

CORPORATE AND CUSTOMER SERVICES

Director: Mrs. J.E. Jones

TO: ALL MEMBERS OF THE COUNCIL

Your Ref:

Our Ref: AMcL/SACH

Please ask for: Mrs S Cole

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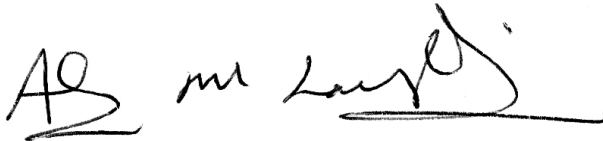
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Dear Councillor,

YOU ARE HEREBY SUMMONED to attend the meeting of the County of Herefordshire District Council to be held on **Friday, 2nd November, 2007** at The Council Chamber, Brockington, 35 Hafod Road, Hereford. at 10.30 a.m. at which the business set out in the attached agenda is proposed to be transacted.

Yours sincerely



A. McLAUGHLIN
HEAD OF LEGAL AND DEMOCRATIC SERVICES



A G E N D A

COUNCIL

Date: **Friday, 2nd November, 2007**

Time: **10.30 a.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford.**

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

For any further information please contact:

Sally Cole, Committee Manager (Executive)

**Tel: 01432 260249, e-mail:
scole@herefordshire.gov.uk**

**County of Herefordshire
District Council**

AGENDA

for the Meeting of the COUNCIL

To: All Members of the Council

	Pages
1. PRAYERS	
2. APOLOGIES FOR ABSENCE To receive apologies for absence.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on this Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 27th July, 2007.	1 - 24
5. CHAIRMAN'S ANNOUNCEMENTS To receive the Chairman's announcements and petitions from members of the public.	
6. QUESTIONS FROM MEMBERS OF THE PUBLIC To receive questions from members of the public.	25 - 28
7. QUESTIONS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS To receive any written questions.	
8. NOTICES OF MOTION UNDER STANDING ORDERS Councillor A.M. Toon has submitted the following notice of motion as a matter of urgency: <i>"That the process applied and decision making in the recruitment of the new Chief Executive is flawed and that the matter be put into the hands of the Strategic Monitoring Committee for this administration to demonstrate clearly and transparently that this Council ensured the best means of securing the most applications for this position, that the process was fair and equitable to all candidates, that adequate and consistent information was made available to those Councillors making decisions and the reasons why inadequate notice was provided for Councillors to meet with candidates."</i> The Chairman will rule whether the motion is urgent.	
9. CABINET	29 - 40

To receive the report and to consider any recommendations to Council arising from the meetings held on 16th August, 6th and 20th September and 11th October, 2007.

10. PLANNING COMMITTEE

41 - 44

To receive the report and to consider any recommendations to Council arising from the meetings held on 24th August and 28th September, 2007.

11. STANDARDS COMMITTEE

To receive the report and to consider any recommendations to Council arising from the meeting held on 19th October, 2007. *(Report to follow)*.

Standards Committee

Report of the Standards Committee held on 19th October, 2007.

12. STRATEGIC MONITORING COMMITTEE

45 - 50

To receive the report and to consider any recommendations to Council arising from the meetings held on 17th September and 25th October, 2007.

13. REGULATORY COMMITTEE

51 - 52

To receive the report and to consider any recommendations to Council arising from the meetings held on 31st July, 28th August and 23rd October, 2007.

14. AUDIT AND CORPORATE GOVERNANCE COMMITTEE

53 - 54

To receive the report and to consider any recommendations to Council arising from the meetings held on 21st September and 19th October, 2007.

15. APPOINTMENT OF CHIEF EXECUTIVE

55 - 58

To consider the appointment of the Chief Executive.

16. REVIEW OF THE CONSTITUTION IN RESPECT OF THE SCHEME OF DELEGATION FINANCIAL AND CONTRACTUAL PROCEEDINGS AS A RESULT OF DIRECTOR OF RESOURCES SPECIAL INVESTIGATION REPORT

59 - 142

To progress elements of the action plan in response to the Special Investigation Report on Financial Governance dated 21st September, 2007 which required amendments to the Constitution.

17. APPENDIX 19 OF THE COUNCIL'S CONSTITUTION - MEMBERSHIP OF COMMITTEES AND OTHER BODIES

143 - 146

To approve the amendment to Appendix 19 of the Constitution.

18. REVISION OF THE CODES AND PROTOCOLS FOR MEMBERS AND OFFICERS

147 - 164

To approve the Standards Committee's revisions of the Protocols on Member/Officer Relations and Use of Resources and the Planning Code for Members and Officers.

19. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

165 - 166

To receive the report of the meetings of the Hereford & Worcester Fire and Rescue Authority held on

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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MINUTES of the meeting of COUNCIL held at : The Council Chamber, Brockington, 35 Hafod Road, Hereford. on Friday, 27th July, 2007 at 10.30 a.m.

Present: Councillor J Stone (Chairman)
Councillor JB Williams (Vice Chairman)

Councillors: PA Andrews, LO Barnett, DJ Benjamin, AJM Blackshaw, WLS Bowen, H Bramer, RBA Burke, ACR Chappell, ME Cooper, PGH Cutter, H Davies, GFM Dawe, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, P Jones CBE, MD Lloyd-Hayes, G Lucas, RI Matthews, R Mills, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, GA Powell, PD Price, SJ Robertson, A Seldon, RH Smith, RV Stockton, JK Swinburne, DC Taylor, AM Toon, NL Vaughan, WJ Walling, PJ Watts, DB Wilcox and JD Woodward

16. PRAYERS

The Very Reverend Peter Haynes led the Council in prayer.

17. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Attfield, Bartrum, Daniels, RC Hunt, McLean, and AP Taylor.

18. DECLARATIONS OF INTEREST

Councillor AE Gray declared an interest in Item 6.1 (ii) of the Cabinet report, Commission for Social Care Inspection Report on Services for People with Learning Disabilities and the Council's Action Plan.

Councillors DB Wilcox and RJ Phillips declared an interest in Item 1.1 of the Cabinet report, Youth Justice Plan.

19. MINUTES

The Chairman drew Council's attention to Appendices 1 and 2 of the Council Minutes, which had been omitted from the agenda.

RESOLVED: That the minutes of the meeting held on 25th May, 2007 be approved as a correct record and signed by the Chairman.

20. CHAIRMAN'S ANNOUNCEMENTS

The Chairman acknowledged the amount of interest that had been generated by the archaeological find of the Rotherwas Ribbon during the construction of the Rotherwas Relief Road. He noted the number of members of the public in attendance for the item, the interest in the number of questions put by Members and the public and the Notice of Motion submitted by Councillor MD Lloyd-Hayes relating to the item.

He reminded Council that public questions were limited to 25 minutes and stated that

the Cabinet Member (Environment and Strategic Housing) would read a statement relating to public questions on the archaeological find and then answer Members' questions individually. He announced that he would not be permitting supplementary questions under paragraph 4.25.2 of the Council's Constitution, as Members would be able to debate the Notice of Motion under the main agenda item, Minute number 23.

The Chairman referred to flooding that had been experienced in the County following the heavy rainfall on Friday, 20th July, through to the 24th July and stated that a number of people had been adversely affected by the flooding. He extended the thanks of the Council to all staff who assisted over that weekend, with special thanks to St Johns Ambulance, the voluntary sector and Halo.

The Chairman announced the retirement of Mrs. Jean Wood who had been secretarial assistant to both the Chairman and Leader of the Council since 1998.

Finally, the Chairman announced that the Council meeting scheduled for the 9th November, 2007 would be changing to the 2nd November, due to a clash with the annual meeting of Advantage West Midlands and the Regional Development Agency.

There were no petitions.

21. QUESTIONS FROM MEMBERS OF THE PUBLIC

Under the Constitution a member of the public can ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties, or which affects the County, as long as a copy of the question is deposited with the Head of Legal and Democratic Services more than six clear working days before the meeting. A number of questions had been received and were included in the agenda. The questions, together with a summary of the responses, are set out below:

Questions from M Wilson, Lugwardine, Hereford

"Why does the local Standards Committee not follow the Standards Board for England's procedures when carrying out a local investigation? Viz issuing the investigating officers report in draft so that misunderstandings, misinterpretations, error of fact and bias can be corrected before the report is presented to the Committee?"

Having had errors reported to them, why does the Committee use a report containing all the above errors as the basis for the findings?"

What appeal procedures are available to challenge the procedures of the Monitoring Officer and the local Standards Committee in carrying out local investigations into alleged breaches of the Code of Conduct, when the Director and Chief Executive decline to use the Council's complaints procedure and the Standards Board for England have washed their hands of the matter in passing it to the Monitoring Officer?"

Answer from Mr Robert Rogers Independent Chairman of the Standards Committee

With permission, Chairman, I will answer these three questions together as they are closely related. I say questions, but they are more in the nature of allegations,

regrettably intemperately phrased.

The questioner made seven complaints against Members of Herefordshire Council; all seven were referred by the Standards Board for England for local investigation, and then were subject to local determination by the Committee which I chair.

The fact that these matters have been considered by the Committee means that it would be wholly improper for me to revisit the evidence and the decisions in public. But I can comment upon the procedures followed.

The questioner alleges that the Committee did not follow the procedures recommended by the Standards Board for England. This is unfounded. We have now determined 13 cases locally, and in every one the SBE's procedures for local investigation and local determination, as appropriate, have been followed exactly.

The Monitoring Officer, not the Committee, appoints the investigating officer (who must not be an adviser to the Committee). Under the SBE's procedures, it is for the investigating officer to decide whether or not to issue a draft report before a final report goes to the Committee. But when the Committee considers the final report, it must analyse the evidence and take a view on all the interpretations and deductions made by the investigating officer. This is what we did in these seven cases, carefully considering some 700 pages of evidence in all. We were fully aware of the evidence upon which the allegations were founded. Our Decision Notices set out very plainly and in detail why we found the complaints to be wholly without foundation.

The SBE are reviewing these cases – as they review all local determinations. The questioner is welcome to ask them for the outcome.

I cannot finish without commenting on the fact that Question 1 accuses the investigating officer of bias. This is a damaging allegation to make against a conscientious public servant who also has professional obligations as a solicitor of the Supreme Court. I reject the allegation.

It sometimes happens that those dissatisfied with the decision of a tribunal seek to attack the process; but there are better ways of doing it than this.

Questions from P Cocks, Hereford

“Observation of the traffic flow at the junction of Ross Road and Holme Lacy Road indicate that the percentage of heavy goods vehicles against light vans and cars turning into Holme Lacy Road is very small. What is the evidence that the Council carried out a detailed traffic survey to justify the Rotherwas Relief Road. Sites for a survey need to have been at the junction of the A49 and Holm Lacy Road, also at the entrances to the Rotherwas Industrial Estate, in the following categories?”

- 1) *Pedal Cycles*
- 2) *Two wheeled motorised vehicles*
- 3) *Cars and taxis*
- 4) *Buses and coaches*
- 5) *Light goods vehicles*
- 6) *HGV rigid 2 axles*
- 7) *HGV rigid 3 axles*
- 8) *HGV rigid 4 axles*
- 9) *HGV articulated 3 axles*
- 10) *HGV articulated 4 axles*
- 11) *HGV articulated 5 or more axles*

The above formula is from the Ministry of Transport. It is used by many councils, from 07:00 hrs to 19:00 hrs. If Herefordshire Council has not carried out such a categorized traffic Census then what detailed data can you produce to justify the

Rotherwas Road?

A weight restriction is proposed for Holme Lacy Road. At what weight will the restriction be set? Will this limit include vehicles carrying waste and domestic rubbish to Rotherwas? How stringent will the enforcement of the weight restriction be and what is the calculated cost of this enforcement?

Earlier proposals for Holme Lacy Road included a restriction of traffic at the Railway Bridge on Holme Lacy Road to force the majority of vehicles to use the new Rotherwas road. Is this proposal still under consideration?

It would be appreciated if an answer to these questions be given as an item and not as on the 9th February 2007 included in an all encompassing statement, which was designed to confuse."

Answer from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

Considerable data collection, analysis and traffic modelling was undertaken during the development of the Rotherwas Access Road scheme to demonstrate the need for the scheme. New data was collected in relation to traffic movements at various points on both the A49 and Holme Lacy Road. Data was also supplied by the Highways Agency in relation to traffic on the A49. This data was collected in line with Government guidance. This data was used to enable detailed traffic modelling work to be undertaken to forecast and demonstrate the traffic effects and the likely benefits of the scheme both now and in the future with the expected development of the estate. The benefits identified include reducing HGV movements along Holme Lacy Road to improve the environment of this residential area. This modelling work was used in the preparation of the Transport Assessment which accompanied the Planning Application for the scheme and the Major Scheme Business Case that was submitted to Government.

The planning consent for the access road requires the introduction of a weight restriction banning vehicles above 7.5tonne on Holme Lacy Road no later than 12 months after the access road is opened to further reduce the number of HGVs using this route. The Council has commenced the required statutory consultation associated with the associated Order to enable this restriction to be in place next Spring to coincide with the opening of the access road. Enforcement of the weight restriction will be the responsibility of West Mercia Police.

The planning consent for the access road does not make specific reference to measures at Holme Lacy Road Railway Bridge. However an overall package of improvements for road users once the weight restriction on Holme Lacy Road is in place is being considered to reinforce the weight limit. Scoping, feasibility and costings reports are being prepared to determine the extent and programme of works to improve conditions for pedestrians and cyclists .

Questions from R Hattersley, Hereford

"What is the extent of the research the Council have undertaken into the potential for tourism for the Ribbon? What plans do the Council have for investigating this before covering the find up? Have the Council undertaken any research into the concept of a Heritage Park on Dinedor Hill and surrounding area? Do they intend to do so?"

Answers from Councillor A Blackshaw, Cabinet Member (Economic Development and Community Services)

Despite claims made by those who oppose the road that the Ribbon would be a viable tourist attraction, the fact is it does not make a significant visual impact of anything like the nature of Stone Henge, The White Horse at Uffington nor, indeed, the serpent feature in the United States. The fact that those making these claims were, and remain, opposed to the building of the road is, I think, no coincidence. The Council would need to find considerable funds to both move the course of the road and to provide a permanent structure to cover the site. Therefore the question of funding research into the viability of the site at this time as a tourist attraction is premature.

Once Cabinet has made a decision on the course of the road, the preservation of the site and further investigation of the Ribbon tourism and/or educational potential can be explored in detail.

The Council has not undertaken research into the concept of a Heritage Park on Dinedor Hill but would welcome any proposals from interested parties for consideration.

“How important do the Council believe to be the views of local tourism business, and how do the Council intend to consult with them on the potentially positive impact the ribbon could have on their business? How important do the Council believe the views of the Herefordshire public to be on what should be done with the Ribbon? When and how do the Council plan to take these views into account?”

The Council take into account the views of local tourism business as well as other economic, community and environmental aspects of life in the County. As above, detailed consideration of the tourism impact of the Ribbon at this time, ahead of a Cabinet decision, is premature.

The Council thinks the views of all residents are important, including the 5,000 who signed a petition asking government for funding for the road. All views will be taken into account before a decision is made.

“In a recent letter to businesses in Rotherwas, the Council's Director of Environment stated, “The Ribbon has not even a fraction of the intrinsic interest enjoyed by Stonehenge...” On what evidence was this statement based?”

The full text of the passage to which the questioner refers is “The Ribbon has not even a fraction of the intrinsic interest enjoyed by Stonehenge nor the visual impact.” This statement is based on the evidence that Stone Henge, described by English Heritage as “one of the wonders of world” comprises a stone circle 284 feet in diameter, standing stones weighing up to 4 tonnes, some of which were transported for hundreds of miles. Stone Henge is a world heritage site, the Ribbon has not yet even been scheduled as an ancient monument by English Heritage.

