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**POLICY FOR PUBLIC SPACES PROTECTION ORDERS**

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## **1. Introduction**

- Herefordshire Council may, under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014, make, extend, vary or discharge a public spaces protection order (PSPO) within its area after consultation with the police, Police and Crime Commissioner and other relevant bodies to prevent anti-social behaviour.

## **2. Background**

- The Anti-social Behaviour, Crime and Policing Act 2014 reformed the anti-social behaviour powers that enforcement bodies including the local authorities and the police can use to tackle anti-social behaviour within the local community. One of the powers given to the local authority is to implement public spaces protection orders.
- Anti-social behaviour is a broad term used to describe the day-to-day incidents of crime, nuisance and disorder that make many people's lives a misery – from litter and vandalism, to public drunkenness or aggressive dogs, to noisy or abusive neighbours. Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords. Victims can feel helpless, bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as 'low level' anti-social behaviour, when targeted and persistent, can have devastating effects on a victim's life.
- Public spaces protection orders are one of the enforcement powers designed to put victims at the heart of the response to anti-social behaviour, and give professionals the flexibility they need to deal with any given situation to stop individuals or groups committing anti-social behaviour in a public space.
- This legislation supersedes legislation covering dog control orders, gating orders and designated public places orders.

## **3. Purpose**

- Public spaces protection orders are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

#### **4. What is a Public spaces protection order?**

- A public spaces protection order can be drafted from scratch based on the individual issues being faced in a particular public space. A single public spaces protection order can also include multiple restrictions and requirements in one order. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead. However, activities are not limited to those covered by the orders being replaced and so the new public spaces protection order can be used more flexibly to deal with local issues.
- When deciding what to include, the council should consider scope. The public spaces protection order is designed to make public spaces more welcoming to the majority of law abiding people and communities and not simply restrict access. Restrictions or requirements can be targeted at specific people, designed to apply only at certain times or apply only in certain circumstances.

#### **5. What can a public spaces protection order apply to?**

- A public spaces protection order can be made within the council's own area. It must be a public space or any place the public has access to on payment, or otherwise. This could include a shopping centre.
- Consideration has to be made as to the effects of the decision and look to only put a public spaces protection order in place where the antisocial behaviour is taking place. This does not exclude a public spaces protection order covering the whole of the area if necessary.

#### **6. Administration, Exercise and Delegation**

- 6.1** The Council has the sole authority to make, extend, vary or discharge a public spaces protection order. Decisions will be made by taking in accordance with the constitution to executive decision making. The majority of the process decisions will be administrative and in the interests of speed efficiency and cost effectiveness on many occasions these will be made by officers.
- 6.2** The procedure below sets out the process to make, extend, vary or discharge a public spaces protection order which is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities.

### **6.3 Request for a public spaces protection order**

There are a number of routes that a request can be made these are:-

**6.3.1** A community trigger

**6.3.2** Via the police

**6.3.3** Via the council

### **6.4 Application of the test**

The council must be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

**6.4.1** have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;

**6.4.2** is, or is likely to be, persistent or continuing in nature;

**6.4.3** is, or is likely to be, unreasonable; and

**6.4.4** justifies the restrictions imposed.

### **6.5 Consultation**

**6.5.1** If the test is passed, the council will consult with the local police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads.

**6.5.2** In addition, the owner or occupier of the land, and whatever community representatives the council thinks appropriate will be consulted. This could relate to a specific group, for instance a residents' association, or an individual or group of individuals, for instance, regular users of a park.

**6.5.3** In addition, the authority will regard to Articles 10 and 11 of the European Convention on Human Rights which provides for the right for lawful freedom of expression and freedom of assembly, ensuring that the making of a public spaces protection order is not used to stop reasonable activities where no anti-social behaviour is being committed.

### **6.6 Publishing**

**6.6.1** Before a Public spaces protection order is made, extended, varied or discharged, the council must publish the draft order on its website for a minimum of six weeks and,

**6.6.2** Where a public spaces protection order has been made, extended or varied, that local authority must cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to the fact that the order has been made, extended or varied

## **7. Time limits**

- 7.1** The maximum duration of a public spaces protection order is three years or for shorter periods of time where appropriate.
- 7.2** Short-term public spaces protection order could be used where it is not certain that restrictions will have the desired effect.
- 7.3** An initial public spaces protection order can be made for 12 months and then review the decision at that point.
- 7.4** At any point before expiry, vary or discharge and extend a public spaces protection order by up to three years if considered necessary to prevent the original behaviour from occurring or recurring.

