

**Supplement 1 (updates, 21 January 2022) to the agenda for**

# **Audit and governance committee**

**Tuesday 25 January 2022**

**10.15 am**

**The Conference Room, Herefordshire Council Offices, Plough  
Lane, Hereford, HR4 0LE**

		<b>Pages</b>
<b>7. EXTERNAL AUDIT PROGRESS UPDATE</b>		<b>3 - 18</b>
<b>Update, 21 January 2022:</b>		
Please note that the hyperlinks included in Appendix A – Herefordshire Council Audit Progress Report and Sector Update, pages 27-42 of the agenda reports pack, do not function as expected. Version 2 (attached) includes updated hyperlinks but all other content remains the same, as originally published.		
<b>8. PROGRESS REPORT ON INTERNAL AUDIT ACTIVITY</b>		<b>19 - 46</b>
<b>Update, 21 January 2022:</b>		
Please note that elements of Appendix A – Report of Internal Audit Activity, pages 47-72 of the agenda reports pack, do not display as expected. Version 2 (attached) includes updated page numbering, charts and graphics but the text remains the same, as originally published.		

## 11. ANNUAL REPORT ON CODE OF CONDUCT

### Update, 21 January 2021:

Please note the following additional recommendations (shown in *italics*) to those published on page 91 of the agenda reports pack:

#### Recommendation(s)

That:

- a) the annual report on code of conduct complaints be reviewed and any areas for further work be identified for inclusion in the work programme;
- b) the recommendations from the standards panel advising this committee (appendix 1), following their annual sampling exercise, are considered and are adopted as appropriate into the action tracker;
- c) *consultation with all members of this council, together with all parish and town councils on adopting the LGA Model Code of Conduct and arrangements is commenced; and*
- d) *The committee note the progress outlined in the code of conduct action tracker attached at appendix 3.*

## 12. RE-THINKING GOVERNANCE

47 - 76

### Update, 21 January 2022:

As referenced in Appendix 1 – Constitution change tracker, page 129 of the agenda reports pack, the planning code and guidance documents have been combined to create one document. Please now find 'The Planning Rules and Code' attached as both clean and tracked changes versions for consideration by the committee.

# Herefordshire Council Audit Progress Report and Sector Update

**Year ending 31 March 2022**

ω 25 January 2022



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

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# Introduction

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This paper provides the Audit Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Audit Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications [www.grantthornton.co.uk](http://www.grantthornton.co.uk) ..

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

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# Progress at January 2022

## Financial Statements Audit

In December 2021 we issued our Audit Report for the financial year ended 31 March 2021 following the completion of the financial statements audit.

We will look to commence our planning work in April 2022 for the financial year ended 31 March 2022.

## Other areas

### Certification of claims and returns

- We certify the Authority's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions (DWP). We will report our findings to the Audit Committee in due course after completion of the work.

We also certify the Authority's Teachers Pension Return. This work has not yet commenced and we will provide an update at the next Audit and Governance Committee.

### Meetings

We met with Finance Officers in January as part of our liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

## Events

We provide a range of workshops, along with network events for members and publications to support the Authority. Your officers have received an invite to our Financial Reporting Workshop, which will help to ensure that members of your Finance Team are up to date with the latest financial reporting requirements for local authority accounts.

Further details of the publications that may be of interest to the Authority are set out in our Sector Update section of this report.

# Progress at January 2022 (cont.)

## Value for Money

The new Code of Audit Practice (the “Code”) came into force on 1 April 2020 for audit years 2020/21 and onwards. The most significant change under the new Code is the introduction of an Auditor’s Annual Report, containing a commentary on arrangements to secure value for money and any associated recommendations, if required.

The new approach is more complex, more involved and is planned to make more impact.

Under the 2020 Code of Audit Practice, for relevant authorities other than local NHS bodies auditors are required to issue our Auditor’s Annual Report no later than 30 September or, where this is not possible, issue an audit letter setting out the reasons for delay.

As a result of the ongoing pandemic, and the impact it has had on both preparers and auditors of accounts to complete their work as quickly as would normally be expected, the National Audit Office has updated its guidance to auditors to allow us to postpone completion of our work on arrangements to secure value for money and focus our resources firstly on the delivery of our opinions on the financial statements. This is intended to help ensure as many as possible could be issued in line with national timetables and legislation. The extended deadline is now no more than three months after the date of the opinion on the financial statements. We therefore plan to issue the Auditor’s Annual Report by 28 February 2022.

In our 2020/21 audit plan issued on 30 July 2021 we set out the work that we proposed on the three criteria:

- Financial sustainability;
- Governance; and
- Improving economy, efficiency and effectiveness.

In addition we identified a number of risks of significant weakness:

- Effective financial planning as a result of additional financial pressures (the court judgement for Children’s Services and the write back of the by-pass);
- The impact of the changes in the leadership team; and
- Response to the regulatory engagement within Children’s Services; and changes made to more effectively manage the public realm contract and the internal reviews undertaken.

Our review began in December 2020 and we have reviewed a range of documentation and undertaken a series of meetings.

Further documentation is required and interviews are planned. We are on track to conclude and issue our draft Auditor’s Annual Report next month.

# Audit Deliverables

2020/21 Deliverables		Date	Status
<b>Auditor's Annual Report</b> This Report communicates the key issues arising from our Value for Money work.		February 2022	Not yet due
2021/22 Deliverables		Date	Status
<b>Audit Plan</b> ∞ We are required to issue a detailed audit plan to the Audit Committee setting out our proposed approach in order to give an opinion on the Authority's 2021/22 financial statements and the Auditor's Annual Report on the Authority's Value for Money arrangements.		June 2022	Not yet due
<b>Audit Findings Report</b> The Audit Findings Report will be reported to the November Audit Committee.		November 2022	Not yet due
<b>Auditors Report</b> This is the opinion on your financial statements.		November 2022	Not yet due
<b>Auditor's Annual Report</b> This Report communicates the key issues arising from our Value for Money work.		February 2023	Not yet due



# Sector Update

Authorities continue to try to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- [Grant Thornton Publications](#)
- [Insights from local government sector specialists](#)
- [Reports of interest](#)
- [Accounting and regulatory updates](#)

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local  
government

# Insight into accounting for grants in local government financial statements – Grant Thornton

The government has provided a range of financial support packages throughout the COVID-19 pandemic.

We have issued a brief bulletin aimed at helping local government bodies identify the key things they should consider when determining the accounting treatment for these grants in their financial statements for 2020/21.

There are no changes to the accounting treatment for grants as required by the CIPFA Code of Practice on Local Authority Accounting. What has changed, is the extent of additional funding to support the cost of services, to offset other income losses along with grant packages to be paid out to support local business. Local authorities need to consider the nature and terms of the various COVID-19 measures in order to determine whether there is income and expenditure to be recognised in the Comprehensive Income and Expenditure Statement in 2020/21.

The report highlights the factors to consider, including:

- Where the funding is to be transferred to other parties, is the authority acting as principal or as agent?
- Are there grant conditions outstanding?
- Is the grant a specific or non-specific grant?

Our bulletin provides you with links to further information on the various support packages and summarises features that may be relevant to your judgements as you determine the appropriate accounting treatment.

Local authorities need to demonstrate their judgements on the accounting treatment to be reasonable and soundly based and, where these have a significant effect on the accounts, to ensure they include sufficient disclosures to meet the requirements of IAS 1:122.

Please ask your audit manager for the full report:



# What can be learned from Public Interest Reports?– Grant Thornton

2020 will be remembered as a tumultuous year in local government, with the pandemic creating unprecedented pressure on the sector. It also saw the appearance of two Public Interest Reports (PIRs), followed by another in January this year – the first to be issued in the sector since 2016. PIR's can be issued by local auditors if there are significant concerns around council activity, such as major failings in finance and governance.

The recent PIRs have made headlines because, up to this point, very few have ever been issued. But, as our latest report “Lessons from recent Public Interest Reports” explores, all three illustrate some of the fundamental issues facing the wider sector and provide a lesson for all local authorities around: weaknesses in financial management; governance and scrutiny practices; and council culture and leadership; which, when combined, can provide fertile ground for the kind of significant issues we might see in a PIR.

The COVID-19 pandemic highlighted four essential factors we probably always knew about local government, have often said, but which are now much better evidenced:

- 1) Local government has provided fantastic support to its communities in working with the NHS and other partners to deal with the multifaceted challenges of the pandemic.
- 2) Britain's long centralised approach to government has been exposed to some degree in terms of its agility to tailor pandemic responses to regional and local bodies. This is recognised by the current government who continue to pursue the options for devolution of powers to local bodies. Track and Trace delivered centrally has not been as successful as anticipated and, according to government figures, local interventions have had more impact.

- 3) Years of reduced funding from central government have exposed the underlying flaws in the local authority business model, with too much reliance on generating additional income.
- 4) Not all authorities exercise appropriate care with public money; not all authorities exercise appropriate governance; and not all authorities have the capability of managing risk, both short and long term. Optimism bias has been baked into too many councils' medium-term plans.

The PIRs at Nottingham City Council (August 2020), the London Borough of Croydon (October 2020), and Northampton Borough Council (January 2021) are clear illustrations of some of the local government issues identified above. The audit reports are comprehensive and wide-ranging and a lesson for all local authorities. Local authorities have a variety of different governance models. These range from elected mayor to the cabinet and a scrutiny system approach, while others have moved back to committee systems. Arguments can be made both for and against all of these models. However, in the recent PIR cases, and for many other local authorities, it's less about the system of governance and more about how it operates, who operates it and how willing they are to accept scrutiny and challenge.

There are a number of lessons to be learned from the recent PIR reports and these can be broken down into three key areas which are explored further in our report:

- 1) The context of local government in a COVID-19 world
- 2) Governance, scrutiny, and culture
- 3) Local authority leadership.

The full report is available here:

[Lessons from recent Public Interest Reports | Grant Thornton](#)

# Annual Transparency Report – Grant Thornton

As auditors of several listed entities as well as nearly one hundred major local audits, we are required as a firm to publish an annual transparency report.

The report contains a variety of information which we believe is helpful to audit committees as well as wider stakeholders. The Financial Reporting Council (FRC) in their thematic review of transparency reporting noted that they are keen to see more Audit Committee Chairs actively engaging and challenging their auditors on audit quality based on the information produced in Transparency reports on a regular basis. We agree with the FRC and are keen to share our transparency report and discuss audit quality with you more widely.

The transparency report provides details of our:

- Leadership and governance structures
- Principle risks and Key Performance Indicators
- Quality, risk management and internal control structure
- Independence and ethics processes
- People and culture
- Compliance with the Audit Firm Governance code and EU Audit directive requirements

We have made significant developments in the year as part of our Local Audit Investment Plan to improve our audit quality. We welcome an opportunity to discuss these developments and our transparency report should you wish.



The full report is available here:

[Transparency report 2020 \[grantthornton.co.uk\]](https://www.grantthornton.co.uk/transparency-report-2020)

# Local authority Covid-19 pressures – MHCLG

Outturn figures from the Ministry for Housing, Communities and Local Government (MHCLG) show that local authorities in England reported additional cost pressures of £12.8bn relating to Covid-19 in 2020-21. Overall, local authorities spent £7.2bn responding to the pandemic last year, with the largest share of additional expenditure going on adult social care services at £3.2bn.

**Additional expenditure due to COVID-19 by class and service area (£ millions) (2020-21)**

	Shire District	Shire County	Unitary Authority	Metropolitan District	London Borough	Total
Adult Social Care – total	0.473	1,254.880	848.656	663.404	413.842	<b>3,181.254</b>
Children's social care - total (excluding SEND)	0.000	94.933	131.127	89.799	62.987	<b>378.846</b>
Housing - total (including homelessness services) excluding HRA	63.129	5.254	74.949	42.281	112.971	<b>298.584</b>
Environmental and regulatory services - total	33.564	68.097	67.512	66.704	63.556	<b>299.433</b>
Finance & corporate services - total	48.222	53.445	83.984	76.923	78.284	<b>340.858</b>
All other service areas not listed in rows above	184.550	634.578	584.924	564.737	395.137	<b>2,363.926</b>
<b>Total</b>	<b>329.937</b>	<b>2,111.187</b>	<b>1,791.153</b>	<b>1,503.848</b>	<b>1,126.777</b>	<b>6,862.902</b>

**Income losses due to COVID-19 by class and source of income (£ millions) (2020-21)**

	Shire District	Shire County	Unitary Authority	Metropolitan District	London Borough	Total
Business rates	276.498	0.000	194.192	207.351	537.667	<b>1,215.708</b>
Council tax	399.037	0.000	217.633	191.219	232.727	<b>1,040.616</b>
Sales fees and charges	516.426	194.923	553.907	396.745	475.728	<b>2,137.728</b>
Commercial income	82.448	24.159	120.629	204.211	52.154	<b>483.600</b>
Other	33.494	39.947	27.163	53.664	45.166	<b>199.435</b>
<b>Total</b>	<b>1,307.903</b>	<b>259.029</b>	<b>1,113.524</b>	<b>1,053.190</b>	<b>1,343.441</b>	<b>5,077.087</b>



The figures are available in full here:  
<https://www.gov.uk/government/publications/local-authority-covid-19-financial-impact-monitoring-information>

# Government response to Redmond review – MHCLG

Government has published an update on the Ministry of Housing, Communities & Local Government response to Sir Tony Redmond's independent review into the effectiveness of external audit and transparency of financial reporting in local authorities.