Questions from J Hines, Hereford

“What date was the Ribbon actually discovered, when was its significance realised, and when was English Heritage informed?”

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

The earliest indications that the Ribbon might exist was on 24 April. English Heritage

visited the site on 2 May. The full significance became apparent during the excavations and was confirmed on 13 June.

“Had the solution to cover the Ribbon with the road been formally approved by English Heritage when the Council made this proposal public and what alternative options had been investigated other than the proposal to cover the Ribbon with the road? Has any analysis been done of the potential effect of ground vibration and compaction caused by the road on the Rotherwas Ribbon?”

The design solution we have considered has been developed in conjunction with English Heritage. It had not been formally approved when we made the find public. Other options under consideration for a decision by Cabinet include stopping the road, diverting left or right, going under the site and building a bridge structure over the site. Details of these options will be made public in the Cabinet report. The solution under consideration is one employed to protect a site on Salisbury Plain subject to the passage of tanks over it. Our proposed solution includes vibration monitoring for a period of 3 years.

“Has the Council asked English Heritage to Schedule the Ribbon? Given that Scheduling would bring the Council financial compensation would that not be a benefit?”

The Council has discussed with English heritage the possibility of scheduling the site. Compensation is only available in limited circumstances. In any event, whether the site is scheduled or not this does not preclude any of the options that will be considered by Cabinet.

“Why did the Council press releases imply that a 60m long object had been discovered, when in fact it is a 60m length of something much bigger that has been found so far? If as seems likely the Ribbon is much longer than 60m, is the Council concerned that if the road proceeds the Ribbon can never be viewed in its potential and dramatic entirety? What plans have been made for further investigations?”

The Council’s press release of 4th July includes “The ribbon-shaped feature is not flat, but is three dimensional as it appears to have been deliberately sculpted to undulate throughout the 60 metres of its length which have so far been uncovered.”

The southernmost part of the Ribbon seems likely to be underneath the Northern part of the Rotherwas Industrial Estate, though this is subject to confirmation. Viewing the Ribbon in its entirety would not therefore be possible even without the road, continuation of which, and in what form, is a matter for Cabinet. We are intending to carry out further investigations in September subject to Cabinet agreement and funding from English Heritage.

Questions from Ms S Norman

“How much does Herefordshire earn from tourism and how much from heavy industry? Which of these two sectors do the Council believe should have priority in future policy, especially if there is a conflict between the two?”

Answers from Councillor A Blackshaw, Cabinet Member (Economic Development and Community Services)

Unfortunately no directly comparable figures are available in respect of how much Herefordshire earns from Tourism and how much it earns from heavy

industry. As a best estimate for earnings in heavy industry we can use the manufacturing sector. In 2004 Herefordshire's manufacturing sector was worth approximately £437 million in (Gross Value Added) GVA for the County. This was approximately 19% of the overall GVA for the County.

In 2004 there was some 11,700 people employed in manufacturing in the County. It is worth noting that this figure significantly under represents the full value of manufacturing to the County as in addition to this GVA figure there are many service sector businesses in the County that make their living by supporting the manufacturing sector in the County.

It is not possible to identify the GVA figures for tourism, the Government collects these figures, and doesn't define tourism as an industry sector in its own rights. Tourism cuts across a number of sectors for example hotels, restaurants, wholesale and the retail trade so it is not possible to provide GVA estimates or employment numbers for tourism. There was a piece of regional work done in 2002 which looked at the value of tourism to the region. On this basis of this model the tourism industry was worth approximately £272 million per annum to Herefordshire.

The County's Economic Development strategy identifies both sectors as being important for the future economy of the County. There is little evidence to suggest that there will be any conflict between the growth of the two sectors in the County. Indeed significant parts of the manufacturing sector are a key part of the Counties tourism attraction for example the Scottish and Newcastle cider production and other cider production facilities in the County are a key reason for the retention of orchards in the County and in themselves act as a tourism product with the cider museum in Hereford being a key part of that.

"Why is the Council continuing to encourage businesses into Rotherwas if access is so poor, when Leominster Enterprise Park, built at great expense about three years ago, also with AWM money, is huge and virtually empty? It has excellent access to both the A49 and, potentially, to the railway line, as does Moreton Camp, which also has plenty of space."

The Council continues to focus its efforts in providing employment land at Rotherwas, both to support the large number of existing businesses that already operate from the estate and to take advantage of its sustainable location at the heart of the County. It is important to provide employment opportunities as close to people's homes as possible to minimise the impact of travel around the County. Rotherwas is well located to the larger populated centres of the County and the access road that is currently under construction will provide good access to the M50 and the rest of the national motorway network. The employment land provision in Leominster has been developed to provide employment land supply for the North of the County for a number of years. Much of the land that was available at the Leominster Enterprise Park has in fact now been committed for development. A number of developments are under construction including eight single story office units, premises for a local printing company, a number of units are also being developed by Tensing Holdings, and a number of other plots have all been purchased for development. In addition the new Leominster Police station is currently under construction and is very close to completion and occupancy.

Questions from R Clay, Hereford

"Why did the Council not tell English Heritage that the Rotherwas relief road was already highly controversial before the archaeological find? Which Councillors, whether in the Cabinet or not, knew about the Dinedor archaeological Find before it

was announced on the BBC Radio 4 Today Programme? Please name the distinguished Archaeologists who have been invited to inspect the Dinedor Find and indicate which ones have now made a visit and which ones still intend to do so?"

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

The Council had no cause to contact English Heritage before the archaeological find. However, had English Heritage wished, they could have found out all about the road from the Council's website.

All of the Council's Cabinet knew about the archaeological find prior to the piece broadcast on Radio 4.

Questions from Ms U Clay, Hereford

"Will the Council make publicly available all correspondence between themselves and English Heritage concerning the Dinedor Archaeological Find?"

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

Subject to freedom of information legislation the council will make all information available.

"How many members of the public have asked to view the Find at Dinedor and how many have been accommodated so far?"

RR Trips – numbers of people booking	
Sat 7 th -	202
Tues 11 th -	181
Monday 16 th	188
Tues 17 th	146
Wed 18 th	149
Thurs 19 th	132
TOTAL	998
Events cancelled because of weather	
Fri 20 th	152
Sat 21 st	177
TOTAL	329 (HENCE WANTED TO SEE BUT DID NOT)

Tried to arrange a replacement day for Tues 24th but had to cancel that also.

Not all who booked attended but there were also some that attended who did not book or booked late such that were told to turn up after the lists had been forwarded to those managing the trips on the day. I staffed the tours on two of the days and such just about equalled out. Unfortunately it was not possible to do a head count at all times because of the comings and goings. There were also small party visits of councillors, business people, archaeologists, staff and others so I think the figure of 1,000 would be a very realistic estimate.

"Keeping in mind that Dinedor Hill was already known to be rich in matters of Archaeological interest, what contingency plans were made for a circumstance in which a sufficiently important discovery made the continuation of the line of the Rotherwas relief road impossible?"

The planning consent given for the constriction of the road was dealt with in

accordance with PPG16 (national policy guidelines relating to archaeology) and this included provision for archaeology investigations. Impossible to predict all

22. QUESTIONS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS

Councillors may ask questions of Cabinet Members and Chairmen of Committees so long as a copy of the question is deposited with the Head of Legal and Democratic Services at least 24 hours prior to the meeting. A list of questions, set out in the order in which they had been received, was circulated at the beginning of the meeting. Councillors may also, at the discretion of the Chairman, ask one additional question on the same topic. The questions and summary of the answers are set out below.

Questions from Councillor ACR Chappell

“Will the Cabinet Member (Economic Development and Strategic Housing):

- a) *make his findings public with regard to the Rotherwas Ribbon?*
- b) *invite interested parties to investigate other sites immediate to the Rotherwas Ribbon site?*
- c) *if English Heritage and other expert authorities agree that any new finds of the ‘Ribbon’ are worth preserving for tourism, will he tell me how many visits from the public would make a new tourist centre for the ‘Rotherwas Ribbon’ financially viable for rate payers money to be used for such a project?*
- d) *give me a categorical assurance that any greater vehicle movements along Holme Lacy Road/Hoarwithy Road/Ross Road as a result of the discovery of the ‘Ribbon’ will in no way increase congestion on this road, and if he cannot, will he build an alternative route to any new tourist attraction?”*

Answers from Councillor A Blackshaw, Cabinet Member (Economic Development and Community Services)

- a) He had visited the site with representatives of the Herefordshire Tourism Sector and it was their conclusion that the site offered little potential as a major tourism attraction in itself. He believed there might be some merit in producing interpretive material for display at Hereford Museum and for exploring the possibility of a local viewing point of the find. An insert from the Visit Herefordshire is attached for information. This article was written following a visit by a Director of Tourism West Midlands and a Director of Visit Herefordshire.
- b) In respect of the tourism potential of other sites immediate to the Rotherwas Ribbon site, interested parties are encouraged to provide their views on that matter.
- c) As already mentioned it is not believed that the remains provide the opportunity to develop a significant as a tourism attraction. If however, there was a decision to try to provide a tourism centre for the Rotherwas Ribbon its financial viability would depend upon the charging regime that was put in place for the facility. It is not envisaged that the attraction will be capable of attracting visitors who would be prepared to pay significant amounts to visit a facility. On this basis it is anticipated that a financially viable tourism attraction might

require as many as 1 million visitors per annum to make it stack up financially.

- d) A categorical assurance cannot be given that a visitor attraction would not generate greater vehicle movements. It is anticipated that if a tourism attraction were to be developed it would generate some additional vehicle movements. It would not be financially viable to build an alternative route to any new tourism attraction sited along the Rotherwas Access Road.

“Is the Cabinet Member (Highways and Transportation) aware that flooding took place on Friday/Saturday last, in Prospect Walk off Whittern Way, Tupsley, Widemarsh Street near Newtown Road and Hinton Road as a direct result of water rising out of drains?”

Answers from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

The Highways & Transportation Service are aware that flooding took place on Friday/Saturday last, in Prospect Walk off Whittern Way, Tupsley, Widemarsh Street near Newtown Road and Hinton Road and that this was a result of water rising out of drains. The Highways & Transportation Service are also aware of numerous other locations throughout the County where flooding has occurred as a result of the recent heavy rainfall. Herefordshire has seen a months worth of rainfall in one day, surcharged drainage systems, swollen brooks and surface water run-off has caused properties to flood, roads to be closed and necessitated the evacuation of entire communities.

“Can he assure me that all areas affected by flooding will be inspected for blocked drains and immediate action taken where necessary?”

The Highways & Transportation team have worked around the clock with their partners HJS and alongside many other services within Council, the emergency services and other agencies to respond to the flooding. Immediate action has taken place across the County. An indication of the scale of our response can be gauged from the following statistics; we deployed of some 19500 sandbags, 560 cones, 1325m of barriers 185 flood boards and 155 road closure boards, over 4 days. Highways & Transportation's work is continuing as the waters subside, roads become open and the true extent of the damage can be assessed. The Highway repair costs associated with the last flood event, which took place only a matter of weeks ago, has been assessed at £200,000, the repair costs associated with this event are anticipated to be a multiple of this figure. The clearance of drainage will form part of these repairs. However the Council is not responsible for the public sewerage, the surcharge of which will have caused flooding at a number of the sites indicated by Cllr Chappell, and where appropriate we will request Welsh Water to respond. Please be assured that we are doing all that is humanly possible not only in immediate response to the storms, but in order to promote recovery from this flooding, that has impacted on the entire County.

Councillor Chappell thanked Herefordshire Jarvis Services, the Highways and Transportation Department and BBC Hereford and Worcester local radio for the help they had provided to residents. He asked that the culverts near to the railway bridge and on Holme Lacy Road be cleared out when the water had lowered.

The Chairman reiterate the thanks to BBC Hereford and Worcester for the important information they had provided on the flooding and which roads were accessible.

“Does the Leader agree with me that Hereford needs an outer relief road and further public transport packages?”

Answers from Councillor RJ Phillips Leader of the Council

The Council's Local Transport Plan identifies the development of an Outer Distributor Road, including a river crossing, as a key component of our long-term transport strategy for the County and recognises its importance in ensuring that the City is able to fully meet its role as a sub-regional centre. As set out in the LTP, the Outer Distributor Road should be accompanied by investment in improvements for public transport, such as Park and Ride. This should also be complemented by improvements to encourage cycling and walking. Together this forms the Council's long term integrated transport strategy to tackle the City's transport problems.

"Does he believe that the majority of people in the county want an orbital road around Hereford and does he accept that any future outer relief road is likely to link with the Rotherwas access road?"

The need for an Outer Distributor Road, including a river crossing, has been highlighted in the Council's Local Transport Plan. The scheme has also been highlighted at regional level as part of the forthcoming review of the West Midlands priorities for future major transport investment.

Questions from Councillor GFM Dawe

"What archaeological evaluations were carried out before the current investigation? What are the dates of the briefs (in full) and the dates of the resulting evaluations received?"

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

Pre construction reports -
 Brief for Archaeological Evaluation of Route (to update EIA report) (prepared by HC) - 10/01/2002.
 Proposals for Archaeological Assessment in response to that brief (Worcestershire County Archaeological Service) 2/5/2002.
 Report on Archaeological Evaluation of the Route of The Rotherwas Access Road, Herefordshire (Worcestershire County Archaeological Service) - 21/6/2002

"Has a geophysical (non-invasive) survey been carried out to delimit the extent of the monument?"

Works prior to and during construction phase -
 Brief for a Programme of Archaeological Work (HC Archaeology Service) 21/5/2004.
 Report on the watching brief of Geotech Test Pits (Worcestershire County Archaeological Service) Dec 2004.
 Report arising from this work has yet to be prepared as the watching brief is still continuing and results of issues such as carbon dating, artifact analysis etc are awaited.

"What techniques and specifications will be used to protect the archaeology in the event of road construction?: I require as much detail as possible on this, even if it is still 'in negotiation'."

Details will be provided in forthcoming Cabinet Report.

"Who is involved in designing the specification (the exact people, and organisations)"

and where has in situ conservation under a road demonstrably worked elsewhere for the preservation of a 'fragile' monument?"

Details will be provided in forthcoming Cabinet Report.

"What investigations exactly have English Heritage carried out since they announced that they would be thoroughly looking at the site three weeks ago?"

This is properly a question to be put to English Heritage.

"In the Hereford Times of 12.7.07 Charlotte Tamvakis of English Heritage was quoted as saying "we will ensure the local authority covers the remains [e.g. the Rotherwas Ribbon] to protect them from bad weather. If we have more rain it could be damaged", and also, that 'English Heritage ... is recommending a temporary cover is used to protect it'. According to ADAS, a rainfall of 102 mm (4 inches) was recorded between 10 am last Thursday and 9 am Monday (more than double the July average). Allowing for 'natural silting' (Simon Sworn's explanation for the lack of a temporary cover, in today's Hereford Times) is inadequate as a way of 'protecting' the monument. It was covered in rivulets and streams over the weekend. Why was English Heritage's recommendation not carried through as instructed? And why has the simple expedient of diverting some of the worst streams, using shovels, and without damaging the monument itself, not been carried out?"

It was not possible to cover temporarily or to dig a trench without risking damage. This is on the clear advice of our archaeologists. We left the site uncovered to allow people to see it during the last week.

"When is a temporary cover to be installed on the monument and water diversion to be carried out?"

As soon as site conditions allow.

"Can the Council release details of any analysis that has been undertaken of the relative economic benefits to the County as a result of the Rotherwas Access Road compared to the economic tourism potential of the Rotherwas Ribbon?"

