standing orders and policies; or
  - falls below established standards of practice; or
  - amounts to improper conduct.
- 5.3.1.5 As a safeguard for the council and in keeping with our legal duties and obligations, this policy and procedure sets out a framework within which

employees can make a “protected disclosure” without fear that they will be subjected to victimisation or dismissal (and selection for redundancy) provided that the disclosure is made in accordance with the Public Interest Disclosure Act 1998 (“The Act”) and (amendments in accordance with the Enterprise Regulatory Reform Act 2013). It is important for employees to be aware that they can only make a protected disclosure in certain circumstances. A “protected disclosure” must be of a certain type of information known as a “qualifying disclosure” and the disclosure must be made in a way which is described in the Act.

## **5.3.2 Policy**

5.3.2.1 A qualifying or protected disclosure is a disclosure of information made in the public interest which in the reasonable belief of the employee making the disclosure tends to show one or more of the following:

- illegal practices (for example, a criminal offence).
- a failure to comply with a legal obligation.
- the health and safety of an individual, whether this is a member of the public or staff being endangered.
- damage to the environment.
- miscarriage of justice.
- deliberate concealment of any of the above.

5.3.2.2 This policy is intended to cover concerns that fall outside the scope of other existing procedures and policies of the council. Where an employee has a concern which is personal and relates only to themselves rather than wrongdoing of a more general nature this will be treated as a grievance and the grievance policy will apply. The anti-fraud, bribery and corruption policy which states the council’s zero-tolerance position on such matters is also to be observed in conjunction with this policy.

5.3.2.3 Any matter raised under this policy will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the employee who raised the issue.

5.3.2.4 All concerns will be treated in confidence and every effort will be made not to reveal their identity if an individual wishes. At the appropriate time, however, the individual may need to come forward as a witness. This should be discussed



with the individual early on to establish if this is possible, but should not be regarded as a barrier to investigating the matter.

- 5.3.2.5 Concerns expressed anonymously will be considered at the discretion of the council, but by their nature may not be regarded as "protected" under the Public Interest Disclosures Act 1998.
- 5.3.2.6 All reasonable steps will be taken to ensure that no employee will be victimised or suffer any detriment for raising a matter under this procedure. This means that continued employment and opportunities for future promotion or training of the employee will not be prejudiced because they have raised a legitimate concern.
- 5.3.2.7 In exceptional circumstances, and in order to protect someone who has raised a qualified disclosure, or to facilitate thorough investigation, a whistle blower may be redeployed. This may be on a permanent or a temporary basis and will always be subject to mutual agreement with clear terms, under which there will be no detriment to that individual.
- 5.3.2.8 Harassment or victimisation of an employee for raising a qualified disclosure will be a disciplinary offence. Co-employees who victimise whistle blowers can be made personally liable for their own conduct, and the council could be held vicariously liable if it has not taken all reasonable steps to prevent victimisation.
- 5.3.2.9 If misconduct is discovered as a result of any investigation under this procedure the council's disciplinary procedure will be used, in addition to any appropriate external measures.
- 5.3.2.10 No action will be taken if an allegation is made but is not confirmed by an investigation.
- 5.3.2.11 Maliciously making a false allegation is a disciplinary offence. Allegations made in similar spirit for personal gain may also be treated similarly and neither action would be protected.

5.3.2.12 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees should not agree to remain silent. They should report the matter to the monitoring officer.

### 5.3.3 Procedure

5.3.3.1 In the first instance, anyone with a concern should normally raise this with their line manager. If the seriousness and sensitivity of the issues involved and who is suspected of the malpractice mean that the employee is reluctant to approach their line manager, as an alternative, a concern may be raised with:

- The chief executive (Tel: 01432 260044; email: alistair.neill@herefordshire.gov.uk)
- The monitoring officer (Tel: 01432 260657; email: claire.ward@herefordshire.gov.uk )
- The chief finance officer (Tel: 01432 383514; email: )
- Internal audit manager (Tel: 01432 260294; email: jacqui.gooding@southwestaudit.co.uk)

5.3.3.2 A concern may be made orally or in writing and the earlier it is raised, the easier it is to take action. Advice and guidance may be sought from:

- Monitoring Officer; or
- A trade union; or
- Public Concern at Work – an independent charity  
<http://www.pcaw.org.uk/adviceline> Tel 020 7404 6609

5.3.3.3 It is not the role of the whistleblower, or elected members to attempt to investigate any suspected malpractice.

5.3.3.4 Any person identified in 5.3.3.1 above receiving a concern should immediately inform the monitoring officer. The monitoring officer will inform internal audit of the concern, and identify an appropriate lead (ordinarily the relevant line manager) who, within five working days of the concern being raised, should write to the person raising the concern to:

- acknowledge that the concern has been received;

- indicate how it is proposed that the matter will be dealt with;
- give an estimate of anticipated timescales;
- advise of any initial actions or enquiries thus far;
- explain if further investigations will take place, including any possible interviewing of the whistle blower as a witness, and if not, why not;
- reassure of support and safeguards in place to protect them;
- signpost to further support e.g. employee assistance programme.

5.3.3.5 It may be possible to resolve some concerns without the need for investigation. If an investigation is required, it may be investigated through the following channels, as appropriate:

- by management, internal audit or through the disciplinary process;
- by the monitoring officer as a standards matter under the councillor code of conduct;
- referral to the police;
- referral to the external auditor;
- an independent inquiry
- Concerns or allegations which fall within the scope of specific procedures, such as safeguarding, would normally be referred for consideration under those procedures.