The MHCLG press release states "The Audit, Reporting and Governance Authority (ARGA) – the new regulator being established to replace the Financial Reporting Council (FRC) – will be strengthened with new powers over local government audit, protecting public funds and ensuring councils are best serving taxpayers.

14 The new regulator, which will contain a standalone local audit unit, will bring all regulatory functions into one place, to better coordinate a new, simplified local audit framework.

ARGA will continue to act as regulator and carry out audit quality reviews as the FRC does now. It will now also provide annual reports on the state of local audit and take over responsibility for the updated Code of Local Audit Practice – the guidelines councils are required to follow.

The government has confirmed that the Public Sector Audit Appointments (PSAA) will continue as the appointing body for local audit, in charge of procurement and contract management for local government auditors.

In the immediate term, MHCLG will set up and chair a Liaison Committee, which will comprise senior stakeholders across the sector that will oversee the governance of the new audit arrangements and ensure they are operating effectively."

The press release goes on to state the "measures finalise the government's response to Sir Tony Redmond's independent review into local audit, carried out last year.

The government has already announced £15 million to support councils with additional costs in audit fees, and recently consulted on the distribution of this funding. Government is also consulting on improving flexibility on audit fee setting and has extended the deadline for when councils must publish their audited accounts.



The press release can be found here:

<https://www.gov.uk/government/news/government-publishes-update-to-audit-review-response>

# 2019/20 audited accounts – Public Sector Audit Appointments

In December 2020 Public Sector Audit Appointments (PSAA) published figures relating to the audit of 2019/20 local authority financial statements.

PSAA report “Audit arrangements in local councils, police, fire and other local government bodies are continuing to exhibit signs of stress and difficulty. In the latest audit round, focusing on 2019/20 financial statements and value for money arrangements, fewer than 50% of bodies’ audits were completed by the revised target of 30 November.

Figures compiled by PSAA, the organisation responsible for appointing auditors to 478 local bodies, reveal that 55% (265) of audit opinions were not issued by 30 November. This is a further deterioration on 2018/19 audits when 43% of opinions (210 out of 486) were delayed beyond the then target timetable of 31 July.”

By 30 November, Grant Thornton had signed 113/208 audits (a 55% completion rate), meaning that only 45% of audit opinions were not signed by 30 November, compared to the 55% all firms average.

PSAA go on to note “This year’s timetable has been deliberately eased by Ministers in recognition of the underlying pressures on the audit process and the significant added complications arising from the Covid-19 pandemic. The pandemic has posed practical challenges for bodies in producing accounts and working papers, and for auditors to carry out their testing. Both sets of staff have had to work remotely throughout the period, and the second national lockdown came at a critical point in the cycle.

Questions and concerns about the potential implications of the pandemic for some bodies have meant that both finance staff and auditors have needed to pay particular attention to the financial position of each entity. Additionally, following a series of increasingly challenging regulatory reviews, auditors have arguably been more focused than ever on their professional duty to give their opinion only when they are satisfied that they have sufficient assurance.”



The news article can be found here:

[News release: 2019/20 audited accounts – PSAA](#)



# Consultation on 2023-24 audit appointments – Public Sector Audit Appointments

Public Sector Audit Appointments (PSAA) is consulting on the Draft prospectus for 2023 and beyond.

PSAA state “Our primary aim is to secure the delivery of an audit service of the required quality for every opted-in body at a realistic market price and to support the drive towards a long term competitive and more sustainable market for local public audit services.

The objectives of the procurement are to maximise value for local public bodies by:

- securing the delivery of independent audit services of the required quality;
- awarding long term contracts to a sufficient number of firms to enable the deployment of an appropriately qualified auditing team to every participating body;
- encouraging existing suppliers to remain active participants in local audit and creating opportunities for new suppliers to enter the market;
- encouraging audit suppliers to submit prices which are realistic in the context of the current market;
- enabling auditor appointments which facilitate the efficient use of audit resources;
- supporting and contributing to the efforts of audited bodies and auditors to improve the timeliness of audit opinion delivery; and
- establishing arrangements that are able to evolve in response to changes to the local audit framework.”

The plans include proposals to adjust the procurement ratio between quality and costs from an equal 50:50 to 80:20, as well as trying to bring new suppliers in to the market.

The consultation on the PSAA’s proposals closes on 8 July.



The news article can be found here:

<https://www.psaa.co.uk/about-us/appointing-person-information/appointing-period-2023-24-2027-28/prospectus-2023-and-beyond/draft-prospectus-for-2023-and-beyond/page/7/>



# Councils given power to build more homes for first time buyers and for social rent – MHCLG

The Ministry of Housing, Communities & Local Government (MHCLG) has announced that councils in England will have more freedom on how they spend the money from homes sold through Right to Buy to help them build the homes needed in their communities.

The MHCLG press release states the “package will make it easier for councils to fund homes using Right to Buy receipts, including homes for social rent, and give them greater flexibility over the types of homes they provide to reflect the needs of their communities.

It will also give councils more time to use receipts and to develop ambitious building programmes. The government wants homes supplied using Right to Buy receipts to be the best value for money, and to add to overall housing supply, to help towards delivering 300,000 new homes a year across England by the mid-2020s.”

The press release goes on to note “New measures include:

- extending the time councils have to spend Right to Buy receipts from 3 years to 5 years
- increased cap on the percentage cost of new homes councils can fund from Right to Buy receipts raised from 30% to 40% per home, making it easier to build replacement homes
- allowing receipts to be used for shared ownership, First Homes, as well as affordable and social housing, to help councils build the homes their communities need
- introducing a cap on the use of Right to Buy receipts for acquisitions to help drive new supply.”



The press release can be found here:

<https://www.gov.uk/government/news/councils-given-power-to-build-more-homes-for-first-time-buyers-and-for-social-rent>



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## Appendix A

# Herefordshire Council

## Report of Internal Audit Activity

- 2021/22 Plan Progress - as of 5<sup>th</sup> January 2022
- 2020/21 Update on remaining audits
- Quarter 4 Plan
- Counter Fraud Update

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## Internal Audit Plan Progress 2020/21 and 2021/22

### The Headlines for audits completed to date for 2021/22 audit plan and 2020/21 audits finalised in 2021/22

	<b>No High Corporate Risks identified to date.</b>
	<b>No Priority 1 Recommendations made to date.</b>
	<b>All audits from the 2020/21 Internal Audit Plan are now complete (7). 18 reviews have been delivered as part of the 2021/22 Internal Audit Plan.</b> Includes assurance, advisory and follow up reviews.
	<b>Thematic Findings</b> Previously raised finding regarding ensuring procedure documents are up to date is further reiterated by findings identified in this update including the need to update strategy and protocol documents.  Further to this we have identified some thematic findings relating to quality of data from systems.
	<b>Continued sign off, of grant certifications as a result of additional COVID related grant funding.</b>
	<b>Fraud Risk Assessment now complete across Corporate Services, Economy and Place and Adults and Communities in liaison with the Counter Fraud Specialist. It is the aim to complete Children and Families in Q4 of 2021/22.</b>

### Internal Audit Assurance Opinions

<b>Substantial</b>	2
<b>Reasonable (inc. Grant Certifications)</b>	18
<b>Limited</b>	4
<b>No Assurance</b>	0
<b>Other</b>	1
<b>Total</b>	25

### Internal Audit Agreed Actions

<b>Priority 1</b>	0
<b>Priority 2</b>	6
<b>Priority 3</b>	19
<b>Total</b>	25

## Internal Audit Plan Progress 2020/21 and 2021/22

### Our audit activity is split between:

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



### Role of Internal Audit

The Internal Audit service for Herefordshire Council is provided by SWAP Internal Audit Services (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Chartered Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and the CIPFA Local Government Application Note. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 16 March 2021.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

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

### Update on 2020/21 audits not finalised at the time of the annual opinion report.



### Internal Audit Work Programme 2020/21

At the time of the last progress update in October 2021 there were two audits waiting client agreement of actions and one audit in progress. Since then, these three audits have been finalised:

- Payroll,
- Education Health Care Plans – Preparation for Adulthood, and
- Contract Management – BBLP.

A summary of the audits and any findings are outlined below.

## Internal Audit Plan Progress 2020/21 and 2021/22

Update on 2020/21 audits not finalised at the time of the annual opinion report.



### Internal Audit Work Programme 2020/21

#### Payroll

Limited assurance with one priority 2 finding and one priority three finding. The priority two action was agreed to rectify the longstanding issues with the reconciliation of the holding accounts. The level of possible errors/amendments required cannot be accurately estimated however Senior Management confirmed they remain within an acceptable tolerance. It was identified there is no management oversight of the reconciliation and differences have been written off where there may have been opportunities to recover the funds. There is a risk of unresolved issues being highlighted by External Audit or as part of an HMRC audit if action is not taken to clear down the differences. A target date of the 31<sup>st</sup> of December 2021 was agreed to complete the action.

All priority 3 actions have been agreed with a target date for completion.

#### Education Health Care (EHC) Plans – Preparation for Adulthood.

Limited assurance with three priority 2 findings and one priority 3. The three priority 2 actions were agreed as follows:

##### **1. Awareness of the Preparation for Adulthood protocol**

- The audit identified that the Preparation for Adulthood protocol was not embedded with officers not aware of guidance within the protocol. It was agreed that additional training is required for all staff to be aware of the entirety of the Preparation for Adulthood protocol and associated procedures and materials.
- In addition to this it was agreed that the formally agreed protocol requires additional detailed procedures to ensure that effective action is taken by all agencies.
- The Directorate have also decided to audit further cases from the same sample using the testing method carried out in the audit.
- A target date of the 31<sup>st</sup> July 2022 was agreed to complete the action.

## Internal Audit Plan Progress 2020/21 and 2021/22

Update on 2020/21 audits not finalised at the time of the annual opinion report.



### Internal Audit Work Programme 2020/21

#### Education Health Care (EHC) Plans – Preparation for Adulthood.

##### **2. Action Plan to the OFSTED and Care Quality Commission Report (2016)**

- Audit were not provided with the action plan prepared, implemented and monitored to address recommendations from the Ofsted and CQC Report. The EHC plans reviewed as part of the audit were assessed as being heavily weighted on education, a finding that was identified in the Ofsted and CQC report. Therefore, audit cannot provide assurance that the weakness identified has been addressed.
- The Head of Additional Needs identified that the response to fulfil the actions raised in the OFSTED/CQC Report had not been reviewed since the advent of the pandemic but had been done so previously. The response to the points raised in the inspection has recently been reviewed and this has been shared with the SEND Strategy Group along with the Directorate Leadership Team (August 2021).
- It has been agreed that the EHC Plans sampled in this audit will be re-evaluated from a professional perspective, to determine if health and social care is evident within the EHC Plans.
- As part of this action it was also agreed that there needs to be clarity regarding Section K of the EHC Plans and this would be recorded in the policy.
- A target date of the 30<sup>th</sup> of November 2021 was agreed to complete the action.

##### **3. Issues with document management**

- There was one instance where an EHC Plan could not be located for sampling and one instance where an EHC plan had been overtyped by a subsequent plan.
- Two of the data sets audit were provided did not consistently state the NHS reference for the individual.
- It was agreed this would be further investigated by the Senior SEN Manager.
- A target date of the 30<sup>th</sup> of November 2021 was agreed to complete the action.



## Internal Audit Plan Progress 2020/21 and 2021/22

Update on 2020/21 audits not finalised at the time of the annual opinion report.



### Internal Audit Work Programme 2020/21

#### Education Health Care (EHC) Plans – Preparation for Adulthood.

All priority 3 actions have been agreed with a target date for completion.

#### Contract Management - BBLP

Limited assurance with one priority 2 action and four priority 3 actions agreed.