Very detailed analysis of the economic benefits of the Rotherwas Access Road have been prepared and are available for public consideration. In summary the road will protect the 2500 jobs currently located on the industrial estate and open up land to create at least a further 850 jobs. Whilst no detailed analysis has been undertaken of the relative economic benefits to the County of the Rotherwas Ribbon, the site has been visited by representatives of the County's tourism sector and it is not considered to provide the opportunity to develop a significant tourism attraction. Whilst there may be some opportunity to explore a small viewing point the main opportunity would appear to be to provide some interpretive material at Hereford Museum. The Council estimates that only a small number of jobs would be supported in the tourism sector as a result.

"What alternative options have been investigated to date other than the proposal to cover the Ribbon with the road? Please make the full assessments available."

Details will be provided in forthcoming Cabinet Report.

"Apart from English Heritage, what other archaeological bodies and Bronze Age experts been consulted?"

1. Team Leader (Herefordshire Shropshire and Warwickshire)
2. Inspector of Ancient Monuments (Herefordshire)

3. Regional Science Adviser
4. Geomorphology Specialist Adviser
5. Heritage Protection Officer

Others: representatives of editorial team for:
British Archaeology (Council for British Archaeology)
Current Archaeology

Invitations were issued to around 20 senior prehistorians, mostly University based. Only three were able to attend in the time available, but enquiries and expressions of interest have been received from several others.

“Can their opinions be made public?”

Yes, with their consent.

“Is the Council prepared to halt the road construction completely for a 6 month period in order to allow a full independent study of alternative options to be undertaken?”

This is a decision for Cabinet and will be considered in the forthcoming report.

“Is the Council prepared to listen to and consult the people of Herefordshire (93.6% on the Hereford Times web poll) who have clearly stated their view that the road should be stopped?”

The Council always listens too and considers carefully the people of Herefordshire's views.

“Would the Council confirm how many potential sites (e.g. either in terms of hectares, or business units) there are available in the County for industrial development.”

Latest estimates of available employment land in Herefordshire is 185.65 hectares of land available for employment use on 128 sites in a variety of ownerships. This land is either allocated for employment use within the adopted local plans (146.94ha), benefits from unimplemented planning permissions (27.61ha) or is currently under construction (11.10ha). Source for this information is the Annual Monitoring Report 2005-2006 of the Herefordshire Local Development Framework published in December 2006.

It should be noted that whilst 186.65ha is the estimate of land available many of these sites have development constraints e.g. inadequate access, unwillingness of landowner to develop, flooding, ground contamination etc.

“How many 4,000 year old archaeological finds of unique international significance there are?”

It is impossible to tell without excavating the entire county.

Questions from Councillor MD Lloyd-Hayes

“Was a geophysical survey conducted on the route to the proposed Rotherwas Road and its surrounding area, prior to the letting of the construction contract?”

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

Yes, in accordance with best practice, geophysical surveys were carried out on a

sample basis along the course of the proposed road route. Among the constraints upon this limited survey work were overall cost, and the availability of access. Details can be provided as to both the brief and the design for the archaeological field evaluation project.

"What was the exact date that Herefordshire Council became aware of the Rotherwas Ribbon/Serpent discovery?"

24 April 2007.

Questions from Councillor GA Powell

"I have been asked by members of the public for a paper petition for an open debate on the Rotherwas Ribbon. Such petition to be made available at the Shire Hall or Town Hall. Would the Cabinet Member therefore consider agreeing to this request?"

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

Anyone could start a petition and I would not presume to give the Councillor permission, as such.

Questions form Councillor DC Taylor

"I understand that Waste Watchers have requested that the Courts consider a judicial review of the planning permission that this Council granted to Estech in November 2006. Could the Cabinet Member advise as to whether the Courts have agreed to the request from Waste Watchers and has a date been agreed for a hearing and if a date has been agreed could I be advised of that date?"

Answer from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

I can confirm that Hereford Waste Watchers have applied for a judicial review of the decision to grant planning permission to Estech. The review was refused when it was considered on paper submissions only. However, Hereford Waste Watchers applied to renew the application and this will take place in front of a single judge sitting in the High Court. Legal Services have not yet been notified of a date for this hearing.

"Several members of the electorate in the Stoney Street ward have asked what the ultimate number of car parking spaces will be in the Edgar Street Grid once it has been completed. Please could I be advised of this figure?"

Answer from Councillor A Blackshaw, Cabinet Member (Economic Development and Community Services)

Currently 1600 spaces are available. It is anticipated that once the ESG is complete 2400 spaces will be available.

"In November 2006 the Cabinet Member (Highways and Transportation) was asked at the Council meeting if passing bays would be put in place on the Madley to Bridge Sollars road to ease traffic congestion. In response to the question the Cabinet Member stated that passing bays would be put in place by the end of March 2007. Could the Cabinet Member advise as to why the passing bays have not been provided and when will this work will be carried out, as it would facilitate the movement of traffic?"

Answer from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

Councillor Taylor appears to have summarised the answer I gave in November 2006 a little too much. The final paragraph of my answer on that occasion actually stated "Subject to all the necessary permissions being granted and agreement being reached with the landowner, it was hoped to be able to commence the works during the current financial year with a start date anticipated in March 2007".

The scheme to provide passing bays on the Bridge Sollars Road was delayed following problems with land negotiations which have now been resolved and the scheme has been added to this year's programme and is due to be completed this Autumn.

Councillor Taylor asked that the Cabinet Member keep an eye on the matter and keep Members informed of any possible changes.

Questions from Councillor MAF Hubbard

"When was the first report from Prudential regarding the re-development of the Maylords Orchards shopping centre received by the Council and when were Members subsequently contacted to discuss the offer and whom did this involve?"

Answer from Council H Bramer, Cabinet Member (Resources)

Prudential Property Investment Managers Ltd made a formal approach to the Council to acquire the freehold interest from the Council, or to restructure the lease, in June 2005. The matter was discussed with the Cabinet Member in July.

"Why, when the Cabinet received the report by Driver Jonas on Prudential's offer in May 2006, did officers not consider it was a priority issue for the Council, especially in the light of the planning application for change of use at the old B&Q site by two tenants of Maylords?"

The approach from Prudential was a normal Landlord and Tenant matter. There was and is no legal requirement for the Council to even consider an approach of this nature.

"What negotiations have gone on between officers and the Prudential since Cabinet gave permission in December 2006 to enter into full dialogue with them?"

Both the Council and Prudential had and were going through staff changes. Nevertheless informal contact and discussions were ongoing. While approval to negotiate had been approved, there was a large difference between the Prudential's view of the value of the restructured lease and that of the Council and its external advisers. However, at the last meeting between the Council and Prudential, it was agreed that Prudential would provide the Council with further scheme proposals. These proposals are still awaited.

"What income has the Council received over the last three years from the leasing of Maylords, especially in the last twelve months when both the old New Look and Silver Screen premises have failed to attract new tenants? Please break this information down into annual income for each year."

The income received by the Council from the Maylords lease was:

- 2004/05 - £451,886
- 2005/06 - £397,769
- 2006/07 - £432,668

Question from Councillors SJ Robertson and RI Matthews

"We are very concerned about the poor state of footpaths and lack of drains maintenance, particularly in the rural areas. This is a cross party concern and we would, therefore, ask what plans the Cabinet Member has to address these issues, especially as there was a £274,000 underspend in the Environment Directorate for 2006/2007?"

Answer from Councillor DB Wilcox, Cabinet Member (Highways and Transportation)

The importance of highway maintenance is recognised and the Council invests annually around £9 million of capital and revenue funding on maintaining the highway network of the County. Whilst there was a small under-spend across the Environment Directorate as a whole during 2006/7, the Highways and Transportation revenue budgets were overspent by £751,000, as reported to Environment Scrutiny Committee on 19th June 2007.

Whilst Highway Maintenance is important, pressure on the Directorate's revenue budgets for 2007/8 have resulted in a reduction in the Highway Maintenance budget for the current year of £909,000. The reduction in the highway maintenance budget is partly mitigated by an increase in capital funding that the Council receives through the Local Transport Plan. However, the Highways and Transportation Service will, necessarily, have to prioritise the work to be carried out within the available budget, particularly bearing in mind the impact on road conditions resulting from the recent severe weather conditions.

Questions from Councillor WLS Bowen

"What percentage of letters from the public are answered on time?"

Answers from Councillor JP French, Cabinet Member (Corporate and Customer Services and Human Resources)

The Council has set corporate standards for responses to correspondence.

These are 95% of all letters to be responded to within 10 working days,
100% within 15 working days.

As part of the implementation of the Customer Services Strategy, a framework for monitoring compliance to the standard across the Council is being developed to be implemented from 1 October 2007.

This will run in parallel with the introduction of the new complaints monitoring system via the customer relationship management software.

The target for acknowledgement of complaints is two working days with a full response within eight working days.

Satisfaction rates with handling of complaints for Herefordshire Council stood at 36%, higher than any in our benchmarking group.

Additionally 200 staff, mainly those in direct contact with the public have participated in specialised customer services training over the last year which sets out a series of

qualitative measures for staff in dealing with the public

“How many letters to the planning services, in particular, are answered on time?”

The majority of letters to the Planning Service are letters of representation to planning applications. All such letters are acknowledged within 3 days. Other letters consist of enquiries about proposed development and general correspondence. These are responded to in accordance with the Council's published standards. Detailed records are not kept of the performance of the Service in this area.

“How soon can the Council institute “Passiv Haus” standards of building throughout the county?”

Answers from Councillor JG Jarvis, Cabinet Member (Environment and Strategic Housing)

The Government is currently consulting on *Building Regulations - Energy Efficiency requirements for new buildings: A forward look at what standards may be in 2010 and 2013*

This consultation outlines the issues that will need to be addressed in the forthcoming review of the Building Regulations energy efficiency requirements (Part L) for new dwellings that will support the aims expressed in the Housing Green Paper - *Homes for the Future: More Affordable, More Sustainable*.

It gives an indication of the issues that will need to be considered in developing proposals for the significantly higher standards that will be necessary, and illustrations of the sorts of building specifications that might be adopted in order to meet them.

The paper highlights the importance of the next review of the Building Regulations, planned for 2010. Passiv Haus and other building standards are actively being pursued.

“Do you agree that this would be a major step forward in energy conservation and improved building methods and give us a much reduced carbon footprint?”

It is inevitable that improved standards of building efficiency will assist in reducing carbon footprint of new development. Equivalent effort should also be given to improving the thermal efficiency of existing buildings

“Is the Herefordshire Connects programme on time and within budget? If not, please will you inform us as to the current and predicted positions?”

The Procurement phase of Herefordshire Connects was completed within the timetable the Council set. That phase identified the preferred supplier. The timetable for negotiation with the preferred supplier was less firm than the earlier phases but has broadly met the objectives in ensuring that the active part of the programme could begin before the “August holiday break”.

For commercial reasons the Council has to date only entered into an interim agreement with the intention of the Master Agreement being completed in September. The costs of the programme are less than the original estimates and negotiations continue to secure further reductions. The benefits of the programme have been subject to rigorous appraisal both internally and externally to ensure the financial stability of the programme.

The overall picture remains one of substantial return on investment but there are, as

would be expected, differences in the profile of that return which do affect the assumptions made in the Medium Term Financial Strategy. Following recent consideration by the relevant Cabinet Members it is clear that these are capable of being contained within the Medium Term Financial Strategy. A full report will be made to Cabinet as soon as the Master Agreement is completed.

Questions from Councillor AM Toon

"It was reported this week in the Hereford Journal about discussions being held with the Church of England as potential sponsors of Wyebridge Sports College to become an Academy. This would take the school out of the Local Authority Control. Academies can be sponsored in many ways and the Manchester model of being jointly sponsored by local businesses has been part of a regeneration strategy. I have been disappointed with the past record of the Education Dept engaging with the community and Councillors in keeping them informed on this type of project. I would therefore ask the Cabinet member for Children's Services:

- a) *At what stage are the current discussions?*
- b) *Who else has the department spoken to explore options?*
- c) *Will this be a true Academy or a Voluntary Aided school under another guise?*
- d) *Will it remain with its same catchment?*
- e) *Will it have faith places and as such be eligible for more free and subsidised transport places at the local taxpayers expense and parents subjected to being scored on their Christianity on how many times a year the parents do bell ringing, give readings or help out at the church fete as is the current arrangement?*

The article quoted a response from the Church of England stating that it was a 'red herring' to suggest the school would break the law. In July 2006 I had to take matters into my own hands and referred 15 Voluntary Aided schools to DFES the majority of them Church of England and including both of the county's Faith secondary schools for failure to comply with Government admissions Code of practice, even after these schools were given an additional 12 months to comply by the council. One school I understand has still has not complied. The previous cabinet member declined to refer the matter to the adjudicator even after the Local Admissions Forum had passed a recommendation to do so.

- i) *What confidence can the cabinet member give this assembly that it will not shirk its obligations to the public and will not again support the churches ambitions, against the parents and children's rights when the matter of compliance with the law, good practice and inclusiveness are at stake?*
- ii) *If this council has been unable or unwilling to control the current behaviour of some of the voluntary aided schools what mechanisms will it put in place to ensure that an independent school will comply?*
- iii) *Will the cabinet member be prepared to hold a seminar on the matter for all members, for the matter to come to Children's Services scrutiny committee and hold open public meetings for parents to engage in deciding the future of their children?"*

Answer from Councillor JA Hyde, Cabinet Member (Children's Services)

In response to the questions on the proposal to create an academy at Wyebridge

Sports College, I answer as follows:

1. Following the expression of interest jointly submitted by the Chair of Governors of Wyebriidge Sports College, the Director of Education at Hereford Diocese, and the Director of Children's Services, in January 2007 the DfES approved that the proposal enters a feasibility stage. In this the sponsors have a leading role setting out their vision for the new school. This is being prepared at the moment, and the sponsors have planned to consult the school and local community on this in September. Following this a business case would need to be submitted to the DCSF. The LA is contributing to the construction aspects of the business case. We have been told that a capital sum of £20M will be available for the building and £1.9 for IT equipment.
2. The Director of Children's Services in December 2006 took the view that the rebuilding of Wyebriidge is essential to the education of children in the area. The academy solution was the only solution available for such expenditure and an academy supported by a local sponsor with whom we have had and still enjoy close working relationships was less threatening than working with unknown third parties.
3. The DCSF, if they approve the proposals, will establish the new school as an academy.
4. All parties signed the expression of interest document on the basis that the school would serve the area currently served by Wyebriidge Sports College.
5. All parties signed the expression of interest on the basis that there would be no change to the current admission arrangements and oversubscription policy no faith places would be offered.

On the question of legal compliance I can report that in the opinion of the officers all 24 aided schools in the County comply to the Admission Code of Practice. The academy will be subject to the same scrutiny and obligations on all other maintained schools, and be party to the Local Admissions Forum. If members felt that they would benefit from learning more about admissions this can be arranged. The agenda for Scrutiny Committee is out of my control, although I am happy to pass Cllr Toon's request to Cllr Robertson if she feels that this is required. I would be guided by the Local Admissions Forum on whether additional public meetings would be beneficial.

23. NOTICES OF MOTION UNDER STANDING ORDERS

Councillor MD Lloyd-Hayes had submitted the following Notice of Motion.

This Council resolves to ensure that no irreversible action be taken that would prejudice the potential for appropriate access to this major archaeological site.

That this Council suspend the building of the Rotherwas Relief Road in the area of the archaeological find and land adjacent to it, in order to undertake an independent, external and exhaustive enquiry and report back to Council.

The findings to be made available to all Members to consider and vote on at the 9th November meeting of Council. The report be made available to Members and the public at least 21 days prior to the same Council meeting.

The Chairman moved to urgency and that Motion was duly seconded.

Councillor Lloyd-Hayes read out a statement on the possible significance of the discovery of the Rotherwas Ribbon and its possible potential as a tourist attraction, although agreed that funding for it could be expensive. She requested that there

was more public involvement and debate on the issue.