Any urgent action, if required, will be actioned before an investigation commences.

5.3.3.6 The outcome of any investigation will be unique to each case and subject to determination by the requirements of any specific procedure followed. Outcomes may include, but not be exclusive to, reviews of policy and practice, or formal disciplinary action against one or more officers. If it is found that the concern was found to be unfounded and raised with malicious or mischievous intent, then formal action will be taken against the person raising that concern.

5.3.3.7 The identified lead will, at the conclusion of any investigations, write to the person to let them know the outcome. Depending on the nature of the matter, there may be limitations to what may be disclosed. If the whistleblower considers the outcome to be unsatisfactory, they may raise the matter with appropriate/relevant external statutory or regulatory bodies e.g.:

- Health and Safety Executive

- Ofsted
- Care Quality Commission
- External audit
- Local Government Ombudsman
- The police

## Section 12 - The Planning Code

This Code supplements the Councillor Code of Conduct.(Part 5 Section1) Where the provisions of this Code conflict with or are inconsistent with the Councillor Code of Conduct, the latter shall prevail. However, following this Planning Code should assist Councillors in complying with the Councillor Code of Conduct. Councillors should ensure that they are familiar with both Codes and take advice from the Monitoring Officer where necessary to ensure compliance.

The obligations and responsibilities of this Code apply to all Councillors of the Planning Committee and in similar ways to all other Councillors.

The Council's planning policies are adopted in the public interest for the benefit of the whole community rather than for any particular individual or interest group. Decisions are required to be taken in accordance with the current development plan and having regard to all material considerations. Each planning application is considered on its merits. However, planning decisions by their very nature are often contentious, with strong contrary views being expressed. Any decision can be the subject of detailed scrutiny or challenge. Failure to follow the requirements of this Code may result in sanctions under the Councillor Code of Conduct, or may be regarded by the Local Government Ombudsman as incompatible with good administration.

This code covers the conduct of both Councillors and Officers. It relates to the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The code is designed to promote greater mutual support and understanding between Councillors and Officers to the benefit of all involved in the planning process. It is also designed to give the public greater confidence that Herefordshire Council discharges its planning responsibilities fairly and openly.

This code is set out in the form of a series of headings with a brief outline of the issues involved, followed by practical advice.

This code consists of three principal parts. The first relates to Members of the Committee. The second relates to all other Members of the Council and the third relates to Council officers

### **PART 1 - THE ROLE OF COUNCILLORS WHO ARE MEMBERS OF THE COMMITTEE**

5.12.1.1 In making decisions on planning applications, **you will:**

- a act fairly and openly and without prejudice**
- b approach each application with an open mind**
- c carefully weigh up all the material planning considerations**
- d avoid inappropriate contact with interested parties**

**e ensure that valid reasons for decisions are clearly stated.**

5.12.1.2 **You will** be free to vote on planning applications as you consider appropriate (that is, without a Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, **you will** base your decisions on the provisions of the Herefordshire Local Plan Core Strategy 2011 - 2031 and all material planning considerations.

5.12.1.3 **You must not** give instructions to officers nor may you place pressure on officers in order to secure a particular recommendation on an application.

5.12.1.4 **You will not** use your position improperly to confer or secure for yourself, or for any other person, an advantage or disadvantage.

**5.12.2 Discussions with applicants**

5.12.2.1 **Pre-application meetings** with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They **will normally involve officers**, and will follow the guidance in the following paragraph.

5.12.2.3 It will be made clear at pre-application meetings that:

- a Member or officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Local Plan Core Strategy and other adopted Council policies
- b no decisions may be made or advice given which would bind or otherwise compromise any planning decision
- c Members should avoid giving separate advice on the development plan, material considerations, or planning obligations

A written note is made of the discussion and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted.

5.12.2.5 **You may, following discussion with the appropriate planning officer, take part in organised post-submission meetings with applicants or other parties.** A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. It is recommended that at least one Planning Officer will be present at all such meetings.

### 5.12.3 **Lobbying**

5.12.3.2 Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, **members will:**

- a take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have taken into account all relevant considerations . **direct lobbyists or objectors to the planning officer, and**
- b **advise the head of regulatory and development management services as soon as possible of the existence of any substantial or abnormal lobbying activity.**

### 5.12.4 **Site Inspections**

5.12.4.1 Site Inspections by the committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision. This is true particularly when the issues concern, for example, visual impact, the character of an historic building or the effect of development on local amenity. However, site inspections are costly, cause delay to decisions and are an unsuitable place for holding a reasoned debate.

The criteria for holding site inspections are:

- a the character or appearance of the development itself is a fundamental planning consideration; or

- b a judgement is required on visual impact; or
- c the setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.

The chairman of the planning committee and the assistant director Environment and place will determine which applications will be the subject of a prior site inspection. This does not prevent any member of the committee requesting a site inspection of a site at the committee meeting when it has not already been visited by this procedure.