The priority 2 action was to address a potential system (Business World) issue, where a reference number was duplicated for an early warning notice. It was agreed this would be further investigated and at the time of the final report was identified to be complete.

All priority 3 actions have been agreed with a target date for completion.

## Internal Audit Plan Progress 2020/2021 and 2021/22

### Outturn to Date – 2021/22



### Internal Audit Work Programme 2021/22

The schedule provided at Appendix C contains a list of all audits agreed:

- for the quarter 1 2021/22 plan presented to this committee at its meeting on 16<sup>th</sup> March 2021.
- for the quarter 2 2021/22 plan presented to this committee at its meeting on 28<sup>th</sup> June 2021.
- for the quarter 3 2021/22 plan presented to this committee at its meeting on 27<sup>th</sup> October 2021.

It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “assurance opinion” rating together with the number and relative ranking of recommendations that have been raised with management. In such cases, the Committee can take assurance that improvement actions have been agreed with management to address these.

The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as detailed in Appendix B of this document.

To assist the Committee in its important monitoring and scrutiny role, in those cases where weaknesses have been identified in service/function reviews that are considered to represent significant service findings (priority 1 or 2), a summary of the key audit findings is given as part of this report. In circumstances where findings have been identified which are considered to represent significant corporate risks to the Council, due to their importance, these issues are separately summarised.

#### 2021/22 Progress

This is the progress report as of 5<sup>th</sup> January 2022. This is the third update for the 2021/22 audit plan. Nine audits have been completed since my last update, eleven audits are at draft report (please note four of these are variations of Local Authority Test and Trace Support Payment Scheme Funding Grant Determinations and six are variations of Local Authority Community Testing Funding Grant Determinations) and there are fifteen audits in progress. The audits completed since my last update have the following assurance:

## Internal Audit Plan Progress 2020/2021 and 2021/22

Outturn to Date – 2021/22



Internal Audit Work Programme 2021/22

Audit	Assurance	Audit Objective
Development Regeneration Programme	<b>Reasonable</b>	To provide assurance that the Development Regeneration Programme partnership between Herefordshire Council and the partners Keepmoat Homes Ltd and Engie Regeneration Ltd demonstrates that good relationship management was in place, with a view to assess the current working relationship with the sole remaining partner.
Bus Service Support Grant Restart Scheme Tranches 6 and 7 (funding to May 2021) 31/5621	<b>Reasonable – Grant Certification</b>	To provide assurance that the terms of the LTA CBSSG Restart Scheme Grant Determination (31/2150) are adhered to.
Additional Dedicated Home to School and College Transport Grant – Spring Term 31/5268	<b>Reasonable – Grant Certification</b>	To provide assurance that the terms of the Additional Dedicated Home to School and College Transport Grant (31/5137) are adhered to.
Additional Dedicated Home to School and College Transport Grant – Summer Term (1 <sup>st</sup> half) 31/5483	<b>Reasonable – Grant Certification</b>	To provide assurance that the terms of the Additional Dedicated Home to School and College Transport Grant (31/5483) are adhered to.
Additional Home to School Transport – Summer Term (2 <sup>nd</sup> half until 25 June 2021) 31/5568	<b>Reasonable – Grant Certification</b>	To provide assurance that the terms of the Additional Dedicated Home to School and College Transport Grant (31/5568) are adhered to.
Additional Home to School Transport – Summer Term (2 <sup>nd</sup> half 28 <sup>th</sup> June till end of Summer Term) 31/5678	<b>Reasonable – Grant Certification</b>	To provide assurance that the terms of the Additional Dedicated Home to School and College Transport Grant (31/5678) are adhered to.
Treasury Management	<b>Substantial</b>	To ensure that the key controls within Treasury Management are operating effectively. Review of controls includes the Treasury Management Strategy, Treasury Management Procedures and governance processes; the Council's cash flow monitoring; loans and investments, and corresponding reconciliations; use of brokers; IT system access controls; and details of any KPIs that the Corporate Finance Team monitor and report on.

## Internal Audit Plan Progress 2020/21 and 2021/22

### Outturn to Date – 2021/22



### Internal Audit Work Programme 2021/22

Audit	Assurance	Audit Objective
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 3 (Yearly Report)	<b>Reasonable – Grant Certification</b>	To provide assurance that Herefordshire Council has complied with DEFRA Property Flood Resilience Recovery Support Scheme (2020) Local Authority Guidance April 2020, in the authorisation of owner's expenditure on their property.
Supporting Families – Monthly Review – Quarterly Report - Quarter 3	<b>Reasonable – Grant Certification</b>	To provide assurance that cases put forward as part of the monthly Supporting Families claims comply with the terms of the Ministry of Housing, Communities & Local Government (MHCLG) Supporting Families Programme (April 2021). Payment by Results claims must meet the criteria for either 'significant and sustained progress' or 'continuous employment'.

### Summary of significant High corporate risks



### Significant Corporate Risks 2021/22

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

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

### SWAP Performance - Summary of Limited Opinions



### Summary of Limited Assurances and Significant Service Findings (Priority 1 and 2) 2021/22

**These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit and Governance Committee.**

Of the nine audits completed this quarter, one was substantial assurance (Treasury Management), one was reasonable assurance (Development Regeneration Programme), and seven were reasonable grant certification (Bus Service Support Grant Restart Scheme Tranches 6 and 7 (funding to May 2021) 31/5621, Additional Dedicated Home to School and College Transport Grant – Spring Term 31/5268, Summer Term (1st half) 31/5483, Summer Term (2nd half until 25 June 2021) 31/5568 and Summer Term (2nd half 28th June till end of Summer Term) 31/5678, Property Flood Resilience Support Scheme Q3, and Supporting Families Q3).

No actions were identified for all the reasonable grant certification assurances given and no priority 1 or 2 actions were agreed as part of the other audits.

## Internal Audit Plan Progress 2020/2021 and 2021/22

**Follow Up audits are completed where the auditor could only provide limited assurance.**



### Follow Up Audits

Follow Up audits are completed where the Auditor could only provide limited assurance. The follow-up audit is to provide assurance to the Director, Senior Management and the Audit and Governance Committee that the key risks have been mitigated to an acceptable level. Evidence is obtained to demonstrate implementation and progress made in relation to all 2020/21 priority 1 and 2 recommendations. For the priority 3 recommendations progress reported is based on self-assessment by relevant officers. Where a key control audit received Reasonable or Substantial assurance, the key control is included in the plan to follow up on all recommendations to provide assurance that action has been taken to address the recommendations. For key control follow up audit evidence is obtained to demonstrate implementation and progress for all recommendations.

No follow up audits have been completed this quarter.

**Added Value  
Extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something more while adding little or nothing to its cost.**



### Added Value

Primarily, Internal Audit is an assurance function and will remain as such. However, as we complete our audit reviews and through our governance audit programmes across SWAP, we seek to bring information and best practice to managers to help support their systems of risk management and control.

The SWAP definition of “added value” is “it refers to extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something "more" while adding little or nothing to its cost”.

The following cross comparison reports have been shared across the Partnership:

#### Registration Services

A benchmarking exercise was undertaken with a number of Registration Services across SWAP partners and the wider local authority network to provide comparative data regarding the structure and service delivery models in place. Results of the exercise were provided to the service manager.

## Internal Audit Plan Progress 2020/2021 and 2021/22

### SWAP Performance - Summary of Audit Opinions

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

- Substantial
- Reasonable
- Limited
- No

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

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

### Summary of Audit Opinion 2021/22 including 2020/21 audits finalised in 2021/22

A total of twelve audits (three from 2021/21 and nine from 2021/22) have been finalised since our previous update (October 2021). The opinions offered are summarised below in Chart 1.

Chart 2 shows a summary of the opinions offered for 2021/22 to date (including those audits from 2020/21 that have been finalised in 2021/22).

CHART 1: TWELVE AUDITS COMPLETED BY ASSURANCE CATEGORY (FOR THE JANUARY 2022 UPDATE)

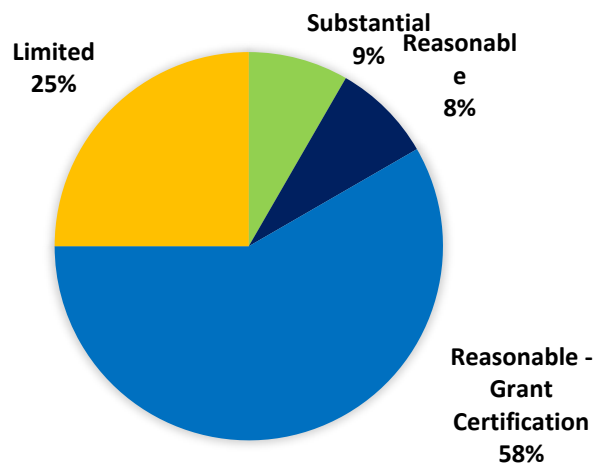
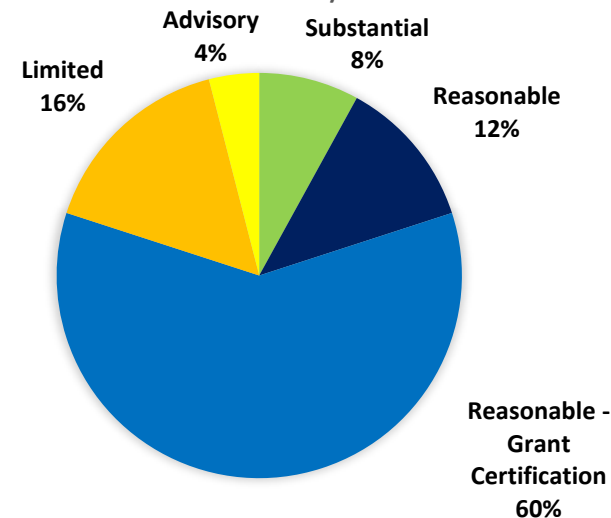


CHART 2: AUDITS COMPLETED BY ASSURANCE CATEGORY 2021/22



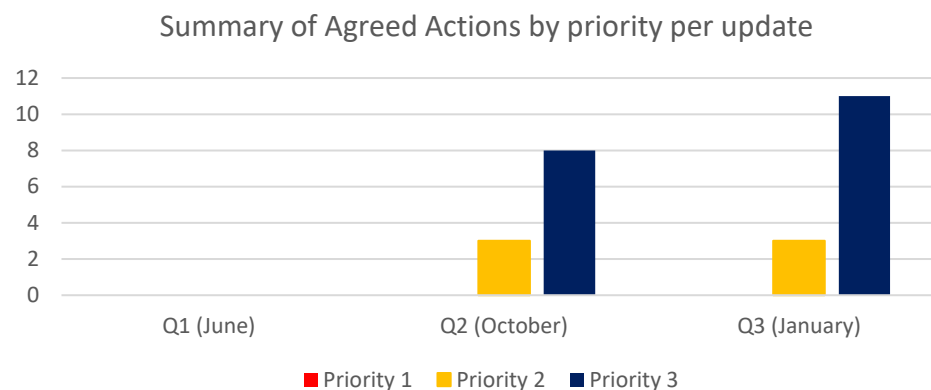
## Internal Audit Plan Progress 2020/21 and 2021/22

### Summary of Agreed Audit Actions by Priority

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



### Summary of Agreed Actions by priority per update for 2021/22 including 2020/21 audits finalised in 2020/21



## Internal Audit Framework Definitions

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



### Approved Changes to the Audit Plan

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

Since the Q3 Audit plan was presented and approved by the Committee on 27<sup>th</sup> October 2021 there has been no request for additional audits. There has however been a request for extended testing on the Grant Determination for:

- Local Authority Community Testing Funding Grant Determination 2020/21



## Internal Audit Plan Progress 2020/21 and 2021/22

### Conclusion



### Conclusion

Since my last update twelve audits (three from 2020/21 and nine from 2021/11) have been completed. The total audits completed for 2021/22 is eighteen. There are fifteen audits in progress for 2021/22 and eleven at draft report.

*There is a noted delay completing the Green Homes grant testing as the Council has requested an extension to the scheme to 31<sup>st</sup> January 2022.*

For the twelve audits completed and reported in this update one audit returned a substantial assurance, one returned a reasonable assurance, three were limited assurance and seven were reasonable – grant certification. Five priority 2 findings were identified in two of the 2020/21 audits that were completed (Education Health Care Plans and Contract Management BBLP).

We have noted a thematic finding regarding record and document management including the need to update protocols and strategy documents as well as procedure documents. Further to this there is a need to ensure audit trails are maintained and the quality of data sets is fit for purpose.