Councillor Jarvis, Cabinet Member (Environment and Strategic Housing) stated that he agreed with a lot of the points put forward, but did not believe the Notice of Motion as it stood would fit in with the Council's constitution and proposed an amendment. The Leader of the Council seconded the amendment.

In relation to a query regarding the original Notice of Motion and possible inconsistencies with the Council's Constitution, the Head of Legal and Democratic Services pointed out to Council that the functions in the later part of the Motion were executive functions for Cabinet and not ones that the Council had power over.

Proposed Amended Motion:

- 1 *The Council resolves to ensure that no irreversible action be taken that would prejudice the preservation or the potential for access, if appropriate, to what as currently advised is a site of archaeological importance.*
- 2 *That Council notes that work on the construction of the Rotherwas Relief Road in that area is currently suspended (NB some works are being undertaken to protect the site) and that Cabinet be asked to address the issue of the appropriate approach to completion of the Rotherwas Relief Road in the context of the advice to be received from English Heritage as to the best method of preserving the archaeological remains.*
- 3 *Council requests Cabinet to address the issue of the financial consequences of the delay to date on the Rotherwas Relief Road, as part of the fuller considerations, and to quantify the financial impact of further delays and make recommendations to Council as to how those issues might be addressed within the Council's budget.*
- 4 *That Council be invited to note that any decision made by Cabinet on this issue would be a key decision within the Constitution and will therefore be liable to call-in for scrutiny. If Scrutiny express any significant concerns about the action proposed by Cabinet, which action will only be taken on the advice of English Heritage, and Cabinet is minded to proceed without addressing those concerns then the Leader gives an undertaking to approach the Chairman to call a special meeting of Council.*

Councillor Jarvis, Cabinet Member (Environment and Strategic Housing) reiterated that he agreed with the principal statement that the remains needed to be preserved and that the Council needed to take the advice of English Heritage. In order to reassure Members he stated that any decision on the Rotherwas Ribbon would be treated as a key decision and therefore subject to call-in through the Scrutiny Committee.

In response to the queries as to the sites value as a tourist attraction, the Cabinet Member (Economic Development and Community Services) stated that he had asked the Director of Visit Herefordshire if they felt it was a viable tourist site. It was stated they had not and added that it was felt it was purely of interest to a specialist minority.

The Leader paid tribute to Dr Ray and his team. He added that Worcester archaeology and English Heritage had visited the site many times to see the work being carried out.

Councillor Lloyd-Hayes reiterated the points raised in the original Motion and welcomed the points made by fellow Councillors, but did not feel that the amendment to the Motion was acceptable and that the focus should not be on the cost of the relief road but on the protection of the site. Councillor Lloyd-Hayes raised concern on the separation of the Council's role in relation to planning matters.

The Cabinet Member (Environment and Strategic Housing) stated the importance of working with and through the statutory bodies like English Heritage and emphasised that the Head of Planning and his officers had clearly followed Planning Policy And Guidance 16 procedures.

Members then voted on the amended Notice of Motion. There were 38 votes for the amendment and 7 against.

Councillor MAF Hubbard referred to the site and proposed a further amendment to the amended Notice of Motion by way of an addition, that:

The Council requests Cabinet to commission an independent and external enquiry to the extent of the archaeological find to ensure that any future decision with regard to the development of the Rotherwas Access Road is taken with complete knowledge of what we are dealing with.

In response to a query regarding the setting up of an independent enquiry the Chief Executive advised that advice could be sort through the usual market channels or could be commissioned through English Heritage.

A vote was taken on the amendment to the amended Motion put by Councillor Hubbard, but this was lost. The Substantive Motion, which was put forward by the Cabinet Member (Environment and Strategic Housing), was agreed with a clear majority.

At this point in the meeting it was agreed to adjourn for five minutes.

24. CABINET

The Leader of the Council, Councillor R.J. Phillips, presented the report of the meetings of Cabinet held on 21st June, and 12th July, 2007.

In relation to Item 4.1(i) – Herefordshire Connects – In response to question as to whether the Herefordshire Connect Programme was on course, the Cabinet Member (Corporate and Customer Services and Human Resources) advised that some savings had been made in the programme and these savings would be put into the contingency fund for next year. The Cabinet Member referred Members to the answer provided for the Herefordshire Connects question.

In relation to Item 5.1(iv) – Pay and Workforce Development Strategy – Councillor AM Toon commended the Human Resources department on the commitment to provide an overarching structure and Investors in People.

In relation to Item 8.1(i) – Final Revenue and Capital Outturn 2006/07 – in response to a query on the overspend in the capital budget for schools the Leader advised the over spend had been on projects.

In relation to Item 10.1(i) – Local Development Framework Core Strategy – Councillor PJ Edwards pointed out that the timetable for consulting with Members had been reported to Cabinet on 12th July.

In relation to Item 9.1(ii) – Children and Young People’s Plan Annual Review 2007 and Annual Performance Assessment – Councillor SJ Robertson noted the evidence of improvement and asked that staff be thanked for their hard work. In response the Cabinet Member (Children Services) advised that the improvement in staffing levels was significant and to be welcomed and the situation would continue to be monitored.

RESOLVED: That the reports from the meetings of Cabinet held on 21st June, and 12th July, 2007 be received.

25. STRATEGIC MONITORING COMMITTEE

Councillor P.J. Edwards presented the report of the meeting of the Strategic Monitoring Committee held on 13th June, and 16th July, 2007. He drew Council’s attention to paragraphs 4, 6 and 9 of the report relating to the corporate risk register, pressures on budgets and the pay and workforce development strategy in relation to attaining the Investors in People Standard to help support continuous performance.

RESOLVED: That the report of the meeting of the Strategic Monitoring Committee held on 13th June, and 16th July, 2007 be received.

26. REGULATORY COMMITTEE

Councillor P. Jones CBE, presented the report of the meeting of the Regulatory Committee held on 13th June and 3rd and 11th July, 2007.

RESOLVED: That the report of the meeting of the Regulatory Committee held on 13th June and 3rd and 11th July, 2007 be received.

27. CASINO PREMISES LICENCES IN ACCORDANCE WITH SECTION 166 OF THE GAMBLING ACT 2006

Councillor P. Jones CBE, presented the report on the Casino Premises Licences in Accordance with Section 166 – Gambling Act 2005 and asked Council to support him in passing a resolution not to issue any casino premises licences.

RESOLVED: That the Council, under Section 166 of the Gambling Act 2005 do not issue any casino premises licences.

28. AUDIT AND CORPORATE GOVERNANCE COMMITTEE

Councillor A.C.R. Chappell presented the report of the meeting of the Audit and Corporate Governance Committee held on 29th June, 2007. Councillor Chappell drew Council’s attention to paragraph 9 of the report on telephone usage, which forms part of the current cost savings review being carried out and added that mobile phone usage and contracts were being looked into along with costs for postage.

RESOLVED: That the report of the meeting of the Audit and Corporate Governance Committee held on 29th June, 2007 be received.

29. STANDARDS COMMITTEE

Mr Robert Rogers presented the report of the meeting of the Standards Committee held on 11th May and 6th July, 2007.

RESOLVED: That the report of the meeting of the Standards Committee held on 11th May and 6th July 2007 be received.

30. REVISED CODE OF CONDUCT

Mr. Robert Rogers presented the report of the Standards Committee on the revised code of conduct for Members. He stated that the Committee had looked at the practical implications and felt that it was an improvement on the previous code. He added that it was now possible for Members who might have a prejudicial interest to make a representation at a Committee, which they were unable to do so before.

RESOLVED: That Council adopt the revised Code of Conduct and the additions to the revised Code of Conduct as set out in the report.

31. PLANNING COMMITTEE

Councillor T.W. Hunt presented the report of the meeting of the Planning Committee held on 13th July, 2007.

RESOLVED: That the report of the meeting of the Planning Committee held on 13th July 2007 be received.

32. WEST MERCIA POLICE AUTHORITY

Councillor B. Hunt presented the report of the West Mercia Police Authority held on 12th June, 2007. Councillor Hunt welcomed Councillor K Grumbley as a new Member and drew Council's attention to paragraph 36 of the report regarding the 40th anniversary of the formation of West Mercia Police Authority and West Mercia Constabulary. He outlined that there would be a series of events to celebrate the 40th anniversary. In answer to a query on crime reduction figures Members' attention was drawn to pages 110 – 115 of the report for the total number of crimes reported. He added that the number of police officers was at an all time high and the number of Community Support Officers was also increasing.

Councillor JP French paid tribute to PC Richard Gray who had died on 6th May, 2007 in the line of duty whilst responding to a firearms incident at Shrewsbury.

RESOLVED: That the report of the meeting of the West Mercia Police Authority held on 12th June, 2007 be received.

33. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

Councillor P. Jones CBE, presented the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 11th June, 2007. He said that it had been a very busy time for the Fire and Rescue Authority with the extensive flooding in Hereford and Worcester. He added that in addition to the flooding problems the authority had had to face, it was also responsible for the inland waterways across the country. In addition to the flooding across the two counties the authority had also had to deal with a serious fire.

The Chairman agreed to send a letter on behalf of the Council to the Chief Fire Officer to thank them for their professionalism and efforts during the floods.

The Leader of the Council also congratulated Councillor Jones CBE, on his recent

election to Chairman of the Regional Fire and Rescue Authority.

RESOLVED: That the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 11th June, 2007 be received.

The meeting ended at 1.40 p.m.
<LAYOUT_SECTION>

CHAIRMAN

QUESTIONS FROM MEMBERS OF THE PUBLIC**Report By: Head of Legal and Democratic Services****Wards Affected****Purpose**

To receive any questions from members of the public deposited more than six clear working days before the meeting of Council.

Background

1. Standing Order 4.24 of the Constitution states that: A member of the public may ask a Cabinet Member or Chairman of a Committee any question relevant to a matter in relation to which the Council has powers or duties or which affects the County as long as a copy of that question is deposited more than six clear working days before the meeting i.e. by close of business on a Wednesday in the week preceding a Friday meeting. No supplementary questions may be asked.
2. A total of 25 minutes shall be set aside for the answering of questions from members of the public save that the Chairman, or Vice-Chairman, if presiding, shall have absolute discretion to vary the period of time by making it shorter or longer as he/she considers appropriate. Any questions unanswered at the expiry of the time limit shall be dealt with by way of written reply to the questioner.
3. Any question which contains defamatory material or the publication of which is likely to be detrimental to the Council's interests, may be rejected.

Questions

4. A number of questions have been received by the deadline and are attached at Appendix 1.

Mr C J Grover, Vice Chairman of Bromyard Downs User Group in the absence of the Chairman who is abroad until December

At the Cabinet meeting of 14 December 2006 an Action Plan for Bromyard Downs was approved and the results of this action plan were to be presented to the Cabinet in April 2007. It was the Bromyard Downs User Group's written representations to the Council in May and October 2006 that the Downs were being mismanaged by Brockhampton Group Parish Council that caused this consultation paper to be prepared. Despite the User Group being the main participants they were not included in the list of consultees, however this omission was verbally corrected at the meeting. At no time since the Cabinet Meeting of 14 December has the Council contacted the User Group about the Action Plan apart from a non-committal response in the Spring to a request for information. It is apparent that nothing has happened which is an unusual situation since approval for the Action Plan was a decision of the Cabinet made 11 months ago. Will the Council give an explanation at the meeting today for the lack of action and give an assurance they will resolve the situation within three months?

REPORT OF THE MEETINGS OF CABINET

HELD ON 16th August, 6th and 20th September and
11th October, 2007

Cabinet Members: R.J. Phillips (Leader of the Council),
J.P. French (Deputy Leader),
L.O. Barnett, A.J.M. Blackshaw,
H. Bramer, J.A. Hyde, J.G. Jarvis, D.B. Wilcox.

This report submitted to Council covers the proceedings of the meetings listed above.

1. DECISIONS RESERVED TO COUNCIL UNDER PART 4 OF THE CONSTITUTION

- 1.1 No such decisions were considered by Cabinet since the previous meeting of Council.

2. NOTICES OF MOTION

- 2.1 **Appropriate access to Rotherwas Ribbon Archaeological Site** – Councillor Mrs. M.D. Lloyd-Hayes submitted notice of the following motion to Council at its meeting on 27th July, 2007.

“That this Council suspend the building of the Rotherwas Relief Road in the area of the archaeological find and land adjacent to it, in order to undertake an independent, external and exhaustive enquiry and report back to Council.

The findings to be made available to all Members to consider and vote on at the 9th November (now revised to 2nd November) meeting of Council. The report be made available to Members and the public at least 21 days prior to the same Council meeting.”

The motion was considered to be urgent by the Chairman and was so moved.

Council debated the motion and an amendment to the motion was made.

Amended Motion:

- 1 *The Council resolves to ensure that no irreversible action be taken that would prejudice the preservation or the potential for access, if appropriate, to what as currently advised is a site of archaeological importance.*
- 2 *That Council notes that work on the construction of the Rotherwas Relief Road in that area is currently suspended (NB some works are being undertaken to protect the site) and that Cabinet be asked to address the issue of the appropriate approach to completion of the Rotherwas Relief Road in the context of the advice to be received from English Heritage as to the best method of preserving the archaeological remains.*
- 3 *Council requests Cabinet to address the issue of the financial consequences of the delay to date on the Rotherwas Relief Road, as part of the fuller considerations, and to quantify the financial impact of further delays and make*

recommendations to Council as to how those issues might be addressed within the Council's budget.

4. *That Council be invited to note that any decision made by Cabinet on this issue would be a key decision within the Constitution and will therefore be liable to call-in for scrutiny. If Scrutiny express any significant concerns about the action proposed by Cabinet, which action will only be taken on the advice of English Heritage, and Cabinet is minded to proceed without addressing those concerns then the Leader gives an undertaking to approach the Chairman to call a special meeting of Council.*

Following the agreement on the amended motion Councillor M.A.F. Hubbard proposed a further amendment to the amended Motion by way of an addition. A vote on the amendment to the amended Motion was taken but was lost and the substantive amended Motion was agreed with a clear majority.

3. KEY DECISIONS BY INDIVIDUAL EXECUTIVE MEMBERS WHICH WERE NOT INCLUDED IN THE FORWARD PLAN

- 3.1 There were no decisions made by individual Cabinet Members during the reporting period.

4. CORPORATE STRATEGY AND FINANCE (Chairman of Cabinet – Councillor R.J. Phillips)

4.1 Report on Decisions Taken

- (i) **Public Service Trust Progress For Herefordshire** – Cabinet has received a report on the progress towards a Public Service Trust. Cabinet was informed of the questionnaire distributed for consultation and the responses received. Several meetings were held across the county seeking the view of the public to the proposals, with 57% of those that responded confirming their support for the proposal with 41% against. The Health Scrutiny Committee also responded to the public consultation and supported a more integrated approach to public services. Cabinet agreed the strategy required should the joint Chief Executive arrangements need to be disbanded. Cabinet endorsed the Public Service Trust Steering Group's recommendation to support moving forward within Option 3, the appointment of a new joint Chief Executive. Cabinet approved the draft roadmap and timetable and agreed that regular reviews were to be carried out throughout the process with the information shared with all Councillors and the existing strategy examined at key stages.
- (ii) **Annual Report on the Strategic Service Delivery Partnership** – Cabinet has received a report on the operations and performance of the Strategic Service Delivery Partnership between the Council, Herefordshire Jarvis Services Ltd., and Owen Williams Ltd. Cabinet was reminded that initially there was a ten-year contract for Herefordshire Jarvis Services Ltd., and Owen Williams Ltd. There are nine overall aims and objectives that the Partnership work towards, which are reviewed by the Partnership Project Management Team and monitored through key performance indicators. Cabinet was advised that performance was mixed, but provided an encouraging picture for improvement. Cabinet was advised that during 2006/07 turnover was slightly up and profits were slightly lower, however the 2007/08 business plan was on track to build on the improvements made in financial performance through the key objectives. Cabinet noted the report, the improvements that had been made and the

challenges that lay ahead. Cabinet reiterated the need for the new parent company to deal with the payment of creditors as soon as possible to ensure local businesses do not suffer any further. Cabinet noted that there had been no change in staff with the change of ownership to Amey and that morale was good.