- 5.12.4.2 Site Inspections should not be held when inspection of the site is irrelevant to the material conditions. Any member of the committee may request a site inspection, but reasons based on the above criteria must be stated, and will be minuted.
- 5.12.4.3 **The purpose of the site visit is fact finding.** Officers will be able to point out relevant features of the site and surroundings. You will be able to see the physical features of the site and ask questions through the chairman or the officers to seek clarification. Neither the applicant/agent nor third parties will be allowed to participate in the site inspection. The input of these parties is made at the committee meeting itself. At the discretion of the chairman of the planning committee the appropriate parish or town council may be invited to observe the inspection. In these circumstances the parish or town council may not contribute to the opportunity to ask questions of officers on site.
- 5.12.4.4 **No discussion of the merits of the case is permitted at site inspections and all questions from you will be put through the chairman.**
- 5.12.4.5 The visiting party will stay together as a group. Wherever possible the party should arrive at and leave the site together.
- 5.12.4.6 As a member of the planning committee when on site visits you should not make any comments that could create an impression that you had already formed a view on the merits of the application. No decision on the application should be made until the meeting of the planning committee at which the application is to be



considered, when they will have before them all necessary information to be able to make an informed decision, including any material facts arising from the site visit which the assistant director environment and place considers should be reported to the committee.

#### 5.12.4.7 Conduct of visits

- a visits will be conducted in a formal manner.
- b the chairman or vice-chairman will open the visit ~~meeting~~, and remind members of its purpose and conduct.
- c Officers will highlight issues **relevant to site inspection**. If issues are raised which necessitate consultation with the applicant or his agent, this should be done after the close of the ~~meeting~~-visit and the outcome reported to the subsequent committee.
- d Ward members will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
- e the chairman or vice-chairman will close the ~~meeting~~ visit.

#### 5.12.4.8 General matters

- a No decision will be made concerning the application on site.
- b no formal notes will be made.
- c no hospitality will be accepted.

5.12.4.9 **If you find it necessary to visit a site alone (perhaps because it was not possible for you to attend a committee visit), you should view the site only from public vantage points, seek to avoid any discussion with interested parties, and, if there is such discussion, make it clear that no decision on the application will be taken until it has been discussed at committee.**

### 5.12.5 Material submitted to committee

5.12.5.1 If you receive material from or on behalf of an applicant or third party in connection with an application before a committee you should establish from the planning officers whether the material has been received by them. If it has not,

you should make it available as soon as possible to the assistant director environment and place

- 5.12.5.2 Documents in connection with an application should all be dealt with in the officer's report to committee. Any additional information received after the preparation of that report up to noon on the day before the committee meeting will also be brought to the attention of the committee if it raises new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their accuracy or to give consideration to their implications. A printed committee update will be published to the council's website the evening before the meeting.

### **5.12.6 Declaration of interests at committee**

- 5.12.6.1 Interests need to be considered and declared as necessary in accordance with the code of conduct.
- 5.12.6.3 **If you declare a disclosable pecuniary interest, or an “other interest which relates to a financial interest** then under the code , you may attend a Planning Committee meeting only for the purposes of making representations, **provided** that the public are also allowed to attend the meeting for the same purpose. You must declare the nature of your interest at the start of the meeting. If you have such an interest you should notify the monitoring officer before the meeting that you wish to speak.
- 5.12.6.4 If you have such an interest the procedure in committee will be as follows. The planning officer will present the report. If you want to make representations, you take your place in the space allocated to public participation. You may make representations for no longer than three minutes (the time allocated to public participants at planning committee). Thereafter, you may take no further part in the debate or decision-making of the planning committee, and must immediately leave the meeting. You may not stay in the meeting or listen to any other public participation in respect of the application.
- 5.12.6.5 Withdrawal from the meeting involves physically leaving the meeting room. Moving to the public gallery is not sufficient. The chairman of the committee should suspend the proceedings of the committee briefly while you leave the committee room.

5.12.6.6 Where you have a dispensation granted by any appropriate person or body allowing you to speak and/or vote on a matter in respect of which a prejudicial interest has been declared, that dispensation applies also to this code, but you still need to declare the interest.

#### **5.12.7 Cabinet members**

5.12.7.1 There will be occasions when a cabinet member will wish to express comments on a particular application. This may include where the council is the applicant. Cabinet members are permitted to **speak at the planning committee meeting to speak for the item, but must then withdraw from the meeting while the application is discussed and determined.**

5.12.7.2 Where a cabinet member has a ward representation role, they may, at the discretion of the chairman, also speak as local member.

#### **5.12.8 Planning committee members who serve on parish and town councils**

5.12.8.1 Some councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances members may express their views and vote at the respective meetings of both councils having regard to the information available to them at that time. Having voiced a view and/or voted at a parish council meeting will not of itself prevent involvement in decision making at planning committee. Prior indication of a view on matter does not amount to predetermination. Similarly members on the planning committee can attend parish meetings in their ward and speak about planning applications. Talking to constituents be they applicants or objectors is permitted it does not mean you have a closed mind. A committee member will not be taken to have a closed mind just because they may previously have done anything that directly or indirectly indicated what view they had, would have or might take. .

#### **5.12.9 Voting at committee**

5.12.9.1 **You will only be able to vote on an application before a committee if you have been present for the whole of the presentation of and discussion on the application.**

### **5.12.10 Decisions contrary to officer recommendations or to development plan policies**

5.12.10.1 From time to time, there will be occasions when you or the planning committee disagree with the professional advice on an application given by the assistant director environment and place

5.12.10.2 The law requires that decisions should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compensation Compulsory Purchase Act 2004)

5.12.10.3

5.12.10.5 If the Planning Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file. In this context Members should be prepared to explain in full their reason for not agreeing with the officers' recommendation. In so doing, Members should observe the 'Wednesbury principle' which requires all relevant information (i.e. material considerations) to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored.