At the close of each audit review a Customer Satisfaction Questionnaire is sent out to the Service Manager or nominated officer. The aim of the questionnaires is to gauge satisfaction against timeliness, quality, and professionalism. A score of 95% would reflect the fact that the client agreed that the review was delivered to a good standard of quality i.e., agreed with the statement in the questionnaire and satisfied with the audit process and report. For 2021/22 the feedback score is 100%.

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

- Substantial
- Reasonable
- Limited
- No
- Advisory



### Audit Framework Definitions

#### Control Assurance Definitions

Substantial	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

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

## Internal Audit Framework Definitions

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



### Audit Framework Definitions

Risk	Reporting Implications
	In addition to the corporate risk assessment, it is important that management know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. Each recommendation has been given a priority rating at service level with the following definitions:
<b>Priority 1</b>	Findings that are fundamental to the integrity of the service's business processes and require the immediate attention of management.
<b>Priority 2</b>	Important findings that need to be resolved by management.
<b>Priority 3</b>	Finding that requires attention.

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

### Definitions of Risk

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

Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
2020/21 Audits								
Education Health Care Plans – Preparation for Adulthood			Complete	Limited	4	0	3	1
Payroll			Complete	Limited	2	0	1	1
Contract Management - BBLP			Complete	Limited	5	0	1	4
Corporate Centre (including ICT)								
Risk Maturity (was Risk Management)	Linked to all risks	1	In Progress					
Economy and Place								
Development Regeneration Programme	EP.12 (July 2020)	1	Complete	Reasonable	1	0	0	1
Climate Change	EP.15 (July 2020)	1	Complete	Reasonable	3	0	0	3
Bus Service Support Grant Restart Scheme Tranches 6 and 7 (funding to May 2021) 31/5621	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Dedicated Home to School and College Transport Grant – Spring Term 31/5268	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Children’s and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 1 (previously referred to as Troubled Families)	Grant Certification	1	Complete	Reasonable – Grant Certification	1	0	0	1

## Internal Audit Work Plan Qrt 1 2021-22 (approved 16<sup>th</sup> March 2021)

Additional Audits for Quarter 1								
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5389.	Grant Certification	1	Draft Report					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5309 (January)	Grant Certification	1	Draft Report					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5385 (February)	Grant Certification	1	Draft Report					
Funding for Travel Demand Management 2020/21 – No 31/5127	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0
Car Park Signage Procurement	At request of Chief Finance Officer	1	Complete	Briefing Paper	-	-	-	-
Property Flood Resilience Support Scheme (Bellwin /Resilience Management) Quarterly Review – Quarter 1 (Yearly Report)	Grant Certification	1	Complete	Reasonable – Grant Certification	0	0	0	0

# Internal Audit Work Plan Qrt 2 2021-22 (approved 28<sup>th</sup> June 2021)

Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Fraud Risk Assessment		2	In Progress (Complete in Adults & Wellbeing, Economy and Place, and Corporate Services)					
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 2 (Yearly Report)	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Dedicated Home to School and College Transport Grant – Summer Term (1 <sup>st</sup> half) 31/5483	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Local Transport Block Funding	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Bus Subsidy Grant	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Adults and Communities								
Direct Payments	Identified as a fraud risk	2	Not Started					
Customer Services	-	2	In Progress					
Children’s and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 2 (previously referred to as Troubled Families)	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0

## Internal Audit Work Plan Qrt 2 2021-22 (approved 28<sup>th</sup> June 2021)

Additional audits for Q2								
Additional Home to School Transport – Summer Term (2 <sup>nd</sup> half until 25 June 2021) 31/5568	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Additional Home to School Transport – Summer Term (2 <sup>nd</sup> half 28 <sup>th</sup> June till end of Summer Term) 31/5678	Grant Certification	2	Complete	Reasonable – Grant Certification	0	0	0	0
Herefordshire City Centre Transport Package – Investigation	Investigation	2	In Progress					
Green Homes Grant: Local Authority Delivery Grant Determination 31/5187	Grant Certification	2	In Progress					
Pool Cars		2	In Progress					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5435 – (March and April)	Grant Certification	2	Draft Report					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No 31/5668 – (May, June, July)	Grant Certification	2	Draft Report					

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# Internal Audit Work Plan Qrt 3 2021-22 (approved 27<sup>th</sup> October 2021)

Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Accounts Payable – follow up of actions from 2020-21 and areas not tested in 2020-21		3	In Progress					
Accounts Receivable – follow up of actions from 2020-21 and areas not tested in 2020-21		3	In progress					
Main Accounting		3	In Progress					
Treasury Management		3	Complete	Substantial	2	0	0	2
Council Tax – follow up of actions from 2020-21 and areas not tested in 2020-21		3	In Progress					
National Non-Domestic Rates – follow up of actions from 2020-21 and areas not tested in 2020-21		3	In Progress					
Housing and Council Tax Benefits – follow up of actions from 2020-21 and areas not tested in 2020-21		3	In Progress					
Capital Accounting		3	In Progress					
Disaster Recovery (ICT)		3	Draft Report					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5704 (August and September)	Grant Certification	3	In Progress					
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 3 (Yearly Report)	Grant Certification	3	Complete	Reasonable – Grant Certification	0	0	0	0
Children’s and Families								
Supporting Families – Monthly Review – Quarterly Report - Quarter 3 (previously referred to as Troubled Families)	Grant Certification	3	Complete	Reasonable – Grant Certification	0	0	0	0



## Internal Audit Work Plan Qrt 3 2021-22 (approved 27<sup>th</sup> October 2021)

Oral Health Needs Assessment Plan	Request from Cllr Gandy & Director for Adults & Communities	3	In Progress					
Additional audits for Q3								
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5661.	Grant Certification	3	Draft Report					
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5691.	Grant Certification	3	Draft Report					
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5729	Grant Certification	3	Draft Report					
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5772	Grant Certification	3	Draft Report					
Local Authority Community Testing Funding Grant Determination 2020/21: No 31/5828.	Grant Certification	3	Draft Report					

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Audit Area	Corporate Risk	Planned Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium		
						Recommendation		
						1	2	3
Corporate Centre (including ICT)								
Councillors Allowance Overspend	Identified as a risk in previous risk registers	4	Not started					
Significant Partnerships		4	Not started					
Employee Expenses		4	Not started					
Leavers Process	Identified as a risk in previous risk registers	4	Not started					
Software Asset Management	Identified through the Cyber Security Framework audit	4	Not started					
Condition Funding Grant Determination (2021): No 31/5501	Grant Certification	4	Not started					
Local Authority Test and Trace Support Payment Scheme Funding Grant Determination 2020/21: No:31/5789 (October, November, and December)	Grant Certification	4	Not started					
Local Authority Community Testing Funding Grant Determination 2020/21: October, November, December	Grant Certification	4	Not started					
Economy and Place								
Property Flood Resilience Support Scheme (Bellwin/ Resilience Management) Quarterly Review – Quarter 3 (Yearly Report)	Grant Certification	4	Not started					
Children and Families								
Schools Thematic Audit	To provide assurance of basic standards for good financial health	4	Not started					
Supporting Families – Monthly Review – Quarterly Report - Quarter 3 (previously referred to as Troubled Families)	Grant Certification	4	Not started					

## Proposed Q4 Plan

Adults and Wellbeing								
Infection Control and Testing	-	4	Not started.					

To help raise awareness of the fraud risks on a National geographic level and to provide the committee with a quarterly summary update on corporate fraud prevention work undertaken across the Council.

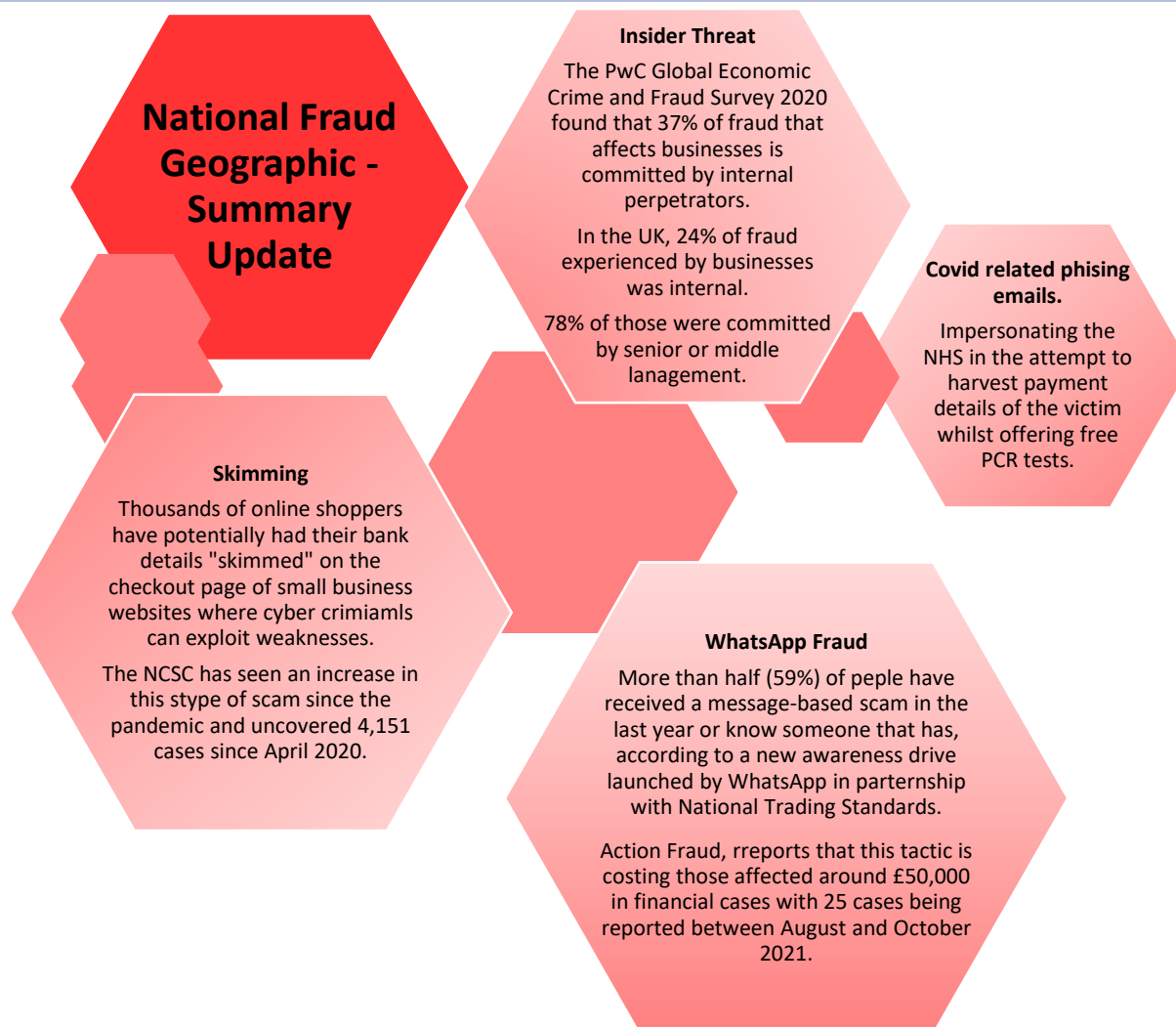
Update Internal Audit. The Counter Fraud Specialist will report via the annual fraud report at the end of this financial year.

*There is a role for the audit committee to challenge activity, understand what counter fraud activity can comprise and link with the various national reviews of public audit and accountability.*

- *Fighting Fraud Locally, 2020*



### Quarterly Fraud Update (November to December 2021)



To help raise awareness of the fraud risks on a National geographic level and to provide the committee with a quarterly summary update on corporate fraud prevention work undertaken across the Council.

**Update Internal Audit.** The Counter Fraud Specialist will report via the annual fraud report at the end of this financial year.

*There is a role for the audit committee to challenge activity, understand what counter fraud activity can comprise and link with the various national reviews of public audit and accountability.*

- *Fighting Fraud Locally, 2020*



#### Quarterly Fraud Update (November to December 2021)



#### SWAP Fraud Alerts



##### Attempts at change of bank details

A total of 6 fraud alerts have been issued to our partners in 2021 relating to this activity.

- The latest attempts were unsuccessful however details have been shared with our partners as we are aware suppliers are used across the partnership.
- Very often there are subtle differences and variations in the request that can be easily overlooked which is why the controls and verification have to be operating effectively through the organisation



- One request was made from an email address purporting to be from WSP UK Ltd. The email address was very similar to the WSP email account names.