4.2 Report on Items of Interest

- (i) **Strategic Monitoring Committee** - Cabinet has received and noted the report of the Strategic Monitoring Committee, which is the subject of a separate report to Council.

5. CHILDREN SERVICES (Cabinet Member: Councillor J.A. Hyde)

5.1 Report on Decisions Taken

- (i) **Brilley Church of England Primary School** – Cabinet has received an initial report on Brilley Primary School on 12th April and agreed to the issuing of public notices proposing the closure of the School with the 17 children to be transported to Almeley Primary School. Following notices being issued, comments were awaited from the schools, community and other statutory consultees. Cabinet has received a further report confirming parents' agreement to the transfer of pupils and advised there were no objections to the statutory notice of closure. Cabinet approved the closure of Brilley Primary School on 31st August, 2007 and thanked the teaching staff, Governors, parents and officers for the minimal disruption to the children during the transition from Brilley to Almeley School.
- (ii) **Capital Investment in Schools in Herefordshire: A Way Forward** – Cabinet has received a report on the options available on three capital investment projects and to decide on which options to pursue. Cabinet considered the recommendations for each project separately.

The Minster College and Westfield Special School – Cabinet considered the possible future school capacity needs projected in the Leominster area taking into account the future housing development at Barons Cross.

Following the 6th September Cabinet meeting Cabinet was advised that the proposals for Minster College had the support of the Head Teacher and staff. The College currently serves the town of Leominster plus a large rural area with the town possibly having further extensive housing development in the near future. Cabinet discussed youth service provision and requested that a review of youth provision across the county be carried out. Cabinet agreed that the Minster College should be rebuilt as a 6 form entry, 11-16 high school with a sixth form of 120, as a single school pathfinder under the Building Schools for the Future Initiative. Cabinet also agreed that on completion of the new facilities for the Minster College the existing technology block should be converted in part for use as a youth centre subject to the review of youth service provision and funding availability.

Wyebridge Academy – In considering Wyebridge Academy proposals Cabinet noted the number of children on the role in the South Wye and that the numbers of children in the area were not predicted to reduce as they were in other areas of the county. The possible effect of a large Academy on the school intake for the surrounding high schools was also considered.

Following the 6th September Cabinet meeting Cabinet considered the Council's role in delivering the academy, namely the granting of a 125 year lease to the sponsors, the closing of Wyebridge Sports College as a community high school and the creating of an academy serving 900 11-16 students with an additional 200 post 16 places at the appropriate time, if the feasibility study concludes with an outcome satisfactory to DCSF, the sponsors and the Council. Cabinet was advised that even with the falling rolls significant investment was needed to ensure the long-term success of Wyebridge Sports College. With the absence of other funding, the academy initiative would provide the means to achieve academy status. Cabinet approved in principle the recommendation for Wyebridge Sports College to become an academy serving 900 11-16 students with an additional 200 post 16 places. Cabinet also approved in principle the granting of a 125 year lease to the sponsors on terms to be agreed subject to a satisfactory conclusion to the feasibility stage with the DCSF, the Sponsors and the Local Authority and to the issuing of the public notices for the closure of Wyebridge Sports College and the creation of an academy at the appropriate time, if the feasibility study concludes with an outcome satisfactory to DCSF, the Sponsors and the Local Authority.

Staunton-on-Wye Primary School – Cabinet was advised that Staunton-on-Wye is a rural school aided through the Jarvis Trust, with long term plans for a replacement school through a 90% DfES grant providing for a new three class school. Cabinet was informed that a privately run nursery school operated from the school site also. Cabinet agreed that the condition of the school accommodation should continue to be monitored in terms of Health and Safety to ensure that children and staff were not placed at any risk. Cabinet agreed that a further report be presented to a future meeting of Cabinet after the review of school provision across the county had been completed.

- (iii) **Hereford Children's Centre** – Cabinet has received a report seeking their approval for the proposed Hereford Children's Centre for North Hereford on the site of the Widemarsh Workshops. The existing Widemarsh premises are no longer fit for purpose and Cabinet had previously endorsed the need to modernise the Council's services for people with learning disabilities. The relocation of the Widemarsh Workshops and the provision of a Children's Centre for the North of Hereford would contribute to achieving these aims and help toward meeting government requirements to provide countywide Children's Centres. Cabinet noted the government grant for children's centres was allocated to be spent by 31st March, 2008 although there was an agreement to extend this to August 2008. Cabinet was advised that leased premises had been identified for two additional social enterprise organisations to be established, and provide existing Widemarsh Workshop service users paid employment opportunities. There would also be additional employment opportunities associated with the facilities at the proposed Hereford Children's Centre. Cabinet was informed that should the recommendations not be approved the Council would lose the grant funding and the opportunity to progress two strategic objectives, that of employment opportunities for people with learning disabilities and the modernising of an out of date service. Cabinet approved the use of the Widemarsh Workshops as a Children's Centre following conversion, with the conversion works being funded from the ring fenced funds in the General Investment Allocation for Children's Centres. Cabinet approved the leasing

of two units on the Foley Trading Estate to facilitate the relocation of the Widemarsh Workshops.

6. CORPORATE AND CUSTOMER SERVICES AND HUMAN RESOURCES (Cabinet Member - Councillor Mrs. J.P. French)

6.1 Report on Decisions Taken

- (i) **Local Government Pension Scheme Rule of 85 Protections – Response To Statutory Consultation** – Cabinet has received a report on the Local Government Pension Scheme and considered the proposed response to the statutory consultation being undertaken to extend the current protections in place for the Local Government Pension Scheme (LGPS) in England and Wales. These changes would affect the older scheme members with the removal of the rule of 85 from the 1st October, 2006. Cabinet was advised that prior to this date provisions within the scheme allowed members who voluntarily retired before age 65 to take unreduced benefits if their combined age and length of membership added up to 85. The amendments to the scheme provided for the phasing out of this rule from 1st October 2006 with transitional protection provided for older members who reached aged 60 or above by 31st March, 2013. Following industrial action the current protections provide that LGPS members who are 60 on or before 31st March, 2016 will be able to retire at 60 with an unreduced pension if they qualify for the 85 year rule. Members reaching 60 between 1st April, 2016 and 31st March, 2020 would have their benefits reduced on a tapered basis. Cabinet were not recommended to support the proposed extension of the existing protections, as additional costs would need to be offset through further adjustments to the benefits package or increase employees' contribution rates. Cabinet supported the tapering scheme. Cabinet endorsed the response to the statutory consultation.
- (ii) **Herefordshire Connects Progress Report** – Cabinet has received a report on the Herefordshire Connects Programme Update and noted the progress made, the technology platform on which further progression is based and the extension of the existing interim agreement with Deloitte. Cabinet was advised that extensive investigations were carried out to ensure the figures were robust and that the Council would be able to deliver on cost savings. Independent advice throughout has been provided by CAPITA. Cabinet was advised that the Social Care system would not be provided through SAP and investigations were being carried out to see if the existing system Cedar would be suitable. Cabinet was reminded that the overall impact of Herefordshire Connects was key to the longer-term financial stability of the authority. The SAP technology platform would provide longer term returns and the adoption of the Cedar platform would contribute to closing the gap in 2008/09, but would be at the expense of significant reductions in returns in later years. Cabinet was informed that the SAP system was being used in over 40 other local authorities. Cabinet noted that the Herefordshire Connects Programme had been scaled down and that any decision on the programme would be made in light of the government financial settlement and the revisions to the Medium Term Financial Strategy. Cabinet noted the current position in respect of programme implementation. Cabinet approved the retention of SAP as the technology base and approved the extension of an interim agreement with Deloitte until such time as a decision on the master agreement could be made.

- (iii) **Local Area Agreement Priority Setting** – Cabinet has received a report on the process of the Local Area Agreement (LAA) “super-refresh” and its priorities and development. The LAA is expected to be central to the government’s Comprehensive Area Assessment with funding through the LAA single pot likely to be substantially increased and funding management to be through the Council, as the accountable body, with decision making through the Herefordshire Partnership. Local priorities and issues will be set in consultation with partner organisations and mapped against the Community Strategy. The Community Services scrutiny committee will carry out reviews and all Members will be invited to a seminar outlining the priorities. With key priorities identified the focus will move to identifying performance indicators, agreeing targets and actions. Cabinet noted the Local Area Agreement super refresh process, timetables and opportunities to input and the list of key priorities for consultation.

- (iv) **Modernisation of Registration Service** – Cabinet has received a report outlining the proposal to establish a single registration district for Herefordshire and the implementation of a new governance framework. Registration staff will now become local authority employees and under the new governance framework there would be provision for a more flexible, less prescriptive scheme, allowing local authorities greater discretion to deliver local services to meet both national standards and local community needs. Cabinet was advised that Herefordshire currently has six registration districts. Under the new scheme there will be one single Herefordshire Registration District amalgamating the current six districts. The Town Hall will become the Herefordshire Register Office with offices at Leominster, Ledbury and Ross-on-Wye providing a full range of customer services. Offices at Bromyard and Kington will become service delivery points and used on an appointment only basis. Cabinet was advised there would be a consolidation of register storage in a single location at the Herefordshire Register Office, which will be reviewed after the first year. Cabinet approved the amalgamation of the six registration districts to provide a single registration district for Herefordshire. Cabinet also approved the implementation of the new governance framework and for the Head of Legal and Democratic Services, as the Proper Officer, to be delegated to submit a draft scheme to the General Register Office

6.2 Report on Items of Interest

- (i) **Ombudsman Letter and Complaints and Compliments Monitoring 2006/07** – The Head of Legal and Democratic Services presented the report to Cabinet and advised this was an annual letter from the Local Government Ombudsman reflecting on any complaints they had received with regards to Herefordshire Council and any action they might recommend to be taken. Cabinet was advised there were no reports of maladministration against the Council. Favourable comments had been received on the Council’s complaints procedure and there was a 10% decrease in complaints compared to last year. It was found that planning complaints had fallen from 35 in 2005/06 to 21 in 2006/07. Cabinet was pleased with the improvements that had been made and noted the report.

- (ii) **Integrated Performance Report** – Cabinet has received the Integrated Performance Report which outlines performance to the end of July 2007 against the Annual Operating Plan 2007-08, national performance indicators used externally to measure the performance of the Council, together with

performance against revenue and capital budgets and corporate risks. Cabinet noted the number of indicators marked red and not on target and were advised that this did not necessarily indicate a drop in performance. Cabinet noted that performance indicators where in-year data was available, the current direction of travel showed that 53% of indicators were on course to improve on last year. Cabinet noted there were some areas of reporting where further clarity was required. At Appendix C to the report, 2007/08 Revenue Budget Monitoring Summary, Cabinet noted that the general reserves were comfortably healthy. The updated position with regards to the funding for the July floods was for a slightly lesser amount of £3.5m and that further flood damage was coming to light. Cabinet reviewed the funding in each directorate and the position with possible overspends. Cabinet noted the performance to the end of July 2007 and the adequacy of the proposed remedial actions to address areas of under performance.

- (iii) **Comprehensive Equality Policy and Equality Schemes** –Cabinet has received a report on the Comprehensive Equality Policy (CEP) and Equality Schemes outlining progress on the Council’s commitment to and delivery of its statutory obligations to the diversity agenda. The CEP provides the focus to ensure the Council meets the criteria to reach level three of the equality standard by March 2008. Two key changes in the report relate to the government white paper ‘strong and prosperous communities’. Firstly the aim to give local people and communities more influence and power to improve their lives and communities. Secondly the need for councils to track and monitor local trends or ‘hot spots’, such as possible tensions between different ethnic or faith groups or new and long-term residents to an area. Cabinet was informed that to date there had been no incidents requiring monitoring and reporting to government office. Cabinet noted the progress made on the Comprehensive Equality Policy and the associated equality schemes.

- (iv) **Employee Opinion Survey 2007** – Cabinet has received a report outlining the key findings of the Employee Opinion Survey, which is carried out annually during July. 53% of employees completed the survey, an increase of 5% on last year and a 10% increase on the national average. Cabinet was advised that there were marked improvements in the perception of employees over the areas covered by the survey questions, with employees feeling things were getting better. Some of the areas that employees felt improvements had been made were in Staff Review and Development discussions and in skills training, with 77% of respondents agreeing they have adequate training for their job. Cabinet was pleased to note the number of employees participating in the Employee Opinion Survey and noted the report on the survey.

7. ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES (Cabinet Member - Councillor A.J.M. Blackshaw)

7.1 Report on Decisions Taken

- (i) **Response to the Review of How to Retain 18-35 Year Olds in Herefordshire and Attract Them To It** – Cabinet has received a report on the retention of young people aged 18-35 in the county. The purpose of the review was to establish why 18-35 year olds leave the county and to focus on measures that could be put in place to retain the age group and to attract more to the county. It was noted that even with predicted increases in the age range of 12-24 year olds in the county, the county would still be under represented in comparison to the population figures for England and Wales. The recommendations of the review were for young people to be involved in the shaping of major regeneration schemes such as the Edgar Street Grid. Methods of retaining and attracting college graduates other than through universities were explored, particularly in connection with the development of the learning village. Resources should also be concentrated on improving what the county has to offer both with regard to social and economic development for young people. Finally a business start up programme is to be promoted to support entrepreneurship and the Council continues its programme of affordable housing linked to major developments. Cabinet endorsed the response to the review and the action plan as set out in the report.
- (ii) **Response to the Review of Hereford City Partnership** – Cabinet has received a report on the Review of Hereford City Partnership and the recommendations. The Community Services Scrutiny Committee undertook an examination of the Hereford City Partnership. The company was set up in May 2000 and brings together both the public, private and voluntary sector that have an interest in the economic and environmental wellbeing of the City. The report considered 16 recommendations, as outlined in the report, with the majority of the recommendations accepted and with some needing to be passed to the City Partnership for consideration and action. Cabinet endorsed the recommendations and Action Plan.
- (iii) **Action Plan for the Cultural Service CPA Review** – Cabinet has received a report on the Action Plan for the Cultural Service CPA Review. Audit Commission Inspectors were on sight from the 5th – 9th February 2007 to meet a range of Members, officers and partners to judge the quality of cultural services provided. The Audit Commission judgement looks at how good the service is varying from poor, fair, good or excellent to what the prospects are for improvement, which can be from poor, uncertain, promising or excellent. The result for Herefordshire was a “fair service that has promising prospects for improvement”. The previous evaluation in 2002 based on the library services gave a rating of a “fair service with uncertain prospects”. Cabinet noted that this inspection was based on a harder test and covered the full range of cultural services. Cabinet thanked officers for the considerable improvements that had been made in the service and endorsed the action plan.
- (iv) **Proposed Purchase of Blueschool House, Blueschool Street, Hereford, HR1 2LX** – Cabinet received a confidential report on the proposed purchase of Blueschool House.