### **5.12.11 Applications in which a member of the council has an interest**

5.12.11.1 All applications which are submitted by or on behalf of a member of the council in their private capacity, by their partner, a member of their family or a close association, must be drawn to the attention of the assistant director environment and place by the member in writing. If the member has a material interest in the outcome of the application or if the application is submitted by their partner, it will be determined by the planning committee and if you are a member of that committee **you must take no part in the determination of the application. You must declare a prejudicial interest and may only speak as the applicant or appoint an agent to speak on your behalf in accordance with the Planning Rules (Part 4 Section 8 paragraph 4.8.12 (Public Speaking at Planning Committees) f.**

#### 5.12.11.3

5.12.11.4 If the application is from a member of your family or a close association, or you otherwise have a conflict of interest, then the chairman of the planning committee will appoint another member of the council to provide procedural and other advice and information to the applicant, and to the town or parish council concerned. If the application is also in your ward this member will speak at committee.

#### 5.12.12 Hospitality

5.12.12.1 As a member of the council **you are strongly discouraged from receiving hospitality from people with an interest in any planning proposals.** If receipt of hospitality is unavoidable, you will ensure that it is of the minimum level and, if it exceeds the level to which the requirement for declarations of gifts and hospitality applies. You must declare the offer as soon as possible, in the register kept by the monitoring officer.

#### 5.12.13 Training

5.12.13.1 As a member of the planning committee you are required to undergo training in planning procedures. This will normally take place within three months of appointment to the committee and at appropriate intervals thereafter. A record will be kept by the monitoring officer of the training you undertake. Members who have not undertaken the training, may not participate in meetings of the committee until such training has been completed.

### **PART 2 - THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

#### 5.12.14.1

5.12.14.2 Non-committee members who are members for wards affected by an application represent their own views or that of their constituents as a consultee and will be consulted on the application invited to speak at the planning committee and attend any site inspections that take place in their ward.

5.12.14.3 Non-committee members should not lobby planning committee members in order to secure the outcome on a planning application that either they or their constituents seek. The ward member, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning Committee in accordance with the council's procedure for public speaking at the planning committee.

5.12.14.4 All council members may attend meetings of the council's planning committee even if they are not a member of the committee. You should not sit in the public gallery, but in the place reserved in the committee room for members of the council who are not Members of the Planning Committee.

### **PART 3 - THE ROLE OF OFFICERS**

5.12.15.1 In making delegated decisions on applications, officers will:

- a act fairly and openly
- b approach each application with an open mind
- c carefully weigh up all the material planning considerations
- d avoid inappropriate contact with interested parties
- e ensure that reasons for decisions are clearly stated

5.12.15.2 In reporting to committee, officers will:

- a provide professional and impartial advice
- b make sure that all information necessary for a decision to be made is given
- c set the application in the context of the development plandocuments and all other material considerations
- d include the substance of objections and the views of people who have been consulted
- e provide a clear and accurate written analysis of the issues
- f give a clear recommendation

5.12.15.3 Record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. Particular care is to be taken with delegated decisions, which should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.

5.12.15.4 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in paragraph 5.13.5.2 above will be presented orally to the Planning Committee by officers.

5.12.15.5 The assistant director environment and place in discussion with the Chairman of the Planning Committee, may withdraw any item from the agenda of the Planning Committee after the preparation of the report but before discussion by the Planning Committee if the circumstances of the consideration of an application change within that period.

5.12.15.6 Officers are responsible for carrying out the decisions of the Planning Committee, whether or not those decisions are in line with officer recommendations.

#### **5.12.16 Discussions On Planning Applications**

5.12.16.1 All officers taking part in pre-application or post-submission discussions with applicants, supporters or objectors should make it clear that decisions on planning applications are taken either:

- a by the elected Members in Committee, or
- b in specific circumstances by the assistant director environment and place or by an officer to whom they have the power to delegate.

5.12.16.2 A written note will be made of all such meetings and may be distributed. The meeting note and any follow-up correspondence must be placed on the planning application file, in case an application is made following initial discussions.

#### **5.12.17 Disclosures of Interest**

5.12.17.1 Officers must play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal or financial interests, those of their families or friends, and their professional duty. They must openly declare the existence of any such conflict in writing to the assistant director environment and place. Any interest the assistant director environment and place has in an application must be declared to the Monitoring Officer.

#### **5.12.18 Applications Submitted by Officers**

5.12.18.1 All applications submitted from officers who are employed in the planning service or work closely with it or is a senior manager as defined in the councils pay policy statement, or by a close family member such that the officer has a material interest in the application, must be reported to the Planning Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to officers. If the officer concerned is present at the meeting of the Planning Committee at which such an application is determined, they must leave the room during consideration of the application.

#### **5.12.19 Hospitality**

5.12.19.1 Officers may not receive gifts or hospitality beyond usual refreshment (such as tea or coffee) at a meeting, from people with an interest in a planning proposal.

#### **5.12.20 Action on Decisions Taken Contrary to Professional Advice**

5.12.20.1 In cases where an officer recommendation for approval has been overturned by Committee and an appeal is lodged:

- a officers will give full support to Members and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and
- b officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached; and



- c where a hearing is to be held, with no cross-examination, officers may give evidence themselves, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation ;and
- d officers must give full support to Member decisions which are appealed using the written representations procedures.

# **Left blank for: Councillor call for action**

## Public guide to participation

A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community, and this guide gives an overview of the ways in which you can do that.

### Attending meetings

We encourage the public to attend meetings of the council and its committees, and anyone attending is able to record or film what takes place at them provided that doesn't disrupt the meeting. Details of what meetings are coming up are published on the council's website at xx, and also published in public offices of the council.