- Two attempts against one of our partners from companies claiming to be subsidiaries of Balfour Beatty Living Places with subtle differences in emails used to make contact

#### Actions/ongoing work

- Direct Payments and Employee expenses – proactive fraud internal audits to be completed.
- Fraud Risk Assessment completed across Adult and Wellbeing, economy and Place and Corporate Services. Children and Families is due to commence in Q4.





## The Planning Rules and Code

### Background

Planning can be a complex area and therefore an overview of the planning process is set out on the website [\[link\]](#).

Herefordshire Council, like all local planning authorities is required to determine planning applications in accordance with local, regional and national policy having regard for all material considerations.

There are a number of different types of planning applications that can be made, for example applications for planning permission, applications for listed building consent, applications for advertisement consents and notification of proposed works to trees in a conservation area.

Applications for planning permission have to be determined within National Government set timescales which are currently:

- 8 weeks for minor development. These are applications for planning permission for developments such as structural extensions, small (less than 10 houses) housing developments, change of use, works outside the garden associated with a dwelling e.g. stables.
- 13 weeks for major development. These are applications for planning permission:
  - (a) more than 10 dwellings;
  - (b) where the number of dwellings is not stated the application site is more than 0.5 hectares or more
  - (c) the floor space to be built is 1000 sqm or more and the application is more the 1 hectare; and
- 16 weeks for applications accompanied by an Environmental Impact Assessment. These are defined in The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 including planning applications that are likely to have significant effects on sensitive areas, such as: sites of special scientific interest, National Parks, Broads, World Heritage sites, Scheduled Ancient Monuments, Areas of Outstanding Natural Beauty and sites protected under Habitats law.

The Planning Rules and Code compliment the Councillor Code of Conduct with which Councillors should be familiar.

The obligations and responsibilities set out in the Planning Rules and Code apply to all Councillors of the Planning and Regulatory 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 the Council's Planning Rules and 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.

The Planning Rules and Code covers the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The Planning Rules and 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

#### **4.8.1 Involvement in planning applications**

4.8.2 In making decisions on planning applications, Planning Officers and Councillors 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.

4.8.3 Councillors will be free to vote on planning applications as they consider appropriate (that is, without a Party 'whip'), having proper regard for all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act 1990, decisions **will be** based on the provisions of the Herefordshire Local Plan Core Strategy 2011 – 2031 and all material planning considerations.

4.8.4 Councillors **must not** give instructions to Officers nor place pressure on officers in order to secure a particular recommendation on a planning application.

4.8.5 Councillors **will not** use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

#### **4.8.6 Training**

4.8.7 Councillors who are a member of the Planning and Regulatory Committee will be required to undergo mandatory 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 of the Planning and Regulatory Committee who have not undertaken the training, may not participate in meetings of the Planning and Regulatory committee until such training has been completed

#### **4.8.8 Discussions with applicants**

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

4.8.10 It will be made clear at the start of pre-application meetings that:

- (a) Councillors' or Planning 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) Councillors should not give separate advice on the development plan, material considerations, or planning obligations



- 4.8.11 A written note must be made of the pre-application meeting and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted.
- 4.8.12 Councillors 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 be present at all such meetings.

#### **4.8.13 Lobbying**

- 4.8.14 Lobbying can take place by way of an approach to an individual or a group of Councillors, by telephone, or on a chance meeting, or by way of a request to see all or some of the members of the Planning and Regulatory 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 Councillors who are members of the Planning and Regulatory Committee compromising their position before they have received all the relevant information, evidence and arguments, they must:
- (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.
  - (b) direct lobbyists or objectors to the Planning Officer, and
  - (c) advise the Assistant Director Regulatory, Environment and Waste as soon as possible of the existence of any substantial or abnormal lobbying activity.

#### **4.8.15 Hospitality**

- 4.8.16 Councillors are strongly discouraged from receiving hospitality from people with an interest in any planning proposals. If receipt of hospitality is unavoidable, Councillors 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, Councillors must declare the offer as soon as possible in the register kept by the Monitoring Officer.
- 4.8.17 Planning 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 application/proposal.

#### **4.8.18 Initial submission of applications**

- 4.8.19 All Councillors will be informed by email on the submission of a new planning application in their ward.
- 4.8.20 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. Paragraph 4.8.21 and 4.8.22 below applies only to planning applications which are to be determined under delegated powers.
- 4.8.21
- (a) the Planning Officer allocated to the planning application will telephone and/ or email the Ward Councillor (and/or where necessary arrange a meeting) to update

the Ward Councillor on the processing of the application and any comments received.

- (b) as part of this initial conversation the Planning Officer will also identify to the Ward Councillor 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 Planning Officer will have a subsequent conversation/meeting with the Ward Councillor to ensure that local mitigation measures are appropriately incorporated. As part of this process Planning Officers and Councillors will be guided by the Planning Policy Guidance on Planning Obligations, the Council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the Planning Obligations Manager.

4.8.22 The Ward Councillor for the purpose of 4.8.22 is/are the Councillor/Councillors in whose ward the application is located, or whose wards are materially affected by the planning application.

#### **4.8.23 Determination of application at Committee**

4.8.24 Members of the Planning and Regulatory Committee have the power to determine applications for planning permission and applications for listed building consent which are not decided by an Officer which including those matters redirected to the Planning and Regulatory Committee for determination under the Redirection Arrangements set out in 4.8.70 – 4.8.84.

#### **4.8.25 Substitutes**

4.8.26 Substitute members of the Planning and Regulatory Committee are permitted but any substitute member will be required to undertake mandatory training in planning procedures and be appropriately trained to the same level as the member they are substituting for.

4.8.27 Substitute members have all the powers and duties of an ordinary member of the Planning and Regulatory Committee.

4.8.28 A substitute member must be identified by name as replacing a primary member of the Planning and Regulatory Committee before a committee meeting.

#### **4.8.30 Site Inspections**

4.8.31 Site Inspections by the Planning and Regulatory 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.

4.8.32 The criteria for holding site inspections are:

- (a) the character or appearance of the proposed 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.

4.8.33 The Chairperson of the Planning and Regulatory Committee and the Assistant Director Regulatory, Environment and Waste will determine which planning applications will be the subject of a prior site inspection. This does not prevent any member of the Planning and Regulatory Committee requesting a site inspection at the Planning and Regulatory Committee meeting when it has not already been visited by this procedure.

4.8.34 Site Inspections should not be held when inspection of the site is irrelevant to the material planning considerations. Any member of the Planning and Regulatory Committee may request a site inspection, but reasons based on the above criteria must be stated. Where a motion for a site visit is moved at a meeting of the Planning and Regulatory Committee it will be put to the vote immediately; if the motion is carried there will be no further discussion of the planning application which will be deferred to a later meeting date after a site visit has taken place.

4.8.35 The purpose of the site visit is fact finding and familiarisation of the site of a planning application. Planning Officers will be able to point out relevant features of the site and surroundings. Members of the Planning and Regulatory Committee will be able to see the physical features of the site and ask questions through the Chairperson or the Planning 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 Planning and Regulatory Committee meeting itself. At the discretion of the Chairperson of the Planning and Regulatory Committee the appropriate parish or town council may be invited to observe the inspection. Where a parish or town council is invited to a site visit it will be made clear that any access onto the application site will be subject to permission from the owner/applicant. Where permission is not granted the parish or town council should view the site from public vantage points only. On a site visit a parish or town council may not contribute to the opportunity to ask questions of Planning Officers on site.

4.8.36 No discussion of the merits of the planning application is permitted at site inspections and all questions from Councillors will be put through the Chairperson.

4.8.37 The site inspection party will stay together as a group. Wherever possible the party should arrive at and leave the site together.

4.8.38 As a member of the Planning and Regulatory Committee when on site visits Councillors should not make any comments that could create an impression that they have already formed a view on the merits of the planning application. No decision on the planning application should be made until the meeting of the Planning and Regulatory Committee at which the planning application is to be considered, when members of the Planning and Regulatory Committee 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 Regulatory, Environment and Waste services considers should be reported to the Planning and Regulatory Committee.

#### **4.8.39 Conduct of site visits**

- (a) visits will be conducted in a formal manner.

- (b) the Chairperson or Vice-Chairperson will open the visit and remind members of its purpose and conduct.
- (c) Planning 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 visit and the outcome reported to the subsequent Planning and Regulatory Committee.
- (d) Ward councillors will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
- (e) the Chairperson or Vice-Chairperson will close the visit.

#### **4.8.40 General matters**

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

4.8.41 If a member of the Planning and Regulatory Committee finds it necessary to visit a site alone (perhaps because it was not possible for them to attend a Planning and Regulatory Committee site visit), the Councillor 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 planning application will be taken until it has been discussed at the relevant Planning and Regulatory Committee.

#### **4.8.42 Material submitted to Planning and Regulatory Committee**

4.8.43 If a member of the Planning and Regulatory Committee receives material from or on behalf of an applicant or third party in connection with a planning application before a Planning and Regulatory Committee the Councillor should establish from the Planning Officers whether the material has been received by them. If it has not, Councillors should make it available as soon as possible to the Assistant Director Regulatory, Environment and Waste Services.

4.8.44 Documents in connection with an application should all be dealt with in the Planning Officer's written report to Planning and Regulatory committee. Any additional information received after the preparation of that report up to noon on the day before the Planning and Regulatory Committee meeting will also be brought to the attention of the Planning and Regulatory 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 Planning and Regulatory Committee update will be published to Herefordshire Council's website the evening before the Planning and Regulatory Committee meeting.

#### **4.8.45 Declaration of interests in planning applications and at Planning and Regulatory Committee**

4.8.46 Interests need to be considered and declared as necessary in accordance with the Code of Conduct.

4.8.47 If a member of the Planning and Regulatory Committee has a Schedule 1, Schedule 2 or an "other interest which relates to a financial interest then under the code of conduct, the Councillor cannot participate in the meeting, or vote on any item at the meeting and does have to leave the meeting. The Councillor may attend a Planning and Regulatory Committee meeting only as a member of the public, for the purposes only of making representations, provided that the public are also allowed to attend the meeting for the same

purpose. The Councillor must declare they are attending the meeting as a member of the public at the start of the meeting. If a Councillor has such an interest they should notify the Monitoring Officer before the Planning and Regulatory Committee meeting that they wish to speak.

- 4.8.48 If a member of the Planning and Regulatory Committee has such an interest the procedure in Planning and Regulatory Committee will be as follows. The Planning Officer will present the report. If the Councillor wants to make representations, they will take their place in the space allocated to public participation. The Councillor will not be acting in their capacity as a Councillor and may make representations for no longer than three minutes (the time allocated to public participants at Planning and Regulatory Committee). Thereafter, the Councillor may take no further part in the debate or decision-making of the Planning and Regulatory Committee, and must immediately leave the meeting. Such a Councillor may not stay in the meeting or listen to any other public participation in respect of the application.
- 4.8.49 Withdrawal from the Planning and Regulatory Committee meeting involves physically leaving the committee meeting room. The Chairperson of the Planning and Regulatory Committee should suspend the proceedings of the Planning and Regulatory Committee briefly while the Councillor leaves the committee meeting room.
- 4.8.50 Where a Councillor has a dispensation granted the Councillor may be granted the ability to speak and or vote by the by the Monitoring Officer and or Audit and Governance Committee. The Councillor will still need to declare the interest.
- 4.8.51 Planning officers must play no part in the processing of any planning 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 Regulatory, Environment and Waste Services. Any interest the Assistant Director Regulatory, Environment and Waste Services has in an application must be declared to the Monitoring Officer.

#### **4.8.52 Cabinet members**

- 4.8.53 There will be occasions when a cabinet member will wish to express comments on a particular planning application. This may include where the council is the applicant. Cabinet members are permitted to speak at the Planning and Regulatory Committee meeting for the item, but must then withdraw from the meeting while the planning application is discussed and determined. Retiring to the public gallery is not sufficient and physical withdrawal from the room is required.
- 4.8.54 Where a cabinet member has a ward representation role, they may, at the discretion of the Chairperson, also speak as a Ward Councillor.

#### **4.8.55 Planning and regulatory committee members who serve on parish and town councils**

- 4.8.56 Some Councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances Councillors 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 a member of the Planning and Regulatory Committee being involved in decision making at Planning and Regulatory Committee. Prior indication of a view on a planning

application does not amount to predetermination. Similarly members on the Planning and Regulatory 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 the Councillor has a closed mind. A member of the Planning and Regulatory Committee 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 so long as they have an open mind to the debate on the application.