7.2 Report on Items of Interest

- (i) **Update on the Future of Post Office Services in Rural Herefordshire –** Cabinet has received a report providing an update on the Government's post office closure programme and the progress made on the initiative to develop sustainable options for the delivery of post office services to rural communities. Following Government's announcement in December 2006 on the possible closure of up to 2,500 unprofitable post offices, it is likely closures will be spread between rural and urban areas. To offset the closures Post Office Ltd. propose to introduce up to 500 "outreach" facilities or mobile post offices. Cabinet was advised that due to changing shopping patterns and other factors there had been a number of shops and post offices closing over the last thirty years, with remaining rural shops/post offices struggling. It is estimated there will be a 17% drop in the number of post offices nationally. Cabinet was informed that officers had been working with the Rural Shops Alliance and Business Link to investigate the provision of Parcel Post, Bill payment and access to cash in rural areas. Officers were also working with village shops and holding information training evenings on the latest market trends to share good practice. Cabinet was advised that a further initiative was planned to seek funding to provide support to village shops by providing retail development advice and match funded capital grants. Cabinet approved the proposed actions

8. ENVIRONMENT AND STRATEGIC HOUSING (Cabinet Member: Councillor J.G. Jarvis)

8.1 Report on Decisions Taken

- (i) **Rotherwas Archaeology: Options for Preservation of the Ribbon and Completion of the Rotherwas Access Road –** Cabinet has received a report outlining the approach to the completion of the Rotherwas Access Road in the context of the advice received from English Heritage as to the best method of preserving the archaeological remains. Cabinet examined the options available with Option F being the one that would ensure the completion of the road to the original time scale and at the lowest cost whilst preserving the Rotherwas Ribbon in a manner approved by English Heritage. Cabinet was advised that Planning Guidance PPG16 was rigorously followed and compliance to it was examined through an independent peer review under taken by officers of the Association of Local Government Archaeological Officers. Cabinet examined options for tourism or education/heritage centre at the site. Cabinet considered all the options put forward and agreed that the Rotherwas Access Road should be completed and the Rotherwas Ribbon preserved in accordance with Option F of the report.
- (ii) **Herefordshire Housing Post Transfer Improvement Programme –** Cabinet was provided with an update on the progress made in delivering improvements to housing stock transferred to Herefordshire Housing. Cabinet was reminded that the housing stock was transferred in 2002 to Herefordshire Housing Ltd. A series of repairs and improvements were planned for the first five years, with the Council monitoring progress. Housing stock figures have been revised reflecting the loss of stock through the Right to Buy scheme. Herefordshire Housing have factored in extra funding amounting to £23m over 30 years, which will enable it to reach the

government's Decent Homes Standard by 2010, with currently 84% of the housing stock already at that level. Cabinet was advised that Mr Peter Brown had been appointed as the new Chief Executive for Herefordshire Housing Ltd. Cabinet noted the progress made by Herefordshire Housing to date in delivering against the programme of repairs and improvements identified within the Formal Consultation document. Cabinet is to receive a summary report, after 25th November, 2007, on repairs and improvements delivered in the first five years following transfer.

- (iii) **Affordable Housing Development Programme 2007/08** – Cabinet has received a confidential report on the Affordable Housing Development Programme 2007/08.

9. HIGHWAYS AND TRANSPORTATION (Cabinet Member - Councillor D.B. Wilcox)

9.1 Report on Decisions Taken

- (i) **Policy Statement for the Use of the Rivers Wye and Lugg** – The Cabinet Member (Highways and Transportation) presented the report to Cabinet and recommended the adoption of the revised policy statement as the basis for responding to proposals advanced in relation to the rivers Wye and Lugg, with particular regard to the Environment Agency in relation to their implementation of the Wye Waterway Plan. Cabinet was advised that the policy statement would enable the Council to work more effectively with its partner and other organisations to promote uses for the rivers, which are sustainable and benefit local communities and the wider public. Cabinet approved the revisions to the policy statement for the rivers Wye and Lugg and the promotion of partnership working with the relevant organisations.

10. RESOURCES (Cabinet Member - Councillor H. Bramer)

10.1 Report on Decisions Taken

- (i) **The Financial Position Arising From July 2007 Floods** – Cabinet has received a report on the financial implications of the recent flooding in Herefordshire in July 2007 and praised the work of a large number of individuals, officers, voluntary and partner organisations that assisted during this time. Cabinet was aware of the considerable disruption and damage that the flooding caused across the county and was advised of the circumstances in which such incidents could receive financial assistance from central government. Cabinet was informed that it had been confirmed that this flooding incident would be covered by the relevant regulations under the Bellwin Scheme and was advised that the terms of the scheme had been improved by government because of the extent of the flood damage. This resulted in an increase in the proportion of costs local authorities could claim above the threshold to 100% from the previous 85%. Cabinet was advised that since the writing of the report Herefordshire had received an additional £30,000 and it was proposed that these additional funds would be distributed in December. Cabinet noted the report and the financial implications due to the flooding and requested further updates be brought back to Cabinet.

11. SOCIAL CARE ADULTS AND HEALTH (Cabinet Member Councillor Mrs. L.O. Barnett)

11.1 Report on Decisions Taken

- (i) **Adult Social Care Fairer Charging** – Cabinet was informed of the outcomes of the recent public consultation on the Fairer Charging for non-residential Social Services recommendations made by Cabinet in June 2007. At that time Cabinet approved the number of changes proposed following the consultation on the fairer charging, but with one change for the reduction in the proposed rate for day care services to £7.30 from £14.00. Following the recommendations extensive consultation was carried out during the summer with the most significant concerns raised in relation to the day centre fees increasing from £2.90 to £7.30. Other concerns were around the charging for care assistants and the impact of including 100% of occupational pensions in the financial assessment. Cabinet was informed that due to the level of concern on day centre fees an alternative option was proposed to reduce the increase in day centre fees to £4.00 per session instead of the proposed £7.30, with a review in March 2009. Cabinet approved the proposals set out in Appendix A of the report with the exception of the proposed change to Day Care which would be set at £4.00 per person and with charges subject to an annual inflationary uplift as appropriate.

12. **Special Report From the Director of Resources** – The Director of Resources presented the Special Report to Cabinet as the Council’s Chief Statutory Financial Officer. The Director advised Cabinet that the purpose of the report was to disclose significant non-compliance issues within the ICT and Customer Services division, which were identified by the Council’s internal audit team. It was stated that further work would be necessary to establish whether the contractual arrangements the Council had entered into for the ICT back office project and the Community Network Upgrade (CNU) project represented best value. Cabinet noted that the ICT and Customer Services division was the only service division to have dedicated financial management support when the Council’s senior management arrangements were re-organised in May 2005. The Director drew Cabinet’s attention to the issues raised by the external auditor with regard to the (CNU) and advised Cabinet that this was a technical accounting issue only. Cabinet endorsed the actions outlined in the action plan and that an urgent reassessment be made of the CNU contract. Cabinet agreed that financial governance compliance testing and implementation of the recovery plan to be made a priority in line with the timetable in the action plan and financial services to be involved in all option appraisals. It was agreed by Cabinet that an independent external officer be appointed to carry out a financial and technical appraisal of ICT and Customer Services.

**COUNCILLOR R.J. PHILLIPS
LEADER OF THE COUNCIL**

REPORT OF THE PLANNING COMMITTEE

Meetings Held on 24th August and 28th September, 2007

Membership:

Councillors: TW Hunt (Chairman), RV Stockton (Vice-Chairman), ACR Chappell, PGH Cutter, Mrs H Davies, GFM Dawe, DW Greenow, JW Hope, B Hunt, G Lucas, RI Matthews, R Mills, Mrs PM Morgan, Mrs JE Pemberton, AP Taylor, DC Taylor, WJ Walling, PJ Watts and JD Woodward.

REFERRED PLANNING APPLICATIONS

1. The following Planning Applications were determined by the Committee because (i) they relate to the Council's own development or to the development of land owned by the Council; (ii) they are applications referred to the Committee by the Head of Planning Services because the Area Planning Sub-Committees are mindful to approve/refuse them contrary to officer recommendations and Council's Policies; or (iii) they are applications by Members of the Council or their relatives.
 - (a) DCNC2007/0667/O - site for the erection of an additional building for provision of care to the elderly mentally infirm at Pencombe Hall, Pencombe, Bromyard – approved contrary to recommendation;
 - (b) DCNE2007/1224/F - proposed two storey dwelling for ancillary accommodation at Black Hill, British Camp, Malvern – approved contrary to recommendation with conditions tying it to the existing dwelling;
 - (c) DCNE2007/0966/F - proposed three storey building to provide 13 apartments, with 18 parking spaces and associated cycle parking at land rear of Homend Service Station, The Homend, Ledbury – refused contrary to recommendation;
 - (d) DCNC2006/3893/F - demolition of redundant racing stables and erection of 4 no. 3 bed houses (low cost market) together with 8 parking spaces at Risbury Racing Stables, Risbury, Leominster approved contrary to recommendation with conditions that dwellings be for low cost ownership;
 - (e) DCCE2007/1209/F - residential development together with alterations to 10 Ledbury Road to provide 6 residential units at 10 Ledbury Road, Hereford – approved as recommended;
 - (f) DCCE2007/1961/F - conversion and extension of garage/preparation area to single storey dwelling and extension of take-away preparation area. formation of parking area for existing flats at 1-3 Peregrine Close, Hereford - approved as recommended.
 - (g) DCNW2007/2326/F - proposed area for the display of decorative garden products at The Oaks, Marston, Pembridge - refused as recommended;
 - (h) DCCE2007/2237/F - replacement dwelling and continued temporary use of existing outbuilding as full residential accommodation. (alternative siting of approved dwelling under CE2002/1868/F) Swiss Cottage, Whitestone, Hereford - approved contrary to recommendation with conditions tying the existing building to the new dwelling;

- (i) DCSW2007/2010/F - erection of a farm dwelling with double garage, Upper Newton Farm, Newton St. Margarets, Vowchurch - refused as recommended;
- (j) DCSW2007/2543/O - site for new dwelling in garden of Sandridge, Barrack Hill, Kingsthorpe - approved contrary to recommendation; and
- (k) DCCW2007/2160/F - installation of 2.5kw wind turbine and photovoltaic roof panels at Marden Primary School, Marden - approved as recommended;

AREA PLANNING SUB-COMMITTEES

2. Information reports have been received from the three Area Planning Sub-Committees which have dealt with the following matters:

(a) Northern Area Planning Sub-Committee meetings held on 25th July, 22nd August & 19th September, 2007

- applications approved as recommended – 25
- applications refused as recommended – 0
- applications refused contrary to recommendation but not referred to Planning committee – 1
- applications minded to approve contrary to recommendation and referred to Planning Committee – 2
- applications deferred for further information - 2
- number of public speakers – 5 parish council; 7 objectors and 15 supporters
- appeals - 17 appeals received and 11 determined (9 dismissed and 2 upheld)

(b) Central Area Planning Sub-Committee meetings held on 1st &, 29th August, 2007

- applications approved as recommended - 8
- applications refused as recommended - 0
- applications deferred for site inspection – 2
- applications minded to approve contrary to recommendation and referred to Planning Committee – 1
- applications minded to refuse approve contrary to recommendation and referred to Planning Committee – 2
- applications deferred for further information - 1
- number of public speakers – 3 parish council; 6 objectors and 3 supporters
- appeals - 5 appeals received and 3 determined (2 dismissed and 1 upheld).

(c) Southern Area Planning Sub-Committee meetings held on 18th July, 15th August & 12th September, 2007

- applications approved as recommended - 0
- applications refused as recommended - 1
- applications minded to approve 1 (referred to Planning Committee)
- applications minded to refuse 10 (2 referred to Planning Committee)
- number of public speakers – 3 Parish Council; 4 objectors and 5 supporters
- appeals - 8 appeals received and 4 determined (3 dismissed, 1 upheld).

TARRINGTON PARISH PLAN

3. It has been recommended to the Cabinet Member (Environment and Strategic Housing) that the planning elements of the Tarrington Parish Plan be adopted as planning guidance to the Herefordshire Unitary Development Plan and as an expression of local distinctiveness and community participation. The aim of the document is to identify measures by which the community aim to improve and enhance the quality of the built environment and to provide a mechanism to inform and influence the decisions of statutory bodies about community priorities and local needs. Key recommendations are included about transport and traffic, landscape and environment, housing, planning and heritage, youth and leisure and community services.

EDGAR STREET GRID DESIGN FRAMEWORK SUPPLEMENTARY PLANNING DOCUMENT

4. The Edgar Street Grid Design Framework Supplementary Planning Document (SPD) is included within the Council's Local Development Scheme and needs to be produced in line with the regulations of the new Planning Act. The SPD provides a framework for the future development of land comprising approximately 43 hectares to the north of the city centre. The area includes a number of significant uses including the Livestock Market, Hereford United Football Club, the railway station and a number of buildings of architectural and historic importance such as the Blackfriars Friary. The area also accommodates a wide range of industrial, commercial and residential uses. The aim of the SPD is to:

- establish an urban design framework for the Edgar Street Grid area in a positive and enabling manner providing a design concept early on in the process which will be used to guide landowners, developers and the community on the form development proposals should take;
- address and supplement with additional information the policies contained within the UDP;
- provide greater certainty for the market on what is expected from future schemes; and
- ensure delivery of a comprehensive, coordinated and sustainable development for the Grid area.

5. The draft has been out to consultation during the past few months and from the comments received, the Committee is in favour of the document being redrafted to improve its usefulness. The exercise has emphasised the role and importance of consultation in the preparation of planning documents. It has been recommended to the Cabinet Member (Environment and Strategic Housing) that the changes to the document be approved and that the document be adopted as part of the Councils Local Development Framework.

CONSULTATION ON PLANNING APPLICATION REQUIREMENTS

6. The Government has decided to introduce a National Standard Planning Application form which will be mandatory from April 2008. The new requirements also include arrangements for local planning authorities to set their own local requirements, known as Planning Application Requirements (Local) or PAR(L). Consultation arrangements involved which should include:
 - presentation of the draft PAR(L) to an Agents' Forum;
 - written consultation with City, Town and Parish Councils;
 - written consultation with normal statutory consultees on planning applications; and
 - written consultation with a selection of non-statutory consultees taken from the list in the Council's Statement of Community Involvement, to include those with County-wide interests and who comment most frequently on planning applications.
7. Consultation on the process commenced in October and will continue into November 2007 and the outcome will be reported back to Planning Committee in January 2008 to consider the final version of the PAR(L).

**T.W. HUNT
CHAIRMAN
PLANNING COMMITTEE**

BACKGROUND PAPERS

- Agenda for the meeting of the Planning Committee held on 24th August and 28th September, 2007.

REPORT OF THE STANDARDS COMMITTEE

Meeting held on 19 October 2007

Membership:

Robert Rogers (Independent Member) (Chairman); Councillor John Stone; Councillor Beris Williams; Richard Gething (Town and Parish Council Representative); John Hardwick (Town and Parish Council Representative); David Stevens (Independent Member).

APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

1. We have granted the following dispensations to:
 - One member of Bridstow Parish Council in relation to his role as custodian trustee of Bridstow Village Hall;
 - Fifteen members of Colwall Parish Council in relation to the Parish Council's position as trustee of the Walwyn Meadow Trust;
 - One member of Yarkhill Parish Council in relation to his role as trustee of Yarkhill Village Hall;
 - One member of Brilley Parish Council in relation to his position as a member of Brilley and Michaelchurch Village Hall Committee; and
 - All five members of Ross-on-Wye Town Council's Planning Committee in relation to a planning matter.

THE COUNCIL'S PROTOCOLS AND CODES OF CONDUCT

2. Following the Council's adoption of the new Code of Conduct, we have revised three of the Council's Codes and protocols for which we have responsibility. They are:
 - The Code of Conduct for Members and Officers Dealing with Planning Matters;
 - The Protocol on the Use of Council Resources by Members; and;
 - The Protocol for Member/Officer Relations.
3. Most of the proposed changes are minor. The Planning Code of Conduct requires more significant modification, as a result of the Council's adoption of Paragraph 12(2) of the new Code. The changes will be clear from the amended version of the Code circulated to Councillors.
4. We will also produce a guidance pamphlet for Parish and Town Councils on the Code as it affects Planning issues.

SPECIAL AUDIT INVESTIGATION AND FINANCIAL GOVERNANCE

5. We have considered the report of the Director of Resources in respect of a recent special audit investigation, and also her report to Cabinet on Financial Governance in ICT and Customer Services. The Chairman has written to the Chief Executive and the Chairman of the Audit and Corporate Governance Committee asking to be kept informed.