The agenda and papers are normally published on our website at least five working days in advance of the meeting and a small number of copies are available for members of the public at the meeting. Draft minutes of the meeting are also published on the website as soon as possible after the meeting.

*Include paragraph on web/audio casting when available.*

### Why are some meetings private?

Nearly all meetings of the council and its committees are held in public. However on rare occasions an agenda item includes information which may be personal to an individual, which would compromise the commercial position of the council or another individual or organisation or which there are other particular legal or employment reasons for considering asking the public to leave the meeting for discussion of that item. When this is the case we will explain the reasons why and, as far as is legally possible, will afterwards provide a public summary of the decision taken.

### Asking questions at meetings of the council

#### Which meetings can the public ask questions at?

Questions can be asked at public meetings of:

- Full Council
- Audit and governance committee
- Cabinet
- Employment panel
- Health and wellbeing board
- Overview and scrutiny committees

#### Who can ask questions?

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Questions can be put by anyone living or working in Herefordshire.

### **What notice is required for questions?**

A question must be delivered by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) by no later than 5pm two working days before the date of the meeting. Each question must provide the name and address of the questioner.

### **How many questions can be asked?**

A member of the public may ask one question at any public meeting of the council as listed above, subject to a maximum of six questions in any one municipal year.

### **What is the scope for questions?**

Questions should relate to the function of the committee where they are being asked. A question at full Council can be addressed to any chairman or cabinet member and must relate either to something that the council is responsible for or that affects the county.

We will not consider any question that is defamatory, offensive or frivolous. Additionally, we will reject a question which is substantially the same as a question which has been put at any meeting of the council in the last six months, is in multiple parts, is longer than 70 words, or requires the disclosure of confidential information or relates to an identifiable individual, is from a member of staff and relates to their employment, relates to a planning or licensing application or if at a meeting other than full Council does not relate to the function of the committee or a matter on the relevant agenda. If your question is rejected, you will be told before the start of the meeting and given the reasons why.

### **What happens at the meeting?**

Time is made available early on the agenda for any accepted questions to be dealt with. Copies of any questions will be published on the council's website before the start of the meeting, and will be made available to members of the public who attend the meeting.

The chairman will invite the questioner to put the question to the councillor named in the notice. If the questioner is unable to attend the meeting, the chairman will state that a written reply will be given.

A questioner who has put a question in person can also ask one supplementary question, without notice, in response to the reply to their question. A supplementary question must

arise directly out of the original question or the reply given. The chairman can reject a supplementary question on any of the grounds detailed in the section above.

### **What form will the reply take?**

The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will be provided.

There cannot be any discussion on questions but any matters raised by a question can be referred to the relevant cabinet member or the appropriate committee to consider.

### **Petitions**

We welcome petitions from those who live or work in Herefordshire and recognise that petitions are one way in which people can let us know their concerns or the strength of public feeling.

### **What is the scope for petitions?**

Petitions must relate to a matter over which the council has powers or duties and may be rejected if they: contain language or statements which are defamatory, frivolous, vexatious, discriminatory, false, or otherwise offensive; disclose confidential or exempt information; name individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies; make criminal accusations; contain advertising statements; refer to an issue which is currently the subject of a formal council complaint, Local Government Ombudsman complaint or any legal proceedings; or relate to a matter where there are other statutory processes in place for dealing with these matters (such as planning or licensing application matters or statutory petitions for a referendum).

### **How can a petition be submitted?**

Petitions may be paper based or online and an online facility for running a petition is provided on the council's website. There is no standard format for a petition but it must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish us to take;
- the name and address and signature of any person supporting the petition, which must be not fewer than 15 people; and
- contact details, including an address, for the petition organiser who will be the person we will contact to explain how we will respond.

The chairman of the council is available to receive petitions before the start of each ordinary meeting of full Council; if you wish to arrange this please contact:

[councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk) . During the meeting, as part of chairman's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairman who will respond in writing to the petition organiser. You may ask your ward councillor to present the petition on your behalf. Petitions may also be sent in to XXX

### **What happens once a petition has been submitted?**

All petitions sent or presented to the council will receive an acknowledgement within 10 working days of receipt explaining how we will respond.

Details of all petitions received, and of our response, will be published on the website. The contact details of the petition organiser or signatories to a petition will not be placed on the website.

If your petition has been signed by a certain number of people who are registered to vote in the county then you may request that the petition is scheduled for debate at the next ordinary meeting of full Council. If that is the case up to 30 minutes will be allowed for the debate and the petition organiser will have the opportunity to briefly present the petition at the start of the debate. In order to be debated at a meeting of full council the number of Herefordshire electors who have signed the petition must be at least 5% of those on the electoral roll for the county.

### **What do councillors and officers do?**

#### **What councillors do....**

Councillors are directly elected to represent the people and therefore have to consider not just the interests of their ward, but those throughout the whole county.

Your councillors are responsible for making sure that the services that the council provides meet the needs of residents and those who work in Herefordshire. They do this by setting the overall policies and strategies for the council and by monitoring the way in which these are implemented. Councillors have a complex role and act in a number of capacities: as committee member, constituency representative and party activist.

The full Council of 53 members is responsible for agreeing the main policies and priorities for all services, including the council's budget. The cabinet have responsibility for all decisions which the law, or the Council, does not require to be taken by others and agrees policies and actions to implement the budget and policies set by full Council. Councillors who are cabinet portfolio holders have more specialised roles in agreeing particular policies, representing the council while at the same time working with other agencies to tackle issues such as improving overall health and wellbeing, social care and safeguarding, education, housing, transport, and promoting economic growth within the county.