## **8. Changing the terms**

- 8.1** A public spaces protection order can cover a number of different restrictions and requirements so there should be little need to have overlapping orders in a particular public space. However, if a new issue arises in an area where a public spaces protection order is in force, the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. For example, a public spaces protection order may exist to ensure dogs are kept on their leads in a park but, after 12 months, groups might start to congregate in the park drinking alcohol, therefore having a detrimental effect on those living nearby. As a result, the council could vary the public spaces protection order to deal with both issues.
- 8.2** As well as varying the public spaces protection order, a council can also seek to discharge it at any time. For instance when the problem has ceased to exist or the land ceases to be classified as a public space.

## **9. Appeal to the High Court**

- 9.1** Any challenge to the public spaces protection order must be made in the High Court by an interested person within six weeks of it being made or varied

**9.2** An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge.

**9.3** The public spaces protection order can only be challenged on two grounds only those being

**9.4** That the council did not have power to make the order, or to include particular prohibitions or requirements.

and /or

The interested person could argue that one of the requirements (for instance, consultation) had not been complied with.

**9.5** When the application is made, the High Court can decide to suspend the operation of the public spaces protection order, pending the verdict in part or in totality.

**9.6** The High Court has the ability to uphold the public spaces protection order, quash it, or vary it.

## **10. Penalties on breach**

**10.1** It is an offence for a person, without reasonable excuse, to:

**10.1.1** do anything that the person is prohibited from doing by a public spaces protection order (other than consume alcohol - see below); or

**10.1.2** fail to comply with a requirement to which the person is subject under a public spaces protection order.

**10.2** A person does not commit an offence by failing to comply with a prohibition or requirement that the council did not have power to include in the public spaces protection order.

**10.3** A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**10.4** It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone. This is also liable on summary conviction to a fine not exceeding level 2 on the standard scale. If alcohol is confiscated, it can be disposed of by the person who confiscates it.

**10.5** Depending on the behaviour in question, the enforcing officer can decide that a fixed penalty notice (FPN) would be the most appropriate sanction. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would discharge any liability to conviction for the offence. However, where the FPN is not paid within the required timescale, court proceedings

can be initiated (prosecution for the offence of failing to comply with the public spaces protection order).

## **11. Enforcement**

**11.1** Although public spaces protection orders are made by the council, enforcement is the responsibility of council officers, police officers and PCSOs and other designated groups, including officers accredited under the community safety accreditation scheme.

## **12. Monitoring and Audit**

**12.1** This Policy and associated procedures will be reviewed and monitored by Environmental Health and Trading Standards. From time to time, compliance will also be monitored through internal audits.

**12.2** Reviews will be carried out every 5 years

## **13. Other information**

**13.1** The Anti-social Behaviour, Crime and Policing Act 2014  
(Publication of Public Spaces Protection Orders) Regulations  
2014





## End Page Format

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## APPENDIX 2: Assessing the impact of policies and procedures

### Introduction

All policies and procedures that affect people's lives or communities are to be subjected to the following initial assessment. Where this shows that there are likely to be significant effects and/or costs a further more in-depth assessment of the policy or procedure should be made. This judgement should be made by the relevant Management Board member.

Once completed, the assessment should be sent to the Public Health Business Support team for checking, and it will then be returned to the team once agreed for the team to retain.

### Section 1 – background information

<b>Title of policy or procedure:</b>	Public Spaces Protection Orders
<b>Date of Assessment:</b>	29 <sup>th</sup> December 2016
<b>Completed by:</b>	David Hough

<b>What outcomes is the policy or procedure designed to achieve?</b>	Reduce the antisocial behaviour in any area within the county were antisocial behaviour occurs or may occur which effects members of the community.
<b>What group or groups (if any) is the policy or procedure intended to affect? Has an Equality Impact Assessment been carried out? (For guidance, see <a href="http://hc-sp/DocumentLibrary/Diversity/Documents/Equality_Impact_and_Needs_Assessments/Making%20Fair%20Decisions.pdf">http://hc-sp/DocumentLibrary/Diversity/Documents/Equality_Impact_and_Needs_Assessments/Making%20Fair%20Decisions.pdf</a>)</b>	It will affect those who are causing the antisocial behaviour by stopping the antisocial behaviour but have a positive effect on those who are suffering the antisocial behaviour
<b>What geographic area or areas is the policy or procedure intended to affect?</b>	Countywide
<b>Who has been consulted in designing this policy or procedure?</b>	Police, Legal Services