#### **4.8.57 Ward Councillors**

4.8.58 At Planning and Regulatory Committee a Ward Councillor will have an automatic right to start and close the member debate on the planning application concerned, subject to the provisions on the declaration of interests as reflected in 4.8.45 (Declaration of interests). Ward Councillors will be allocated a maximum of 10 minutes to speak at the beginning of the debate on the planning application and a maximum of 5 minutes at the close of the debate on the planning application. In the case of the Ward Councillor not being a member of the Planning and Regulatory Committee they would be invited to address the Planning and Regulatory Committee for that item. In the case of the ward member being a member of the Planning and Regulatory Committee they will not vote on that item, and act as the Councillor as set out above. To this extent all Ward Councillors have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Planning and Regulatory Committee. In some circumstances it is advisable for a substitute to be used for the planning committee meeting so that the ward councillor role is distinct.

#### **4.8.59 Public speaking at Planning and Regulatory Committee**

4.8.60 At Planning and Regulatory Committee the public will be permitted to speak at meetings when the following criteria are met:

- (a) the planning application on which they wish to speak is for decision at the Planning and Regulatory 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 and Regulatory Committee all those who have submitted written 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 and Regulatory Committee
- (d) if consideration of the planning application is deferred at the meeting of the Planning and Regulatory Committee, only those who registered to speak at that meeting of the Planning and Regulatory Committee will be permitted to do so when the deferred planning application is considered at a subsequent or later meeting of the Planning and Regulatory Committee
- (e) at the meeting a maximum of three minutes (at the Chairperson's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes in total will be allowed for public speaking
- (f) speakers may not distribute any written or other material of any kind at the Public and Regulatory committee meeting
- (g) speakers' comments must be restricted to the planning application under consideration and must relate directly to planning issues
- (h) on completion of public speaking, members of the Planning and Regulatory Committee will proceed to determine the planning application

- (i) in relation to Major planning applications only, the Chairperson will in exceptional circumstances allow additional speakers and/or time for public speaking and may hold special meetings at local venues if appropriate.

#### **4.8.61 Voting at Planning and Regulatory Committee**

4.8.62 Members of the Planning and Regulatory Committee will only be able to vote on an application before a Planning and Regulatory Committee if the member has been present for the whole of the presentation of and discussion on the planning application.

#### **4.8.63 Decisions contrary to officer recommendations or to development plan policies**

4.8.64 From time to time, there will be occasions when a member of the Planning and Regulatory Committee or the Planning and Regulatory Committee disagrees with the professional advice on a planning application given by Planning Officers.

4.8.65 The law requires that decisions on planning applications should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compulsory Purchase Act 2004)

4.8.66 If the Planning and Regulatory Committee makes a decision contrary to the Planning Officer's recommendation (whether for approval or refusal) a detailed minute of the Planning and Regulatory Committee's reasons will be made and a copy placed on the application file. In this context members of the Planning and Regulatory Committee should be prepared to explain in full their reason for not agreeing with the Planning Officer's recommendation. In so doing, members of the Planning and Regulatory Committee 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.

4.8.67 The Planning and Regulatory Committee may occasionally defer consideration of an application at a meeting to allow for a site visit to take place or to request additional information before reaching a decision. Where a motion for a deferral of an application is moved it will be put to the vote immediately. Clear reasons for the deferral must be stated when the motion is proposed. If the motion for deferral is carried there will be no further discussion of the application. Consideration and determination of the application will take place at a later meeting date to be advised by the Assistant Director for Regulatory Environment and Waste.

#### **4.8.68 Post decision**

4.8.69 Ward Councillors will be advised where appropriate by the Planning Officer, the planning 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.

#### **4.8.70 Redirection of delegated planning decisions**

**4.8.71** The majority of decisions on 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). However Ward Councillors may choose to ask that a particular planning application is redirected for decision by the Planning and Regulatory Committee. A Ward Councillor for the purpose of this redirection procedure is the Ward Councillor in whose area the planning application lies and any councillor whose ward is materially affected by the planning application.

#### **4.8.72 Reasons for redirection**

**4.8.73** A request for redirection should be made in writing to the Planning Officer assigned to the planning application. The Ward Councillor will need to ensure that the request for redirection is made on legitimate planning grounds as the reasons for the redirection request will be placed on the planning application file and will be accessible to view on Herefordshire Council's website.

**4.8.74** A redirection will occur 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 and /or objections
- (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.

**4.8.75** All requests for redirection will be discussed by the Service Director of Economy and Regulatory Services (or their delegate) and the Chairperson of the Planning and Regulatory Committee. A decision whether to accept the redirection will be made by the Director of Economy and Regulatory Services (or their delegate). The decision will be confirmed in writing. In the Chairperson's absence, the Vice-Chairperson will be consulted.

**4.8.76** Whether or not the request for redirection is agreed the request will be published as a representation alongside the reason why the request was agreed or refused on the planning application on Herefordshire Council's website. The Planning Officer's written report will also give the name of the Ward Councillor making the request for redirection and the reasons for the redirection.

Ward Councillors must as part of the request for redirection state why the matters raised in the request for redirection warrant scrutiny by the Planning and Regulatory Committee.

**4.8.76** There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the planning application by the Planning Officer, statutory consultees or local residents. In the event that the reasons for redirection are resolved through the amendments made to the planning application the Ward Councillor will be at liberty to withdraw their request for redirection and a Planning and Regulatory Committee determination. Thereafter the decision will revert to a delegated decision.

#### **4.8.77 The Redirection timescales**



- 4.8.78 A request for redirection needs to be made as soon as possible after the date a valid planning application is submitted to avoid unnecessary delays in determining planning applications.

#### **4.8.79 Conditional Redirection**

- 4.8.80 In some cases, a Ward Councillor may be content that the application be re-directed only if planning officers are intending to grant or refuse planning permission. In that case a Ward 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.

#### **4.8.81 Other circumstances**

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

#### **4.8.83 Procedure**

- 4.8.84 A planning application which has been re-directed to the Planning and Regulatory Committee for determination will be considered in accordance with these rules and code.

The Ward Councillor who made the request for redirection will be notified of the date of the relevant Planning and Regulatory Committee meeting and will be invited to speak at that Planning and Regulatory Committee meeting in accordance with 4.8.57.

#### **4.8.85 Applications in which a member of the councillor or an officer has an interest**

- 4.8.86 All planning applications which are submitted by or on behalf of a Councillor 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 Regulatory, Environment and Waste Services by the Councillor in writing. If the Councillor 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 and Regulatory Committee and if the Councillor is a member of the Planning and Regulatory Committee the Councillor must take no part in the determination of the planning application. The Councillor must declare a schedule 1, schedule 2 or an other interest which relates to a financial interest interest and may only speak as the applicant or appoint an agent to speak on their behalf in accordance with paragraph 4.8.59 (Public Speaking at Planning and Regulatory Committee).
- 4.8.87 If the planning application is from a member of a Councillor's family or a close associate, or the Councillor otherwise has a conflict of interest, then the Chairperson of the Planning and Regulatory Committee will appoint another Councillor 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 the Councillor's ward this nominated Councillor will speak at Planning and Regulatory Committee.
- 4.8.87 All planning applications submitted from officers who are employed in the planning service or work closely with it or who are a senior manager as defined in the Council's pay policy statement, or by a close family member such that the officer has a material interest in the planning application, must be re-directed to the Planning and Regulatory Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to Planning Officers. If the officer concerned is present at the meeting of the Planning and

Regulatory Committee at which such an application is determined, the officer must leave the room during consideration of the planning application.

## **PART 2 THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

4.8.88 Councillors who are not members of the Planning and Regulatory Committee who are Ward Councillors affected by a planning application represent their own views or that of their constituents as a consultee and will be consulted on the planning application, will be invited to speak at the Planning and Regulatory Committee and attend any site inspections that take place in their ward.

4.8.89 Councillors who are not members of the Planning and Regulatory Committee should not lobby members of the Planning and Regulatory Committee in order to secure the outcome on a planning application that either they or their constituents seek. The Ward Councillor, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning and Regulatory Committee in accordance with the Council's procedure for public speaking at the Planning and Regulatory Committee as set out in 4.8.59.

4.8.90 All Councillors may attend meetings of the Council's Planning and Regulatory Committee even if they are not a member of the Planning and Regulatory Committee. Councillors attending a meeting of the Planning and Regulatory Committee should not sit in the public gallery, but in the place reserved in the committee room for Councillors who are not members of the Planning and Regulatory Committee.

## **PART 3 THE ROLE OF PLANNING OFFICERS**

4.8.91 In reporting to the Planning and Regulatory Committee, Planning 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 planning application in the context of the development plan documents and all other material considerations
- (d) include the substance of objections and the views of people who have been consulted
- (e) provide a clear and accurate written analysis of the issues
- (f) give a clear recommendation

4.8.92 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 of the Planning and Regulatory Committee. These principles apply equally to enforcement and development plan matters.

4.8.93 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in 4.8.44 above will be presented orally to the Planning and Regulatory Committee by Planning Officers.

- 4.8.94 The Assistant Director Regulatory, Environment and Waste Services in discussion with the Chairperson of the Planning and Regulatory Committee, may withdraw any item from the agenda of the Planning and Regulatory Committee after the preparation of the written report but before discussion by the Planning and Regulatory Committee if the circumstances of the consideration of a planning application change within that period.
- 4.8.95 Planning Officers are responsible for carrying out the decisions of the Planning and Regulatory Committee, whether or not those decisions are in line with Planning Officer recommendations.

#### **4.8.96 Discussions on Planning Applications**

- 4.8.97 All Planning 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 members of the Planning and Regulatory Committee in committee, or
  - (b) in specific circumstances by the Assistant Director Regulatory, Environment and Waste Services or by a Planning Officer to whom they have the power to delegate.
- 4.8.98 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 a planning application is made following initial discussions.
- 4.8.99 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.

#### **4.8.90 Action on Decisions Taken Contrary to Professional Advice**

- 4.8.91 In cases where a Planning Officer recommendation for approval has been overturned by the Planning and Regulatory Committee and an appeal or that decision is lodged:
- (a) Planning Officers will give full support to members of the Planning and Regulatory Committee and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and
  - (b) Planning 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, Planning Officers may give evidence themselves, but this will normally be only if the Planning Officer concerned has not been involved in formulating the original recommendation; and
  - (d) Planning Officers must give full support to members of the Planning and Regulatory Committee where a decision is appealed using the written representations procedures.

#### **4.8.92 Delegations to planning officers**

4.8.93 If the Assistant Director Regulatory, Environment and Waste Services is unavailable or unable to fulfil any of their functions in these rules and code, they may nominate a substitute to exercise those functions on their behalf as set out in the scheme of delegation.

## **The Planning Rules and Code**

### **Background**

Planning can be a complex area and therefore an overview of the planning process is set out [on the website \[link\]](#).

Herefordshire Council, like all local planning authorities is required to determine planning applications in accordance with local, regional and national policy having regard for all material considerations.

There are a number of different types of planning applications that can be made, for example applications for planning permission, applications for listed building consent, applications for advertisement consents and notification of proposed works to trees in a conservation area.

Applications for planning permission have to be determined within National Government set timescales which are currently:

- 8 weeks for minor development. These are applications for planning permission for developments such as structural extensions, small (less than 10 houses) housing developments, change of use, works outside the garden associated with a dwelling e.g. stables.
- 13 weeks for major development. These are applications for planning permission:
  - (a) more than 10 dwellings;
  - (b) where the number of dwellings is not stated the application site is more than 0.5 hectares or more
  - (c) the floor space to be built is 1000 sqm or more and the application is more than 1 hectare; and
- 16 weeks for applications accompanied by an Environmental Impact Assessment. These are defined in The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 including planning applications that are likely to have significant effects on sensitive areas, such as: sites of special scientific interest, National Parks, Broads, World Heritage sites, Scheduled Ancient Monuments, Areas of Outstanding Natural Beauty and sites protected under Habitats law.

The Planning Rules and Code complement the Councillor Code of Conduct with which Councillors should be familiar.

The obligations and responsibilities set out in the Planning Rules and Code apply to all Councillors of the Planning and Regulatory 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 the Council's Planning Rules and 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.

The Planning Rules and Code covers the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The Planning Rules and 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

#### **4.8.1 Councillor involvement in planning applications**

4.8.2 In making decisions on planning applications, Planning Officers and Councillors 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.

4.8.3 Councillors will be free to vote on planning applications as they consider appropriate (that is, without a Party 'whip'), having proper regard for all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act 1990, decisions **will be** based on the provisions of the Herefordshire Local Plan Core Strategy 2011 – 2031 and all material planning considerations.

4.8.4 Councillors **must not** give instructions to Officers nor place pressure on officers in order to secure a particular recommendation on a planning application.

4.8.5 Councillors **will not** use their position improperly to confer or secure for themselves, or for any other person, an advantage or disadvantage.