## **What council officers do....**

Council officers are the professional people who work for the council and who are paid to deliver the services agreed by councillors.

Officers help councillors to develop policies and objectives through providing professional expertise and advice but they must remain impartial and serve the council as a whole. Their main role is to provide the public with the highest possible standards of service within the budget that the councillors set and in accordance with the priorities agreed by the councillors.

## **What can my councillor do for me?**

### **Your councillor can:**

- be contacted to discuss your problem or ideas to improve the ward or county
- help you if you need information or are dissatisfied with a council service by advising or directing you to someone who can help sort out your problem, and can sometimes progress the case on your behalf
- as a community leader, put forward proposals to improve the ward they represent which may include bringing together different community groups to develop a case for change
- campaign on local issues
- represent your community within the council and to other organisations
- speak at planning committee on matters affecting the ward they represent
- ask questions or put forward views on your behalf at public meetings of the council
- present petitions on your behalf
- get an issue (either within the remit of the council or on a matter affecting the county) debated at full Council by submitting a motion.

## **Decisions**

### **How do I know what decisions are being taken about matters that affect me or where I live?**

We provide on our website ([Forward Plan](#)) summary information about future significant decisions to be taken by the cabinet, together with contact details so that you can find out more information or provide your views. You can also contact your ward member and ask them to put forward your views on your behalf.

Planning or licensing applications which have been submitted are also published on the council's website so that those who may be affected are able to make comments on the proposal.

The agendas and minutes of meetings are published on the website, and where a decision has been taken by a cabinet member or officer, the decision report and notice of the decision are published on the website.

### **Are all decisions recorded and published?**

Many are, but there are lots of day to day decisions which are not published. The council has decided that officer decisions with a financial value of less than £xxx will not be published unless there is a legal requirement to do so. This is because the number of such decisions would make it impractical to publish.

### **Why is some information kept confidential?**

We aim to publish information unless there is good reason not to. Sometimes a decision takes into account information which may be personal to an individual, or which would compromise the commercial position of the council or another individual or organisation. There may be particular legal or employment reasons for not making the information public. When this is the case we will explain why the information cannot be made public, and will periodically review whether those reasons remain valid. If they do not we will then release the information.

### **How long is information about decisions kept?**

Generally the law requires information to be available for public inspection for six years from the date of the decision.

### **How do I find out about decisions taken by partnerships?**

Herefordshire Council works with a wide range of partners to achieve shared objectives in an efficient and effective way. We keep a register of strategic partnerships on our website which includes information about where decisions taken by those partners is recorded and how you can find out more about them.

### **What if I can't find the information I am looking for?**

The Freedom of Information Act 2000 gives you a general right of access to all types of recorded information that we hold. More information about how to make a request, and about your other legal rights to information, can be found at: xxx

### **Other ways of getting involved**

#### **Planning**

Information about planning applications submitted is available on the council's website and public notices are displayed in the area affected. You may submit comments on a planning

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application which will be considered by the decision-maker. If the application raises unusual or sensitive planning issues you can ask your ward member to request that the application is considered by the planning committee rather than a single officer.

If you have provided comments on a particular planning application which is considered by the planning committee you will be asked whether you wish to register to speak at the committee to present your views. Three minutes is generally set aside for public speaking in objection to an application. Registration is on a first come first served basis. The time can be shared with the agreement of the person who has registered first.

### **Consultations**

The council encourages as many people as possible to give their views on decisions which affect them. Details of live consultations and how to get involved are available at xxx. You can also find information about past consultations there.

### **Overview and scrutiny reviews**

You may request that a matter or concern be considered for inclusion in the future work programme of an overview and scrutiny committee. The committees cannot include every suggestion but prioritise items taking into account: the significance and impact of the issue; the ability of scrutiny input to add value; the need to avoid any duplication; the timeliness of scrutiny involvement and the resources available to undertake the work.

The committee may invite members of the public to submit their views or evidence to inform its work; when they do this the call for evidence will be publicised.

### **Vote**

Elections take place for Herefordshire Council and all the town and parish councils in the county every four years as well as national elections, and police and crime commissioner elections. Your vote in all these elections and any other referendums that take place is important, but in order to vote you must be on the electoral register. Information about how to register is available at xxx

### **Stand for election**

If you are interested in standing for election as a parish councillor or as a Herefordshire councillor you can find out more at XXX.

### **Volunteer**

We provide a wide variety of services to people in Herefordshire, particularly to those who are vulnerable and have complex needs. As more pressure is placed on our budget, and on the budgets of partner organisations, different ways of delivering these services are being

developed. Individuals and communities are doing more to help each other and themselves. If you are interested in volunteering or have an idea for your community you would like to develop more information is available at Xxx.

### **Give feedback**

We want to hear what you think about our services. What you say is important and will help us improve our services. More information can be found at:

### **Find out more...**

The council's website provides lots of advice and information as well as access to online services and you can sign up to receive updates on particular matters of interest. If you can't find what you are looking for some useful contacts are below:

Customer services.....

Freedom of information.....

Governance.....

Your councillor.....

Your parish council.....

## Guide to roles and responsibilities of councillors

### **1. Summary**

- 1.1 To serve all constituents within the ward, and the citizens of Herefordshire as a whole by acting as an effective advocate, campaigner and representative.
- 1.2 To promote the economic, social and environmental wellbeing of ward constituents and the those who live and work in the county as a whole, and to act in accordance with the high standards of probity in public life, seeking to serve the community without personal gain.
- 1.3 To be a corporate parent to looked after children and young people in the county.