**Section 2: Impact on Health and Wellbeing principles**

<p><b>How will the policy or procedure impact upon the following principles that affect health and well-being?</b></p>	<p><b><u>Positively</u></b> Evidence how it will have a positive impact. Disclose sources and cite them. Indicate whether the impact will be high, medium or low</p>	<p><b><u>Negatively</u></b> Evidence how it will have a negative impact. Disclose sources and cite them. Indicate whether the impact will be high, medium or low</p>	<p>Not expected to make an impact</p>
<p><b>Principle 1: Sustainable Services</b> The HWBB and its partners will work together to provide a unified service for everyone, through consistently good quality shared care and managed networks. Services will be financially viable, safe and sustainable and affordable for everyone.</p>	<p>High impact Policy allows for the making of Public Spaces Protection orders giving professionals the flexibility they need to deal with any given situation to stop individuals or groups committing anti-social behaviour in a public space.</p>	<p>N/A</p>	
<p><b>Principle 2: Working Together</b> Publicly funded services will be delivered in conjunction with the resources of family, friends and community to ensure the right service is delivered, at the right place and time needed. The HWBB will facilitate the provision of care as close to home as possible and ensure easy access to acute hospital services when needed. Services will protect people’s safety, independence and dignity.</p>	<p>High Impact Such a wide range of behaviours means that responsibility for dealing with anti-social behaviour is shared between a number of agencies, particularly the police, councils and social landlords. Victims can feel helpless, bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as ‘low level’ anti-social behaviour, when</p>		

	targeted and persistent, can have devastating effects on a victim's life.		
<p><b>Principle 3: Information and Support</b>  People can do many things to help themselves and their families to stay healthy, but there will be times when extra support is required. Information and advice will be available from a wide range of sources, easily and quickly, when and where people need it, so that they can make informed decisions about what they need to do to remain healthy.</p>			Not expected to make an impact
<p><b>Principle 4: Five Ways to Wellbeing</b>  The Five Ways to Wellbeing (Connect, Be Active, Take Notice, Keep Learning, Give) will be used by the HWBB and its partners to support wellbeing in the county by enriching people's lives through cultural opportunities, altruism and volunteering.</p>			Not expected to make an impact
<p><b>Principle 5: Personal Responsibility</b>  People should be responsible for their own health and wellbeing, and should try to stay fit, well and independent for as long as possible. The HWBB and its partners recognise, actively promote and support the contribution made by family, friends, the community and other services in helping people to achieve good health and wellbeing, with support from professional services when required.</p>	<p>Medium Impact  Victims can feel helpless, bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as 'low level' anti-social behaviour, when targeted and persistent, can have devastating effects on a victim's life.</p>		
<p><b>Principle 6: A Lifecourse Approach</b>  There are differences in people's health and</p>	<p>Medium Impact  Victims can feel helpless,</p>		

<p>wellbeing that start before birth and accumulate throughout life. It is important to work with people throughout their lives to improve their healthy life expectancy. A vital part of this is sustaining a healthy workforce for the county.</p>	<p>bounced from one agency to another and then back again. In many cases, the behaviour is targeted against the most vulnerable in our society and even what is perceived as 'low level' anti-social behaviour, when targeted and persistent, can have devastating effects on a victim's life.</p>		
<p><b>Principle 7: <i>The Ladder of Intervention</i></b> Health and wellbeing issues will be addressed, where possible, through the "ladder of intervention", which provides a means of integrating lifestyle choices and enforcement action into a single strategy for improving health and wellbeing for the people of Herefordshire.</p>			<p>Not expected to make an impact</p>

## APPENDIX 3: Risk Assessment Template

Ahead of the creation or review of a policy or procedure a risk assessment will be required to ensure that the main risks to the success of the policy or procedure are identified and then managed successfully. This will inform the “approving committee” on the value of the policy.

Effective management of risk will help to ensure that:

- we have clarity in our plans about what we need to do to achieve our objectives and priorities
- we ensure that we have effective performance management to deliver policies and procedures
- we maintain a safe environment for all our staff, customers and other members of the public
- we provide the best service provision for customers and clinical care for patients
- we safeguard the reputation of HPS and partner organisations
- we minimise costs by reducing dissatisfaction and claims
- we promote innovation to achieve our objectives
- we take advantage of opportunities
- we achieve a positive report on risk management in the Statement of Internal Control and compliance with external accreditation bodies such as the Audit Commission, Care Quality Commission and Ofsted.