#### **4.8.6 Training**

4.8.7 Councillors who are a member of the Planning and Regulatory Committee will be required to undergo **mandatory** 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 of the Planning and Regulatory Committee who have not undertaken the training, may not participate in meetings of the Planning and Regulatory committee until such training has been completed.

#### **4.8.8 Discussions with applicants**

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

4.8.10 It will be made clear at the start of pre-application meetings that:

- (a) Councillors' or Planning 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) Councillors should not give separate advice on the development plan, material considerations, or planning obligations

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

4.8.12 Councillors 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 be present at all such meetings.

#### **4.8.13 Lobbying**

4.8.14 Lobbying can take place by way of an approach to an individual or a group of Councillors, by telephone, or on a chance meeting, or by way of a request to see all or some of the members of the Planning and Regulatory 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 Councillors who are members of the Planning and Regulatory Committee compromising their position before they have received all the relevant information, evidence and arguments, they must:

- (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.
- (b) direct lobbyists or objectors to the Planning Officer, and
- (c) advise the Assistant Director Regulatory, Environment and Waste as soon as possible of the existence of any substantial or abnormal lobbying activity.

#### **4.8.15 Hospitality**

4.8.16 Councillors are strongly discouraged from receiving hospitality from people with an interest in any planning proposals. If receipt of hospitality is unavoidable, Councillors 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, Councillors must declare the offer as soon as possible in the register kept by the Monitoring Officer.

4.8.17 Planning 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 application/proposal.

#### **4.8.2-18 Initial submission of applications**

4.8.~~193~~ All ~~members~~ Councillors will be informed by email on the submission of a new planning application in their ward.

4.8.~~204~~ 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 (Major and EIA Development planning applications) or are redirected as provided for under the redirection arrangements in these rules. Paragraph 4= 4.8.21 and 4.8.22 below applies only to planning applications which are to be determined under delegated powers.

4.8.~~21-5~~ In addition:

- (a) the Planning Officer allocated to the planning application ~~case officer~~ will telephone and/ or email ~~telephone~~ the Ward member Councillor (and/or where necessary arrange a meeting) to update the ward ~~Ward Councillor~~ ~~member~~ on the processing of the application and any comments received.
- (b) as part of this initial conversation the ~~case officer~~ Planning Officer will also identify to the ~~ward member~~ Ward Councillor 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~~ Planning Officer will have a subsequent conversation/meeting with the Ward Councillor ~~ward member~~ to ensure that local mitigation measures are appropriately incorporated. As part of this process Planning Officers and Councillors ~~officers and members~~ will be guided by the Planning Policy Guidance on Planning Obligations Circular 5/05, the ~~Council's~~ adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the ~~planning~~ Planning Obligations ~~manager~~ Manager.

4.8.226 The ~~ward~~ Ward member Councillor (s) for the purpose of ~~th4.8.22 is rule~~ is/are the ~~member or members~~ Councillor/Councillors in whose ward the application is located, or whose wards are materially affected by the planning application.

#### 4.8.237 **Determination of application at Committee**

4.8.248 ~~Councillors at~~ Members of the Planning and Regulatory Committee have the power to determine applications for planning permission and applications for listed building consent which are not decided by an ~~Officer and related powers will determine those matters which under the functions scheme are to be determined by the Committee including~~ which including ~~es~~ those matters redirected to the Planning and Regulatory Committee for determination under the Redirection ~~arrangements~~ Arrangements set out in 4.8.70 – 4.8.84 in these rules.

#### 4.8.25 **Substitutes**

4.8.26 Substitute members of the Planning and Regulatory Committee are permitted but any substitute member will be required to undertake ~~need to have~~ mandatory training in planning procedures and be ~~been~~ appropriately trained to the same level as the member they are substituting for.

4.8.27 Substitute members have all the powers and duties of an ordinary member of the Planning and Regulatory Committee.

4.8.28 A substitute member must be identified by name as replacing a primary member of the Planning and Regulatory Committee before a committee meeting.

#### 4.8.30 **Site Inspections**

4.8.31 Site Inspections by the Planning and Regulatory 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.

4.8.32 The criteria for holding site inspections are:

- (a) the character or appearance of the proposed 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.

4.8.33 The Chairperson of the Planning and Regulatory Committee and the Assistant Director Regulatory, Environment and Waste will determine which planning applications will be the subject of a prior site inspection. This does not prevent any member of the Planning and Regulatory Committee requesting a site inspection at the Planning and Regulatory Committee meeting when it has not already been visited by this procedure.

4.8.34 Site Inspections should not be held when inspection of the site is irrelevant to the material planning considerations. Any member of the Planning and Regulatory Committee may request a site inspection, but reasons based on the above criteria must be stated. Where a motion for a site visit is moved at a meeting of the Planning and Regulatory Committee it will be put to the vote immediately; if the motion is carried there will be no further discussion of the planning application which will be deferred to a later meeting date after a site visit has taken place.

4.8.35 The purpose of the site visit is fact finding and familiarisation of the site of a planning application-. Planning Officers will be able to point out relevant features of the site and surroundings. Members of the Planning and Regulatory Committee will be able to see the physical features of the site and ask questions through the Chairperson or the Planning 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 Planning and Regulatory Committee meeting itself. At the discretion of the Chairperson of the Planning and Regulatory Committee the appropriate parish or town council may be invited to observe the inspection. Where a parish or town council is invited to a site visit it will be made clear that any access onto the application site will be subject to permission from the owner/applicant. Where permission is not granted the parish or town council should view the site from public vantage points only On a site visit a parish or town council may not contribute to the opportunity to ask questions of Planning Officers on site.

4.8.36 No discussion of the merits of the planning application is permitted at site inspections and all questions from Councillors will be put through the Chairperson.

4.8.37 The site inspection party will stay together as a group. Wherever possible the party should arrive at and leave the site together.

4.8.38 As a member of the Planning and Regulatory Committee when on site visits Councillors should not make any comments that could create an impression that they have already formed a view on the merits of the planning application. No decision on the planning application should be made until the meeting of the Planning and Regulatory Committee at which the planning application is to be considered, when members of the Planning and Regulatory Committee 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 Regulatory, Environment and Waste services considers should be reported to the Planning and Regulatory Committee.

#### **4.8.39 Conduct of site visits**

- (a) visits will be conducted in a formal manner.
- (b) the Chairperson or Vice-Chairperson will open the visit and remind members of its purpose and conduct.
- (c) Planning 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 visit and the outcome reported to the subsequent Planning and Regulatory Committee.
- (d) Ward councillors will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
- (e) the Chairperson or Vice-Chairperson will close the visit.

#### **4.8.40 General matters**

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

4.8.41 If a member of the Planning and Regulatory Committee finds it necessary to visit a site alone (perhaps because it was not possible for them to attend a Planning and Regulatory Committee site visit), the Councillor 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 planning application will be taken until it has been discussed at the relevant Planning and Regulatory Committee.

#### **4.8.42 Material submitted to Planning and Regulatory Committee**

4.8.43 If a member of the Planning and Regulatory Committee receives material from or on behalf of an applicant or third party in connection with a planning application before a Planning and Regulatory Committee the Councillor should establish from the Planning Officers whether the material has been received by them. If it has not, Councillors should make it available as soon as possible to the Assistant Director Regulatory, Environment and Waste Services.

4.8.44 Documents in connection with an application should all be dealt with in the Planning Officer's written report to Planning and Regulatory committee. Any additional information received after the preparation of that report up to noon on the day before the Planning and Regulatory Committee meeting will also be brought to the attention of the Planning and Regulatory 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 Planning and Regulatory Committee update will be published to Herefordshire Council's website the evening before the Planning and Regulatory Committee meeting.

#### **4.8.45 Declaration of interests in planning applications and at Planning and Regulatory Committee**

4.8.46 Interests need to be considered and declared as necessary in accordance with the Code of Conduct.

4.8.47 If a member of the Planning and Regulatory Committee has a ~~S~~schedule 1, ~~S~~schedule 2 or an "other interest which relates to a financial interest then under the code of conduct, the Councillor cannot participate in the meeting, or vote on any item at the meeting and does have to leave the meeting. The Councillor may attend a Planning and Regulatory Committee meeting only as a member of the public, for the purposes only of making representations, provided that the public are also allowed to attend the meeting for the same purpose. The Councillor must declare they are attending the meeting as a member of the public at the start of the meeting. If a Councillor has such an interest they should notify the Monitoring Officer before the Planning and Regulatory Committee meeting that they wish to speak.

4.8.48 If a member of the Planning and Regulatory Committee has such an interest the procedure in Planning and Regulatory Committee will be as follows. The Planning Officer will present the report. If the Councillor wants to make representations, they will take their place in the space allocated to public participation. The Councillor will not be acting in their capacity as a ~~C~~councillor and may make representations for no longer than three minutes (the time allocated to public participants at Planning and Regulatory Committee). Thereafter, the Councillor may take no further part in the debate or decision-making of the Planning and Regulatory Committee, and must immediately leave the meeting. Such a Councillor may not stay in the meeting or listen to any other public participation in respect of the application.

4.8.49 Withdrawal from the Planning and Regulatory Committee meeting involves physically leaving the committee meeting room. ~~Moving to the public gallery is not sufficient.~~ The Chairperson of the Planning and Regulatory Committee should suspend the proceedings of the Planning and Regulatory Committee briefly while the Councillor leaves the committee meeting room.

4.8.50 Where a Councillor has a dispensation granted the ~~ee~~Councillor may be granted the ability to speak and or vote by the ~~by any appropriate person or body allowing the~~ ~~M~~Monitoring ~~O~~fficer and or ~~A~~udit and ~~G~~overnance ~~C~~committee. ~~them you to speak and/or vote on a matter in respect of which a schedule 1, schedule 2 or "an other interest" which relates to a financial interest has been declared, that dispensation applies also in relation to these rules and code, but t~~The Councillor will still need to declare the interest.

4.8.51 Planning officers must play no part in the processing of any planning 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 Regulatory, Environment and Waste Services. Any interest the Assistant Director Regulatory, Environment and Waste Services has in an application must be declared to the Monitoring Officer.

#### **4.8.52 Cabinet members**

4.8.53 There will be occasions when a cabinet member will wish to express comments on a particular planning application. This may include where the council is the applicant. Cabinet members are permitted to speak at the Planning and Regulatory Committee meeting for the item, but must then withdraw from the meeting while the planning application is discussed and determined. ~~Retiring to the public gallery is not sufficient and physical withdrawal from the room is required.~~

4.8.54 Where a cabinet member has a ward representation role, they may, at the discretion of the Chairperson, also speak as a Ward Councillor.

#### **4.8.55 Planning and regulatory committee members who serve on parish and town councils**

4.8.56 Some Councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances Councillors 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 a member of the Planning and Regulatory Committee being involved in decision making at Planning and Regulatory Committee. Prior indication of a view on a planning application does not amount to predetermination. Similarly members on the Planning and Regulatory 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 the Councillor has a closed mind. A member of the Planning and Regulatory Committee 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 so long as they have an open mind to the debate on the application.

#### **4.8.57 Ward Councillors**

4.8.589 At Planning and Regulatory Committee ~~at the ward~~ Ward member Councillor will have an automatic right to start and close the member debate on the planning application concerned, subject to the provisions on the declaration of interests as reflected in 4.8.45 the Planning Code of Conduct (Part 5 section 6)(Declaration of interests). Ward Councillors will be allocated a maximum of 10 minutes to speak at the beginning of the debate on the planning application and a maximum of 5 minutes at the close of the debate on the planning application. In the case of the Ward Councillor ~~ward member~~ not being a member of the Planning and Regulatory Committee they would be invited to address the Planning and Regulatory Committee for that item. {In the case of the ward member being a member of the ~~appropriate~~ Planning and Regulatory Committee they will not vote on that item, and act as the ~~ward member~~ Councillor as set out above.} To this extent all Ward Councillors ~~members~~ have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Planning and Regulatory Committee concerned. ~~The ward member would initially address the Committee immediately after the public speaking.~~ In some circumstances it is advisable for a substitute to be used for the planning committee meeting so that the ward councillor role is distinct.