### **2. Being effective**

- 2.1 To be effective councillors should:
  - fully understand and act in accordance with the councillors' code of conduct and the general principles that govern councillors' conduct.
  - have a knowledge and understanding of the council's constitution.
  - have a knowledge and understanding of the council's organisation and management structure and who to ask for information and advice.
  - attend all meetings of bodies on which they serve together with seminars and training sessions on subjects of relevance to them and their particular areas of involvement and interest.
  - accept personal responsibility to take up opportunities for training and development that may be provided and generally to extend and broaden their knowledge of local government affairs through reading, discussion and enquiry.

### **3. Different roles for some councillors**

- 3.1 Some councillors will undertake markedly different roles (e.g. the leader, cabinet member, committee chairman, scrutiny member etc). These differing roles are outlined in the role profiles at appendix 1 to this section.

### **4. Standards of conduct and probity**

- 4.1 All councillors must agree to abide by the councillor code of conduct. Councillors will be given suitable training on taking office and receive ongoing support and briefings on this subject during their time in office.
- 4.2 Councillors must also abide by all the requirements of the council's own constitutional arrangements. Any breach of the codes in the constitution may constitute a breach of the councillor code of conduct and councillors should be aware of the procedures for dealing with complaints.
- 4.3 Councillors are expected to behave at all times in accordance with the high standards of personal conduct and in a manner that is consistent with the values of the council to achieve best value for residents and maintain public confidence in Herefordshire Council.

### **5. Working as part of the council**

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- 5.1 At meetings of the council and as a member of one or more of the different council bodies, councillors will be expected to contribute to the formulation and review of policies and strategies and the review and development of services and programmes as appropriate.
- 5.2 Councillors should be constructive and forward looking. An innovative and questioning approach is required.
- 5.3 The work of the council is conducted in a political environment. As a councillor, who may have been elected with the endorsement and backing of a political party, or who may be a member of a political group within the council, members will naturally wish to secure aims and objectives that match their political affiliation. A political approach is legitimate, however, councillors should guard against pursuing political objectives to the point that it impedes the effective management of the council's affairs and undermines peoples' confidence in the council's ability to exercise a leadership role in the wider community.
- 5.4 Councillors should have regard to the council's corporate plan and other council policies and strategies, especially when considering the quality and scope of services and weighing the merits of competing interests and demands upon the council budget.
- 5.5 When participating in overview and scrutiny activity councillors should have regard to the council's scrutiny procedure rules and in particular the requirement to take an independent approach, seek consensus on outcomes, be constructive and not judgmental.

## **6. Community representative and advocate**

- 6.1 Councillors should be aware of the needs, priorities and aspirations of their local community. To do this, they should make yourself known to those who live and work in their ward (your constituents). Councillors may wish to hold regular surgeries, publish newsletters or otherwise make themselves accessible. Liaise/consult extensively and meet with local groups and organisations including parish councils.
- 6.2 Councillors should represent the views of ward constituents and local groups. In doing so councillors should take careful note of the different, often conflicting, interests, and attempt to represent the community as a whole. Councillors should act as an advisor or advocate to local groups with a special interest, or generally provide advice and assistance on matters within their ward and the implications of particular courses of action.
- 6.3 Such a representational role must be undertaken responsibly. As politicians, councillors will naturally want to have regard to the views of voters and avoid, or at least minimise criticism by political opponents. Councillors do, however, have a wider responsibility to protect the council's interests and reputation and help reach the best decision.
- 6.4 Councillors should encourage constituents to raise matters of importance or personal concern and take appropriate action, either responding personally or ensuring a response is provided. Where necessary councillors should seek advice on any response made as they may be seen to be acting on behalf of the council as a whole.
- 6.5 Councillors should seek to foster a sense of civic pride within the community and encourage all citizens to develop and maintain a personal commitment to civic responsibility, and should avoid statements and actions that serve to undermine confidence in the institutions of local government without justification or good cause.

## **7. Working with others in the local community**

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- 7.1 Councillors are expected to work with partners and other organisations with which the council is actively involved.
- 7.2 If a councillor is appointed by the council representative on any outside bodies they will have a responsibility to explain the council's policies and position where appropriate and to listen to the views of others and report back to the council.
- 7.3 Councillors should play a leading role in explaining to others outside the council how the decision making process operates and the respective roles of members and officers have.
- 7.4 Councillors may also be involved in other local organisations, such as those in the voluntary sector, and should recognise that as an elected councillor others may regard statements they make as having council backing. Councillors should always make it clear when they are speaking in an individual capacity, and follow the council's approved communication protocols.

## **8. Accountability**

- 8.1 The roles, duties and responsibilities outlined in this guide relate to the political or member level activities of the council. Accountability for a councillor's performance is through the political and electoral process.

## Appendix 1: Member role profiles

### **All councillors:**

#### **Community leader**

- Champion your ward
- Deal with casework
- Represent the community within the council and other agencies
- Campaign on local issues
- Keep in touch with constituents
- Able to engage with all groups within your community

#### **Decision maker and influencer**

- Actively contribute to the development and scrutiny of the council's policies, strategies, budget, and service delivery
- Attend meetings of full Council and any committees you are appointed to
- Work with partners and outside bodies as a representative of the council
- Act as a corporate parent for children and young people in the care of the council
- Liaise with town and parish councils

#### **Day to day councillor**

- Juggle roles and responsibilities
- Understand and interpret information
- Use ICT effectively
- Communicate using all types of media ensuring adherence to corporate guidance for media, social media and internet usage
- Use a communication style that takes into account different needs of different audiences
- Act as a facilitator.
- Take personal responsibility for continuous professional development to develop and build understanding, knowledge and skills to ensure that the role is undertaken as effectively as possible
- Interact with officers, partners, community and fellow councillors in accordance with the council's codes of conduct and behaviour.