The assessment process described in the Herefordshire Public Services Risk Management Toolkit must be used when completing a risk assessment. This describes a range of consequence (or impact) scores for each policy or procedure as follows:

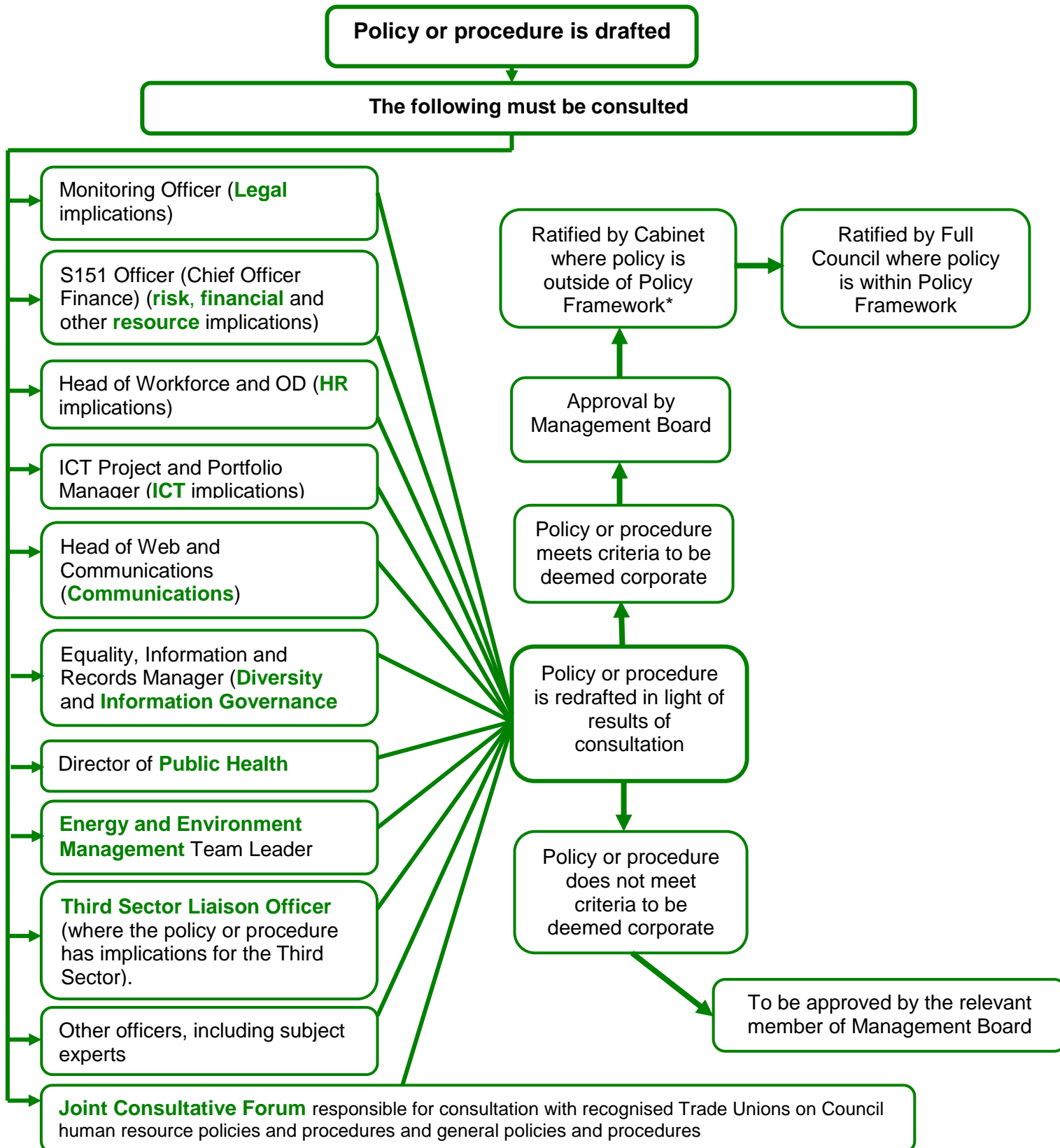
Level	Descriptor	Description
5	Unfit for purpose	Recognised as being very out of date and adherence will have a serious impact
4	Likely to be unfit for purpose	Some areas out of date and adherence will have medium to serious impact
3	Possible fitness / unfitness for purpose	Minor updates required and a medium impact
2	Likely to be fit for purpose	Do not expect any undue impact
1	Fit for purpose	Can't believe this will have any undue impact