#### **4.8.59 Public speaking at Planning and Regulatory Committee**

4.8.60 At Planning and Regulatory Committee the public will be permitted to speak at meetings when the following criteria are met:

- (a) the planning application on which they wish to speak is for decision at the Planning and Regulatory 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 and Regulatory Committee all those who have submitted written 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 and Regulatory Committee
- (d) if consideration of the planning application is deferred at the meeting of the Planning and Regulatory Committee, only those who registered to speak at that meeting of the Planning and Regulatory Committee will be permitted to do so when the deferred

- planning application is considered at a subsequent or later meeting of the Planning and Regulatory Committee
- (e) at the meeting a maximum of three minutes (at the Chairperson's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes in total will be allowed for public speaking
  - (f) speakers may not distribute any written or other material of any kind at the Public and Regulatory committee meeting
  - (g) speakers' comments must be restricted to the planning application under consideration and must relate directly to planning issues
  - (h) on completion of public speaking, members of the Planning and Regulatory Committee will proceed to determine the planning application
  - (i) in relation to Major planning applications, only, the Chairperson will in exceptional circumstances allow additional speakers and/or time for public speaking and may hold special meetings at local venues if appropriate.

#### **4.8.61 Voting at Planning and Regulatory Committee**

4.8.62 Members of the Planning and Regulatory Committee will only be able to vote on an application before a Planning and Regulatory Committee if the member has been present for the whole of the presentation of and discussion on the planning application.

#### **4.8.63 Decisions contrary to officer recommendations or to development plan policies**

4.8.64 From time to time, there will be occasions when a member of the Planning and Regulatory Committee or the Planning and Regulatory Committee disagrees with the professional advice on a planning application given by Planning Officers.

4.8.65 The law requires that decisions on planning applications should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compulsory Purchase Act 2004)

4.8.66 If the Planning and Regulatory Committee makes a decision contrary to the Planning Officer's recommendation (whether for approval or refusal) a detailed minute of the Planning and Regulatory Committee's reasons will be made and a copy placed on the application file. In this context members of the Planning and Regulatory Committee should be prepared to explain in full their reason for not agreeing with the Planning Officer's recommendation. In so doing, members of the Planning and Regulatory Committee 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.

4.8.67 The Planning and Regulatory Committee may occasionally defer consideration of an application at a meeting to allow for a site visit to take place or to request additional information before reaching a decision. Where a motion for a deferral of an application is moved it will be put to the vote immediately. Clear reasons for the deferral must be stated when the motion is proposed. If the motion for deferral is carried there will be no further discussion of the application. Consideration and determination of the application will take place at a later meeting date to be advised by the Assistant Director for Regulatory Environment and Waste.

#### **4.8.10-68      **Post decision****

4.8.11-69 Ward ~~members~~ Councillors will ~~only~~ be advised where appropriate by the Planning Officer ~~case officer~~, the planning 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.

#### **4.8.70-12 Redirection of delegated planning decisions**

4.8.71 The majority of decisions on 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). However Ward Councillors may choose to ask that a particular planning application is redirected for decision by the Planning and Regulatory Committee. A Ward Councillor for the purpose of this redirection procedure is the Ward Councillor in whose area the planning application lies and any councillor whose ward is materially affected by the planning application.

#### **4.8.72 Reasons for redirection**

4.8.73 A request for redirection should be made in writing to ~~the Planning~~ the Planning Officer assigned to the planning application. The Ward Councillor will need to ensure that the request for redirection is made on legitimate planning grounds as the reasons for the redirection request will be placed on the planning application file and will be accessible to view on Herefordshire Council's website.

4.8.74 A redirection will occur 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 and /or objections
- (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.

4.8.75-4 All requests for redirection will be discussed by the Service Director of Economy and Regulatory Services Assistant Director Regulatory, Environment and Waste Services (or their delegate) ~~and~~ with the Chairperson of the Planning and Regulatory Committee. A decision whether to accept the redirection will be made by the Director of Economy and Regulatory Services Assistant Director Regulatory, Environment and Waste Services (or their delegate) ~~on the basis of guidance set out in these rules and code, the circumstances and material planning consideration of the specific planning application.~~ The decision will be confirmed in writing. In the Chairperson's absence, the Vice-Chairperson will be consulted.

4.8.76-5 Whether or not the request for redirection is agreed the request will be published as a representation alongside the reason why the request was agreed or refused on the planning application on Herefordshire Council's website. The Planning Officer's written



report will also give the name of the Ward Councillor making the request for redirection and the reasons for the redirection.

Legitimate reasons for requesting a redirection should be based on material planning considerations. These include all the fundamental factors involved in land-use planning, such as:

- The number, size, layout, siting, density, design and external appearance of buildings
- The proposed means of access
- Landscaping
- Impact on the neighbourhood, and
- The availability of infrastructure

Other examples of factors that could be taken into account in relation to a request for redirection may include, but are not limited to:

- Overlooking and loss of privacy
- Inadequate parking and servicing
- Overbearing nature of proposal
- Loss of ecological habitats and trees
- Access and highways safety
- Traffic generation
- Noise, smells and disturbance from the proposed scheme
- Flood risk

Examples of factors that cannot normally be considered as material planning considerations in relation to a request for redirection are:

- Loss of value or impact to an individual property
- Boundary disputes including encroachment of foundations or gutters
- The applicant's motives
- Private rights of way or rights to lights
- Loss of trade to individual competitors
- Age, health, status, background and work patterns of the objector\*
- Noise and other forms of disturbance arising during and solely as a result of any building operations involved in the development
- Matters covered by other legislation and over which planning has no control

Most if not every planning application will raise material planning issues, however, Ward Councillors must as part of the request for redirection state why the matters raised in the request for redirection warrant scrutiny by the Planning and Regulatory Committee.

4.8.76 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the planning application by the Planning Officer, statutory consultees or local residents. In the event that the reasons for redirection are resolved through the amendments made to the planning application the Ward Councillor will be at liberty to withdraw their request for redirection and a Planning and Regulatory Committee determination. Thereafter the decision will revert to a delegated decision.

#### **4.8.13-77      The Redirection arrangementstimescales**

~~4.8.14 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).~~

~~4.8.15 Ward councillors may choose to ask that sensitive or controversial applications be redirected for a decision by the Planning and Regulatory Committee. A ward councillor for the purpose of this redirection procedure is the ward councillor and any councillor whose ward is materially affected by the application.~~

~~4.8.16-78~~ A request for Redirection needs to be made as soon as possible after the date a valid planning application is submitted to avoid unnecessary delays in determining planning applications.

~~4.8.17 Redirections should normally be made within three weeks of the application being notified to the relevant ward members, subject to 4.8.24 below.~~

~~4.8.18 A redirection will occur 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.~~

#### **4.8.19-79 Conditional ~~redirection~~Redirection**

4.8.80-20 In some cases, a Ward Councillors may be content that the application be re-directed only if planning officers are intending to grant or refuse planning permission. In that case a Ward 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.

#### **4.8.21-81 Other circumstances**

4.8.82-22 Any other reasons for requesting a redirection other than those set out above will be considered on their individual merits and circumstances.

#### **4.8.23 Referrals requested after the three week period**

~~4.8.24 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 regulatory, environment and waste services will make a judgement based on the issues raised, and the stage reached in the processing of the application.~~

#### **4.8.25 Exceptions to redirection**

~~4.8.26 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.~~

#### **4.8.27-83 Procedure**

4.8.84 A planning application which has been re-directed to the Planning and Regulatory Committee for determination will be considered in accordance with these rules and code.

The Ward Councillor who made the request for redirection will be notified of the date of the relevant Planning and Regulatory Committee meeting and will be invited to speak at that Planning and Regulatory Committee meeting in accordance with 4.8.57.4-8.28—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.

~~4.8.29 Any such request should be made in writing to the case officer and the development control manager.~~

~~4.8.30 All requests for redirections will be discussed by the assistant director regulatory, environment and waste services (or their delegate) with the chairperson of planning and regulatory committee together with the member who has requested the redirection. A decision whether to accept the redirection will be made by the assistant director regulatory, environment and waste services (or their delegate) on the basis of guidance set out in these rules and the circumstances and material planning consideration of the case. The decision will be confirmed in writing. In the chairperson's absence, the vice chairperson will be consulted.~~

~~4.8.31 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 chairperson 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.~~

#### **4.8.32 Delegations to officers**

~~4.8.33 If the assistant director regulatory, environment and waste services 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.~~

#### **4.8.34 Public speaking at planning and regulatory committee**

~~4.8.35 In the case of the planning and regulatory 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 and regulatory 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 and regulatory 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 and regulatory 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 chairperson'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 chairperson 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.~~

#### **4.8.85 Applications in which a member of the councillor or an officer has an interest**

4.8.86 All planning applications which are submitted by or on behalf of a Councillor 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 Regulatory, Environment and Waste Services by the Councillor in writing. If the Councillor 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 and Regulatory Committee and if the Councillor is a member of the Planning and Regulatory Committee the Councillor must take no part in the determination of the planning application. The Councillor must declare a schedule 1, schedule 2 or an other interest which relates to a financial interest interest and may only speak as the applicant or appoint an agent to speak on their behalf in accordance with paragraph 4.8.59 (Public Speaking at Planning and Regulatory Committee).

4.8.87 If the planning application is from a member of a Councillor's family or a close associate, or the Councillor otherwise has a conflict of interest, then the Chairperson of the Planning and Regulatory Committee will appoint another Councillor 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 the Councillor's ward this nominated Councillor will speak at Planning and Regulatory Committee.

4.8.87 All planning applications submitted from officers who are employed in the planning service or work closely with it or who are a senior manager as defined in the Council's pay policy statement, or by a close family member such that the officer has a material interest in the planning application, must be re-directed to the Planning and Regulatory Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to Planning Officers. If the officer concerned is present at the meeting of the Planning and Regulatory Committee at which such an application is determined, the officer must leave the room during consideration of the planning application.

## **PART 2 THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

4.8.88 Councillors who are not members of the Planning and Regulatory Committee who are Ward Councillors affected by a planning application represent their own views or that of their constituents as a consultee and will be consulted on the planning application, will be invited to speak at the Planning and Regulatory Committee and attend any site inspections that take place in their ward.

4.8.89 Councillors who are not members of the Planning and Regulatory Committee should not lobby members of the Planning and Regulatory Committee in order to secure the outcome on a planning application that either they or their constituents seek. The Ward Councillor, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning and Regulatory Committee in accordance with the Council's procedure for public speaking at the Planning and Regulatory Committee as set out in 4.8.59.

4.8.90 All Councillors may attend meetings of the Council's Planning and Regulatory Committee even if they are not a member of the Planning and Regulatory Committee. Councillors attending a meeting of the Planning and Regulatory Committee should not sit in the public gallery, but in the place reserved in the committee room for Councillors who are not members of the Planning and Regulatory Committee.

### **PART 3 THE ROLE OF PLANNING OFFICERS**

4.8.91 In reporting to the Planning and Regulatory Committee, Planning 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 planning application in the context of the development plan documents and all other material considerations
- (d) include the substance of objections and the views of people who have been consulted
- (e) provide a clear and accurate written analysis of the issues
- (f) give a clear recommendation

4.8.92 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 of the Planning and Regulatory Committee. These principles apply equally to enforcement and development plan matters.

4.8.93 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in 4.8.44 above will be presented orally to the Planning and Regulatory Committee by Planning Officers.

4.8.94 The Assistant Director Regulatory, Environment and Waste Services in discussion with the Chairperson of the Planning and Regulatory Committee, may withdraw any item from the agenda of the Planning and Regulatory Committee after the preparation of the written report but before discussion by the Planning and Regulatory Committee if the circumstances of the consideration of a planning application change within that period.

4.8.95 Planning Officers are responsible for carrying out the decisions of the Planning and Regulatory Committee, whether or not those decisions are in line with Planning Officer recommendations.

### **4.8.96 Discussions on Planning Applications**

4.8.97 All Planning 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 members of the Planning and Regulatory Committee in committee, or

(b) in specific circumstances by the Assistant Director Regulatory, Environment and Waste Services or by a Planning Officer to whom they have the power to delegate.

4.8.98 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 a planning application is made following initial discussions.

4.8.99 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.

#### **4.8.90 Action on Decisions Taken Contrary to Professional Advice**

4.8.91 In cases where a Planning Officer recommendation for approval has been overturned by the Planning and Regulatory Committee and an appeal or that decision is lodged:

(a) Planning Officers will give full support to members of the Planning and Regulatory Committee and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and

(b) Planning 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, Planning Officers may give evidence themselves, but this will normally be only if the Planning Officer concerned has not been involved in formulating the original recommendation; and

(d) Planning Officers must give full support to members of the Planning and Regulatory Committee where a decision is appealed using the written representations procedures.

#### **4.8.92 Delegations to planning officers**

4.8.93 If the Assistant Director Regulatory, Environment and Waste Services is unavailable or unable to fulfil any of their functions in these rules and code, they may nominate a substitute to exercise those functions on their behalf as set out in the scheme of delegation.