## **Group leader**

- Be the main spokesperson for members of their political group
- Act in a manner which is likely to promote rather than undermine the best interests of the county and ensure that members of their political group act in a similar manner
- Lead their group by ensuring that:
  - Members of their group abide by the council's codes of conduct
  - Adequate liaison takes place with other political groups to further the interests of the council
  - Adequate liaison takes place with members of the management board on all matters affecting the services provided or commissioned by them on behalf of the council
  - Regular briefings take place to ensure good communications takes place on all council matters to members of their group
  - If in opposition, engage in constructive criticism, alternatives or amendments offered by members of the group on proposed decisions of the cabinet where appropriate
- Work with their group to formulate overall policy and priorities for the group
- Represent the council on local, regional and national bodies as appropriate

## **Committee chairman:**

- Understand the role of the committee
- Understand the role of the chairman
- Provide leadership and direction
- Provide effective meeting management
- Spend time with relevant officers to agree agendas and minutes
- Ensure all attendees have an opportunity to contribute to the meeting

## **Leader of the council**

### **Leadership**

- Provide an overall cohesive, corporate and strategic leadership and direction for the council
- Lead and chair the cabinet and ensure its overall effectiveness
- Lead in developing the council's partnerships with other organisations
- Work with portfolio holders to ensure effective delivery of services within their portfolios against the agreed policies of the council, and to ensure the delivery of the cabinet's responsibilities
- Ensure effective communication and explanation of all cabinet's decisions and recommendations to Council and the public
- Ensure that the cabinet manages the business of the council within the financial limits set by the council



## **Cabinet member**

The cabinet is responsible for all council functions which are not the responsibility of any other part of the council, provided the decisions made are within the council's agreed policy and budget framework.

- Participate effectively as a cabinet member taking joint responsibility for all actions and be collectively accountable.
- Build good relationships with appropriate officers and work with them in developing policy
- Take a proactive approach to the early engagement of overview and scrutiny committees to help in policy development
- Give political direction to officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the council's reputation through taking the national stage where possible and participating in regional and national networks
- Have an overview of performance management, efficiency and effectiveness of the portfolio
- Represent cabinet by attending scrutiny committees if requested in connection with any issues associated with the portfolio and consider scrutiny reports as required.
- Make executive decisions within the portfolio and in accordance with the principles of good decision-making
- Act as a strong, competent and persuasive figure to represent the portfolio and a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the council on external bodies and feedback to cabinet any issues of relevance and importance

### **Overall responsibility**

- Ensure that cabinet exercises responsibility for the prudent management of the council's resources
- Have overall responsibility for the political management of the authority and the delivery of agreed council priorities, strategies and policies

### **Working with partners**

- Be the main representative of the council, with others as appropriate, in dealing with the community, business, voluntary sector and other local and national organisations
- Ensure effective liaison with other political groups within the council

## **Scrutiny member**

The overview and scrutiny committees, and any task groups they establish, review and scrutinise decisions made or actions taken by the cabinet. They may also be involved in policy development prior to decisions being taken by the cabinet. The committees may make reports and recommendations to full Council, cabinet or any relevant partner in connection with council or certain other public functions such as health.

- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Lead the committee in prioritising its work so as to ensure effective scrutiny
- Develop a constructive relationship with cabinet, especially with relevant portfolio holders
- Develop a constructive relationship with members of management board in the areas that the committee scrutinises
- Be responsible for outputs and outcomes of scrutiny
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Make recommendations based on the committee's deliberation

## **Committee member**

Council has established a number of committees through which functions which are not the responsibility of cabinet are fulfilled. Seats on these committees are allocated to political groups on a proportional basis and appointments to fill those seats are a matter for the relevant group leaders to determine. Members who are appointed to certain committees, such as planning and regulatory committee, are required to undertake training before taking up their seats.

- Maintain up to date knowledge of council and national policies and processes relevant to the work of the committee
- Attend meetings and, if unable to attend, liaise with your group leader or the monitoring officer to arrange a substitute
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Take decisions in accordance with the principles of good decision-making

## Overview and scrutiny committee remits

Committee	remit
<p>Adults and wellbeing overview and scrutiny committee</p>	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Adult social care (including adult safeguarding)</li> <li>• Health and wellbeing board</li> <li>• Housing</li> <li>• Public health</li> <li>• Statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services (not reserved to the children and young people overview and scrutiny committee) affecting the area and to make reports and recommendations on these matters</li> </ul>
<p>Children and young people overview and scrutiny committee</p>	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Children’s social care including safeguarding</li> <li>• Transitional arrangements between children and adult services</li> <li>• Statutory education scrutiny powers</li> <li>• Statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services for children and young people, including transitional health care services, affecting the area and to make reports and recommendations on these matters</li> </ul>
<p>General overview and scrutiny committee</p>	<p>Overview and scrutiny of:</p> <ul style="list-style-type: none"> <li>• Services within the economy, communities and corporate directorate</li> <li>• Corporate performance</li> <li>• Budget and policy framework matters</li> <li>• Statutory flood risk management scrutiny powers</li> <li>• Statutory community safety and policing scrutiny powers</li> </ul>