The Toolkit can be used to prioritise the workload of each service to create, review and amend their policies. The Risk Rating Matrix below is taken from the Toolkit:

Likelihood	Consequence				
	1 - Insignificant	2 - Minor	3 - Moderate	4 - Major	5 - Catastrophic
5 Certain	5	10	15	20	25
4 Likely	4	8	12	16	20
3 Possible	3	6	9	12	15
2 Unlikely	2	4	6	8	10
1 Rare	1	2	3	4	5

**Risk Rating: Low Risk 1 to 3 Moderate Risk 4 to 6 High Risk 8 to 12 Extreme Risk 15 to 25**

## APPENDIX 4 - Adoption of a policy or procedure within the council



### Note; Herefordshire Compact\* Compliance

Policies and procedures must comply with the principles and undertakings laid out within the Herefordshire Compact and its codes of good practice at

[www.herefordshire.gov.uk/community\\_and\\_living/neighbourhood/3333.asp](http://www.herefordshire.gov.uk/community_and_living/neighbourhood/3333.asp) or from [compact@herefordshire.gov.uk](mailto:compact@herefordshire.gov.uk)

\* The Compact promotes closer working between public and voluntary bodies within Herefordshire



## **APPENDIX 5 - ORGANISATION AND RESPONSIBILITIES**

**Council** is responsible for approving and adopting the Policy Framework and for ratifying policies and procedures contained in that framework

**Cabinet** is responsible for recommending Policy Framework policies and procedures to Council and for ratifying those that fall outside the Policy Framework.

**General Overview and Scrutiny Committee** examine on behalf of the council the strategic policy direction and priorities being followed and make recommendations

**Health and Social Care Overview and Scrutiny Committee** discharge the Council's statutory health and social care scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services affecting the area and to make reports and recommendations on these matters.

**Management Board** is responsible for the approval of corporate council policies.

**Individual members of Management Board** are identified as the lead for all policies and procedures and are responsible for ensuring they are reviewed within time and fit for purpose and comply with this policy before they are submitted to Management Board and relevant committees

The **Joint Consultative Forum** is responsible for feedback on council human resources policies and procedures and general policies and procedures.

The **Equality, Information and Records Manager** is responsible for provision of document control for all policies and procedures developed for the council and for maintenance of the policy register.

**Heads of Service** are responsible for implementing all policies and procedures relevant to their service area and for approving their own local policies and procedures

**Team Managers** are responsible for implementing of all policies and procedures in their teams.

**All employees** are responsible for acting in accordance with the requirements in policies and procedures.

## **APPENDIX 6 - Distribution of policies and procedures**

Once a document has been approved and, where appropriate ratified, the Information Governance Team will allocate it a reference number and incorporate it onto the register of council policies.

The policy owner will work with the Web Services Team, Communications Team and Human Resources to ensure that the policy or procedure is:

- Posted on the Intranet appropriately
- Communicated to key managers
- Supported by a programme of awareness-raising and / or training
- Included in induction as necessary

Once a policy and procedure document on the intranet is updated and a new version is released, the old version will be stored electronically in another area of the intranet. Access will be limited to officers who need to refer to previous versions for audit or legal purposes. A retention schedule is available to show how long to keep policies and procedures and when to send them for archiving at the Herefordshire Record Office for long-term preservation.

## **APPENDIX 7**

### **Policy Framework**

The *Policy Framework* is agreed by Council and sets out which policies and where relevant, procedures, that must be ratified by Council. Policies that are not within the Framework may be ratified by Cabinet or Management Board as appropriate.

Examples of policies that are within the Framework include Setting of Council Tax, the Unitary Development Plan / Local Development Framework, Local Transport Plan, Herefordshire Community Safety and Drugs Partnership Plan, Children and Young People's Plan, the Corporate Plan and the Herefordshire Community Strategy

### **Values**

- Treating people fairly, with compassion, respect and dignity
- Striving for excellence, and the highest quality of service, care and life in Herefordshire
- Being open, transparent and accountable for the decisions we make
- Working together in partnership and with all of our diverse communities
- Actively listening to, understand and taking into account people's views and needs
- Protecting and promoting our outstanding natural environment and heritage for the benefit of all.