TRAINING UPDATE

6. We held our first joint Herefordshire Council/Herefordshire Association of Local Councils training session on the new Code of Conduct on Thursday 25th October, and we will be arranging subsequent sessions.
7. As we look towards the new arrangements for investigations in April 2008, we will also be arranging training sessions on the local filter process.
8. The Standards Board for England has produced a DVD which uses a fictional planning dispute to highlight the key changes brought about by the new Code of Conduct. We have viewed this and consider that it provides some helpful and clear examples of personal and prejudicial interests. The Head of Legal and Democratic Services has a copy of the DVD, and is looking to incorporate it into future training sessions with the Council and HALC.

SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

9. The Committee was well represented at the Annual Assembly of Standards Committees this year, both in terms of attendance and participation. The Chairman, and the Head of Legal and Democratic Services led seminars at the conference.
10. As always, it was an invaluable experience, and provided a great deal of information on the local filter and issues relating to the new Code of Conduct. It is clear that the local filter is going to raise questions about how we work in the future. We will need to decide whether to expand the Committee membership to deal effectively with the extra stages in the investigation process that will become our responsibility. We will also need to look again at joint working and training arrangements with other authorities, and the implications for resources.
11. We had the opportunity to share our annual report, charring checklist, and hearing guide with other authorities, and these were met with approval and numerous requests to take the documents away and replicate them. We felt that this said a lot for best practice on Herefordshire.

DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND – 2007

12. We have considered progress reports on current investigations by the Standards Board for England.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS:

- Agenda papers of the meeting held on 19 October 2007.

COUNCIL

2ND NOVEMBER, 2007

REPORT OF THE STRATEGIC MONITORING COMMITTEE

Meetings Held on 17th September and 25th October, 2007

Membership:

Councillors: PJ Edwards (Chairman), PA Andrews, WU Attfield, WLS Bowen, SPA Daniels, KG Grumbley, T.M. James, RI Matthews, SJ Robertson, RH Smith and K Swinburne.

INTEGRATED PERFORMANCE REPORT

1. The Committee has considered the Integrated Performance Report (IPR) on performance to the end of July 2007 including performance against revenue and capital budgets and corporate risks, and remedial action to address areas of under-performance.
2. The Committee recognised that the format of the Integrated Performance Report (IPR) is evolving and the efforts being made to improve its presentation to make it an effective performance management tool for Members. In addition to challenging progress against a number of individual targets it has made a number of specific points on the presentation of information in the IPR including: that where it is indicated that data is to be reported annually it should be made clear when that data will in fact be reported; that it should be made clear whether good performance is shown by performance being above or below the relevant performance indicator target, and that the presentation of the revenue budget should include the budgets for the year to enable the significance of budget variations to be more clearly understood and comparisons readily drawn.
3. It has also registered concern that a number of performance templates remain to be completed. From now onwards there is a need to ensure that this is given priority before the year to which the templates relate to permit proper performance management to take place.
4. The Committee has also expressed considerable concern about the projected overspend on the revenue budget and the need for Cabinet to ensure that the position is not simply being accepted and that budgets are being firmly and effectively managed with plans in place to ensure budget compliance.
5. The Committee was advised that the financial strategy had been developed to address the funding of the base budget. The updated financial strategy and service priorities would be presented to the Committee soon. The Corporate Management Board (CMB) was aware of the budget pressures and the need to provide services within the agreed cost. CMB had been told that clear plans needed to be in place stating how each service would be delivered within the resource base.
6. The Committee has noted that the costs incurred as a result of summer flooding of a number of schools, estimated at £930,000, had not been recoverable under the Government's Bellwin Scheme. This was because the risk was viewed as insurable. The Council had decided to self-insure some years ago setting aside £250,000 to meet the risk. The Committee has been advised that the process for insuring

schools against risk is being re-examined as part of the corporate risk management approach and will be the subject of further report.

EMPLOYEE OPINION SURVEY 2007

7. The Committee has considered the results of the Employee Opinion Survey 2007. It was advised that the improved response rate at 53% was well in excess of the 43% average response rate for local government surveys. The responses in general also showed marked improvements in the perception of employees over the areas covered by the survey questions. The Committee asked a number of questions about the detail of the findings. In particular it asked about the finding that 36% disagreed that action would be taken as a result of the survey. The Committee was informed of those actions that had been taken as a result of previous surveys. Communication was a key issue to remind employees of what action had been taken in response to previous surveys and demonstrate what had been achieved.

SCRUTINY REVIEW OF ICT SERVICES – EXECUTIVE ACTION PLAN PROGRESS REPORT

8. A scrutiny review of the Council's Information, Communication and Technology Services was completed in December 2006. The Committee has received an update on progress in implementing the Executive's action plan. The Committee discussed several aspects of the report receiving assurances about progress. It has requested a further update in 3 months time.

OMBUDSMAN LETTER AND COMPLAINTS AND COMPLIMENTS MONITORING

9. The Committee has noted the Ombudsman Annual Letter 2006/07 and the figures for complaints and compliments recorded for the year ended 31st March, 2007. The Committee was informed of several aspects where the Ombudsman had commented favourably on the Council's complaints handling arrangements, and that the Council was also well placed to move from the second quartile to the top quartile of authorities in terms of responding to enquiries from the Ombudsman's office within 28 days.
10. It was noted that the majority of complaints continued to relate to planning and building control issues. The Committee has requested an update on the reasons for the complaints, having looked into the matter last year when no obvious areas of consistency in the various complaints (either type of application or type of complaint) had been identifiable.

MEETING OF 25 OCTOBER

11. A supplementary report will be circulated on issues considered at this meeting.

ISSUES CONSIDERED BY THE INDIVIDUAL SCRUTINY COMMITTEES

12. The work of the Committees is analysed below in accordance with the following two roles for scrutiny based on a University of Birmingham categorisation.

Holding the Executive to Account	Developing Policy
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Questioning members of the Executive	Pre-Decision Scrutiny – commenting on decisions about to be made
Call-ins – Scrutinising decisions before they take effect	Policy Reviews and Development
Scrutinising decisions after they are made	External Scrutiny
Management of Performance	Health Scrutiny
Ensuring Corporate Priorities are Met	
Budget Scrutiny	
Community and Area Scrutiny	

13. The business considered by the Scrutiny Committees is set out below. Each Scrutiny Committee has also considered and rolled forward its work programme.

Scrutiny Committee	Holding the Executive to Account	Developing Policy
Adult Social Care and Strategic Housing	Presentation by Cabinet Member (Social Care Adults and Health) Revenue Budget 2007/08 Performance monitoring Learning Disability Action Plan Executive Response to Recommendations on Homelessness	Review of Transition from Leaving Care to Adult Life (Joint with Children's Services) Presentation by Registered Social Landlords Adult Social Care Fairer Charging Review of the Modernisation of Day Opportunities for older people. Review of Herefordshire Home Point Housing Allocations Policy
Children's Services 25 September 2007 5 October 2007	Call-in of Cabinet Decision on WyeBridge Sports College: Academy Project Annual Performance Assessment Capital Budget Monitoring Report 2007/08 Revenue Budget monitoring Report 2007/08 Performance Digest Executive Response to Review of Behaviour and Discipline management in Herefordshire Schools	Review of Transition (see above) Principles on Future Provision of School Places

Scrutiny Committee	Holding the Executive to Account	Developing Policy
Community Services 8 October 2007	Presentation By Cabinet Member – Economic Development and Community Services Action plans in response to the Cultural Services inspection, Hereford City Partnership and the 18-35 Review Revenue Budget 2007/08 Performance Monitoring	Review of Agreement with HALO Leisure Trust Review of Tourism with specific reference to Tourist Information Centres Ledbury Tourist Information Centre
Environment 24 September 2007 (and 9 November 2007)	Call-In Of Cabinet Decision On Rotherwas Archaeology: Options For The Preservation Of The Ribbon And Completion Of The Rotherwas Access Road Presentations by Cabinet Members (H&T) - Environment Directorate Restructure Capital Budget Monitoring - Revenue Budget Monitoring -	Findings of Review of Household Waste Recycling in Herefordshire Review of Travellers Policy
Health 14 August 2007 20 September 2007		Review of Multi-organisation patient pathways (focusing on elderly patients having unscheduled medical emergencies) Public Service Trust for Herefordshire West Midlands Ambulance Service NHS Trust – Foundation Trust Status Hereford Hospitals NHS Trust – Foundation Trust Status Reconfiguration of mental health Services

		Changes in the Management of mental Health Services Development of Local Involvement Network
Scrutiny Committee	Holding the Executive to Account	Developing Policy
Strategic Monitoring Committee 17 September 2007 25 October 2007	Integrated Performance Report Employee Opinion Survey Ombudsman letter and Complaints and Compliments Scrutiny Review of ICT Services – Executive Action Plan – Progress Report Presentations by Cabinet Members Herefordshire Community Strategy Development Plan Annual Report Strategic Service Delivery Partnership Herefordshire Connects Progress Report	Local Area Agreement Priority Setting Financial Control of Capital Schemes in Property Services Principles to Guide the Provision of Education

14. Issues of particular note include:

- **Adult Social Care and Strategic Housing Scrutiny Committee**

The Committee has received a presentation from the Cabinet Member (Social Care Adults and Health) and discussed issues with her.

The Committee has also received a presentation from one of the Registered Social Landlords in the County and intends to hear from two more at a future meeting. The invitation was originally prompted by a wish to examine maintenance policies but the Committee is analysing a range of issues to identify areas for improvement.

The Committee continues to monitor the pressure on the revenue budget and a seminar on the budget has been arranged.

- **Children's Services Scrutiny Committee**

The Committee called in Cabinet's decision on WyeBridge Sports College: Academy Project. Having considered the issues the Committee has accepted Cabinet's

decision. In the course of discussion concern was, however, expressed about the future provision of community, South Wye Learning and Young People's Support Services. The hope was expressed that if it was not possible to retain these services on site provision was made immediately adjacent to the site.

- **Community Services Scrutiny Committee**

The Committee has received a presentation from the Cabinet Member (Economic Development and Community Services) and discussed issues with him.

- **Environment Scrutiny Committee**

The Committee called-in Cabinet's decision on "Rotherwas Archaeology: Options For the Preservation Of The Ribbon And Completion Of The Rotherwas Access Road".

The Committee endorsed the decision taken by Cabinet on 6th September 2007 with regard to proceeding with option F for the completion of the Rotherwas Access Road. Whilst endorsing this decision the Committee noted that there might have been instances when information flow within the Council fell short of that normally expected. Cabinet has been recommended to set in place work to address this for the future during periods of "purdah" and immediately following elections. The Committee also congratulated the County Archaeologist on the universally acknowledged standards and quality of his work on the ribbon thus far. The Committee sincerely hoped he would be able to lead further researches either side of the present find in due course. The Committee also urged Cabinet to continue to seek funding for further research into the ribbon including a tourism scoping report when appropriate.

- **Health Scrutiny Committee**

The Committee has considered the Public Service Trust proposals making a number of recommendations to Cabinet.

The Committee has also considered and responded to the West Midlands Ambulance Service NHS Trust's proposed reconfiguration of emergency operations centres. The Committee has supported the reconfiguration in principle but has sought assurances that the service on the ground in Herefordshire will not be adversely affected and, amongst other things, has requested some reinvestment into the County of any resources realised through reorganisation. It has suggested that providing direct funding for equipment for Community First Responders would be a good place to start to seek to improve the provision of service to rural areas.

**PJ EDWARDS
CHAIRMAN
STRATEGIC MONITORING COMMITTEE**

BACKGROUND PAPERS

- Agenda Papers of the Meeting of the Strategic Monitoring Committee held on 17 September and 25 October 2007

REPORT OF THE REGULATORY COMMITTEE

Meetings Held on 31st July, 2007; 28th August and 23rd October, 2007

Membership:

Councillors: P. Jones CBE (Chairman), J.W. Hope MBE (Vice-Chairman) C.M. Bartrum, D.J Benjamin, M.E. Cooper, P.G.H. Cutter, Mrs. S.P.A. Daniels, J.H.R. Goodwin, R. Mills, A. Seldon, D.C. Taylor.

ALCOHOL CONSUMPTION IN PUBLIC PLACES - DESIGNATION OF PUBLIC PLACES IN HEREFORD

1. The Criminal Justice and Police Act 2001 makes it easier for the Police to arrest those engaged in anti-social drinking in places which have been designated by Local Authorities. The powers offered by the Act have proved to be particularly effective in Town Centres and the Council has designated areas in Hereford City and the market towns, as well as the village of Madley. After a lengthy consultation period, the Committee has also recently decided to designate the central area of Kington for such purposes.

HIGHWAYS ACT 1980 SECTION 119 – APPLICATIONS FOR PUBLIC PATH DIVERSION ORDERS

2. The Committee has determined applications for the following Public Path Diversion Orders for which there has been consultation with interested parties, the local parish councils and the local Ward Councillors where appropriate:-
 - (a) Footpath LH19 (part) Little Hereford – approved and;
 - (b) Footpath CD9 (part) Cradley - approved.

APPLICATION FOR AN AMUSEMENT WITH PRIZES MACHINES PERMIT FOR OVER TWO MACHINES – SECTION 34 THE GAMING ACT 1968

3. The Committee has a policy that applications for more than two gaming machines must be submitted to it so that the siting and numbers of machines involved can be considered in relation to (i) preventing gambling being a source of crime or disorder; (ii) ensuring that gambling is conducted in a fair and open way; and (iii) protecting children and the vulnerable from being harmed or exploited by gambling. A permit for four machines has been granted in respect of The Litten Tree, Commercial Road, Hereford.

APPEAL IN RESPECT OF A DECISION BY THE STREET TRADING PANEL

4. The Council's Street Trading Panel is comprised of representatives from Trading Standards, Environmental Health, Highways and Transportation, Licensing, Economic Development, Markets and Fairs, and Legal Services. The Hereford City Manager also attended in an ex-officio capacity. A policy has been set in place for the administration and enforcement of street trading which was a non-profit making service within Herefordshire and applications to the Panel are considered on their individual merits, taking into account a variety of factors including:
 - existing trader/product supply in the vicinity
 - precedents already set by the Panel; and
 - suitability of proposed stall/unit/product range

5. An application from a vendor in High Town Hereford to sell certain products had been refused by the Panel due to there already being sufficient outlets of the products in the locality and also that the use of a proposed vending machine was not considered to be appropriate there. The Panel had already refused permission previously for another street trader to sell the product range in question. The applicant submitted an appeal to the Committee about the decision. The appellant provided the Committee with details of the circumstances which had given rise to the application, described the products he wished to sell and said that he did not feel that there would be any trading disadvantages caused to other traders in doing so.
5. Having given detailed consideration to all of the facts put forward by the Trading Standards Manager and the applicant, the Committee decided that the appeal should be upheld and that the applicant be granted a consent to sell the products he had requested. The Committee also requested that the Trading Standards Manager provide them with a briefing about Street Trading in general at a future meeting.

INCREASE IN HACKNEY CARRIAGE FARES 2007/2008 - THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

6. The Committee has considered proposals to increase the hackney carriage fares for Herefordshire as part of its annual review. The proposals have been published in the local press with a two-week period of consultation with a view to implementing the new scale of charges on 5th November, 2007. The proposals are based on consideration of the annual inflation indices and submissions from the Herefordshire Hackney Carriage and Private Hire Association.

APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES – LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

7. Seven applications for the reinstatement, renewal or grant of Hackney Carriage/Private Hire driver's licences were referred to the Committee in accordance with the Council's terms and conditions and the advice on the interpretation of spent convictions and medical requirements. The applicants and their representatives gave details of the grounds for their applications and they provided the Committee with the circumstances giving rise to their offences or health situations. The applications were dealt with as follows:
 - (a) one licence licence was reinstated because the Committee was satisfied that evidence had been given that the applicant is a fit and proper person to be licensed;
 - (b) two applications were refused because the applicants were not considered to be fit and proper persons to be granted licences;
 - (c) three applications were granted because the Committee was satisfied that evidence had been given that the applicants are fit and proper persons to be licensed; and
 - (d) it was decided that the suspension of one licence should continue because the Committee was not satisfied that evidence had been given that the applicant is a fit and proper person to be licensed.

**P. JONES CBE
CHAIRMAN
REGULATORY COMMITTEE**

BACKGROUND PAPERS Agenda papers from the meetings of the Regulatory Committee held on 31st July, 2007; 28th August and 23rd October, 2007.

REPORT OF THE AUDIT AND CORPORATE GOVERNANCE COMMITTEE

Meetings Held on 21st September and 19th October, 2007

Membership:

Councillors: A.C.R. Chappell,(Chairman) P Cutter, GFM Dawe, M.J. Fishley, J.H.R. Goodwin, R.H. Smith and A.M. Toon.

USE OF RESOURCES ACTION PLAN

1. The Committee has noted a report from the Director of Resources which updated Members on the Use of Resources Action Plan. The detailed Action Plan had been submitted to the Committee on 13th April 2007 which highlighted specific actions to be taken and timescales.

UPDATE ON IMPLEMENTATION OF RECOMMENDATIONS FROM SPECIAL INVESTIGATIONS

2. The Committee has considered two reports which has provided updates on the progress with implementing the recommendations which has been approved by Corporate Management Board to improve the internal control environment as a result of lessons learned from special investigations carried out by Audit Services in 2005/06. The Committee have broadened the brief to encompass further irregularities and are looking to ensure that follow up action is completed.

DIRECTOR OF RESOURCES REPORTS

3. The Committee has considered a report regarding the financial governance arrangements within ICT and Customer Services Division. The report referred to a recent audit investigation into travel and subsistence expenses within the Division together with a review on the use of contractors. A progress report has also been received which has given an update on progress with implementing the action plan agreed by Cabinet in response to The Director of Resources special report on financial governance issues in ICT and Customer Services. The Committee was assured that the action plan is being implemented. Additional Committee meeting dates were agreed to keep Members fully briefed in respect of investigative issues relating to ICT and Customer Services Division and the Committee requested that certain additional procedures be implemented in with regard to officers expenses.

UPDATE ON STATEMENT OF ACCOUNTS 2006/07 AND STATEMENT ON INTERNAL CONTROL

4. The Committee has received a report which has given advice on changes to the Statement of Accounts for 2006/07 resulting from the Audit Commission's work since the last meeting of the Committee held in June.

ANNUAL GOVERNANCE LETTER

5. The Annual Governance letter has been considered and approved by the Committee. The letter has provided a summary of the work the Commission has carried out during the 2006/07 audit of accounts for the Council, the conclusions the Commission has reached and the recommendations made to discharge its statutory audit responsibilities to those charged with governance. The Committee also received a report which has given details of the draft action plan in response to the

recommendations which has been noted.

INTERIM ASSURANCE REPORT 2007/08

- 6 The Committee has considered two reports, the first has been noted and has provided Members with a first interim Assurance report for 2007/08 which provides an update on progress with significant internal control issues identified in the Assurance report for 2006/07 and identifies the significant internal control issues identified to date in 2007/08, and the second report has updated the Committee further on progress on these matters. The Committee has requested a further update on timescales on one of the issues.

SECTION 106 PLANNING OBLIGATIONS

- 7 The Committee has considered a report which summarised audit findings on the Council's arrangements for Section 106 obligations. The Committee has requested that further information be presented to fully brief Members on protocols and procedures with regard to the agreements.

8 CAR LOANS

The Committee has received a report which has been noted which has provided a summary of audit findings on the Council's arrangements for employee car loans.

**A.C.R. CHAPPELL
CHAIRMAN
AUDIT AND CORPORATE GOVERNANCE COMMITTEE**

BACKGROUND PAPERS

Agenda papers of the meetings of the Audit and Corporate Governance Committee held on 21 September and 19 October 2007.

APPOINTMENT OF CHIEF EXECUTIVE

Report By: Head Of Legal & Democratic Services

Wards Affected

County-wide

Purpose

To consider the appointment of the Chief Executive.

Financial Implications

There are no financial implications

Considerations

1. Agreement was reached between the Primary Care Trust (PCT) and the Council to appoint one Chief Executive across both organisations. A Job Description and Person Specification was drafted for the role and agreed by the PCT and the Council including a reflection of both the PCT and Council management competencies
2. A selection process was agreed by the PCT and Council to ensure engagement from stakeholders. This involved:-
 - paper sift of all paper applications and agreement of long list by PCT and Council
 - initial technical assessment of 11 long listed candidates by the retained consultants (Amanda Deeks, current Chief Executive, South Gloucestershire Council) and a technical assessor held on 10th and 14th August
 - from the technical assessment stage a short list of four candidates was agreed to bring forward to final selection to be held over two days in September
 - two day selection event was held on 26th and 27th September 2007 involving five stakeholder groups and a joint selection panel. The groups met on 26th September 2007:

Group 1	12 Elected Members
Group 2	Chief Executive – Herefordshire Council Chief Executive – Herefordshire PCT
Group 3	Representatives of Council's CMB Representatives of PCT Management Team
Group 4	Chief Executive – ESG Herefordshire AD Regional Resilience and Lead for Hereford GOWM Herefordshire Chair – Federation of Small Businesses Secretary - Ross-on-Wye Chamber of Commerce Chair of Staff Representatives (PCT)

Group 5 Chief Executive - Hereford Voluntary Action
 GP's representative
 Patient's Forum representative
 Branch Organiser – Unison
 Chief Executive – Health and Social Care Alliance

Stakeholder Groups were each briefed on their role in the processes. Group 2 Stakeholders were involved on 27th September 2007 and were a resource for candidates and did not form part of the feedback process. Group 1 fed back to their individual Group Leaders. Groups 3 – 5 fed back to the Chair of the PCT and the Leader of the Council

The final joint selection panel was held on day 2 and involved candidates giving a discussion briefing presentation and answering panel questions to two panels that then convened to discuss each candidate in relation to the role and suitability for it in terms of best fit. The joint panel comprised:-

Councillor T M James
Councillor A C R Chappell
Councillor J P French
Philip Ashurst
David Johnson (Head of Human Resources)
Dr Ian Tait
Joanna Newton (Chair of Herefordshire PCT)
Councillor R I Matthews
Councillor R J Phillips
Cynthia Bower (Strategic Health Authority)
Jonathon Clark (Consultant Advisor Veredus)

4. Following the two day final selection event one candidate was agreed to be recommended for appointment by the join panel.
5. All Council Members have been notified of the intention to appoint and asked for any material well founded objections by e-mail or letter on 28th September 2007 to be lodged by 5.00 p.m. on 2nd October 2007.
6. The appointment was recommended to be ratified by all members of the Council at the meeting on 2nd November 2007 in accordance with the Council's Constitution.
7. A conditional offer has been made to candidate Mr Christopher Bull, Deputy Chief Executive at London Borough of Southwark. References have been obtained and present no issues. All other pre-appointment processes are in hand including finalising of the Contract of Appointment.

RECOMMENDATION

THAT the appointment of Mr Christopher Bull as Chief Executive and Head of Paid Service be approved.

BACKGROUND PAPERS

- None

REVIEW OF THE CONSTITUTION IN RESPECT OF THE SCHEME OF DELEGATION FINANCIAL AND CONTRACTUAL PROCEEDINGS AS A RESULT OF DIRECTOR OF RESOURCES SPECIAL INVESTIGATION REPORT

Report By: Head of Legal and Democratic Services on Behalf of the Returning Officer

Wards Affected

County-wide.

Purpose

To progress elements of the action plan in response to the Special Investigation Report on Financial Governance dated 21st September 2007 which required amendments to the Constitution. The relevant elements of the action plan are attached as Appendix 1.

Financial Implications

In respect of amendments to the Constitution there are none other than the officer resource and publication of amendments. Training for officers and members on the implication of the proposed change to the Constitution will need to be arranged.

Considerations

1. The Director of Resources following a Special Investigation Report into financial governance issues in respect of ITC Services sought cabinet approval to the action plan, which amongst other matters, recommended changes to Part 12 of the Constitution currently "officers responsibilities" now renamed. "Scheme of Delegation to Officers",
Appendix 3 Policy Framework and budget rules
Appendix 4 – Financial Procedure rules
Appendix 5 – Contracts Procedure Rules.
2. Members should also note that this is a challenging timescale and the Council should acknowledge the work carried out by the Director of Resources, the finance team and all those who responded to enable this significant work to be completed within the timescale set out in the Action Plan.
3. All the relevant appendices have been completely revised to reflect the issues raised within the action plan. Members shall note that further revisions may follow as a result of any further recommendations made by the independent review.
4. The Chief Executive (Head of Paid Services) and the Head of Legal and Democratic Services have been consulted on the proposed changes.

5. Members are referred to the Scheme of Delegation and in particular paragraph 12.4.4. c) consultation with local members. The Council may need to consider further clarification and definition of consultations with local members especially regarding issues of Market Towns and Schools which may affect more than 1 local member. The Head of Legal and Democratic Services together with the Chief Executive and Director or Resources will require more time to reflect on the impact of such issues regarding local members and how best to consult on such issues. That should not however delay the adoption of these important changes.
6. Training will be given to both Officers and Members on what the revisions will require and their implications and a strategy for such training will be agreed by the Director of Resources, Internal Audit and Head of Legal and Democratic Services.

RECOMMENDATION

THAT

- (a) **the revised Scheme of Delegation to Officers set out at Appendix 2 of this report be adopted within the Constitution and replace the existing officer responsibilities; and**
- (b) **the following revised Appendices be adopted**

Appendix 3 - Policy Framework and Budget Rules
Appendix 4 – Financial Procedure Rules
Appendix 5 – Contractual Procedure Rules

BACKGROUND PAPERS

- Appendix 1 relevant part of Action Plan from Director of Resources
- Appendices of revised Codes and Part 12 of the Constitution

ISSUE TO ADDRESS	COMMENTS	SUGGESTED CORPORATE RESPONSE
<p>Review of the financial and legal elements of the Council's Constitution to ensure clarity and consistency.</p>	<p>The Council's Constitution is not as clear as it could be in support of the Section 151, and Monitoring Officers' statutory roles compared to exemplar authorities.</p>	<p>Working Group to carry out a review and make recommendations in the first instance to CMB. Need to report to Audit & Corporate Governance Committee and other appropriate decision-making and scrutiny functions prior to being agreed at Council</p>
<p>Council's Constitution and Financial Regulations to be reviewed to ensure the requirement to secure financial and legal advice on all formal reports is explicit.</p>	<p>CMB needs to rigorously police the reports produced in their areas to ensure Financial Services has completed and signed off the financial implications, and Legal Services has signed off the legal implications. This will ensure financial and legal advice is available to support all decisions.</p>	<p>CMB to insist on the highest standard in all aspects of report writing, including legal and financial implications. CMB to ensure there are no exceptions to the policy of all formal reports being cleared by the Head of Paid Service, the Monitoring Officer and the Section 151 Officer.</p>
<p>Audit Services and the Monitoring Officer need to be granted access to all staff, records and feeder systems if required to fulfil their statutory obligations.</p>	<p>Key Managers responsible for feeder systems must ensure appropriate licence arrangements are in place in the event access is requested. Key Managers must assist with training if needed.</p>	<p>Incorporate into the review of the Constitution. Re-affirm current provision in the Council's Constitution on audit access.</p>

PART 12

SCHEME OF DELEGATION

12.1 INTRODUCTION

12.1.1 This Scheme delegates to the Chief Executive, Directors, specific officers and sub-delegates all the powers and duties of the Council necessary for the discharge of the Council's executive functions.

12.1.2 The Scheme sets out the procedures to be followed in the performance of delegated executive functions. It is an extremely important part of the corporate governance framework that helps to guarantee the integrity of the Council's business processes. The requirement for officers to comply with the Scheme is a 'non-negotiable' standardised in relevant officers' Job Descriptions. Consistent or a significant failure to comply with the Scheme is therefore a matter for disciplinary investigation.

12.1.3 For the purposes of this Scheme:

- a) The 'Leader' is the Leader of the Council as elected by the Council.
- b) A 'Cabinet Member' is a member appointed as such by the Leader.
- c) A 'portfolio' is the area of Council activity allocated by the Leader to a Cabinet Member.
- d) A 'Director' is one or all of the following direct reports to the Chief Executive:
 - o Director of Adult & Community Services.
 - o Director of Children's Services.
 - o Director of Corporate & Customer Services.
 - o Director of Environment.
 - o Director of Resources.
- e) The 'Statutory Officers' are:
 - o the **Head of Paid Service (Chief Executive)** in respect of reporting to the Council on the way in which the discharge of the Council's functions is co-ordinated, the number and salary of employees needed to discharge those functions, and the organisation of those employees;
 - o the **Monitoring Officer (Head of Legal & Democratic Services)** in respect of their responsibility to advise on any proposal, decision or omission that has or could give rise to a breach of law or of any statutory code of practice or maladministration; and
 - o the **Chief Finance Officer (Director of Resources)** in respect of their responsibility for the proper administration of the Council's financial affairs.
- f) The 'Heads of Profession' are:
 - o the **Head of Human Resources** in respect of all human resources and employee health & safety issues;

- the **Head of Financial Services** in respect of all contracting and procurement issues relating to works, goods and services and in respect of the deputy Chief Finance Officer role;
- the **Head of Asset Management & Property Services** in respect of all land and property issues; and
- the **Head of ICT** in respect of all information and communications technology issues.

12.1.4 For the purposes of this Scheme, any reference to any legislation, statutory regulation, schedule of an Act, Code of Practice, etc. shall be construed to include any amendments that are made to them from time to time.

12.2 LIMITATIONS

12.2.1 This Scheme does not delegate to officers:

- a) Any matter reserved by law or by the Constitution to the Council, Cabinet, Committee or Sub-Committee of the Council.
- b) Any matter which by law may not be delegated to an officer.
- c) A Key Decision as defined in the Council's Constitution.

12.2.2 Officers may only exercise delegated powers in accordance with:

- a) The Budget and Policy Framework Rules approved by the Council.
- b) The budget approved by the Council.
- c) The Council's Constitution including its Contract Procedure Rules and Financial Procedure Rules as set out in Appendices 4 and 5 of the Constitution.
- d) Any statutory restrictions, statutory guidance or statutory code of practice.

12.2.3 In exercising delegated powers, officers shall:

- a) Act within the Council approved revenue and capital budgets for the relevant service, subject to any variation permitted by the Council's Financial Procedure Rules or the Director of Resources under delegated authority.
- b) Comply with the restrictions set out in paragraph 12.2.2 above and consult with the Council's Statutory Officers as appropriate before making a decision.
- c) Comply with any professional standards or operational policies of the Council and consult with the Head or Heads of Profession relevant to the matter under consideration.

12.3 SUB-DELEGATION

- 12.3.1 This Scheme includes power for the Chief Executive and Directors to further delegate any function that has been delegated to them under this Scheme to another officer or officers. Sub-delegations can be temporary arrangements and are made to individuals rather than posts.
- 12.3.2 Every sub-delegation shall be in writing, setting out accountability for the function and the terms and conditions for the performance of it.
- 12.3.3 The Chief Executive and Directors shall record all sub-delegations in a register maintained for the purpose by them.

12.4 CABINET MEMBER DECISIONS

Definition

- 12.4.1 Cabinet Member Decisions are those that do not fall within the definition of an Administrative Decision (see 12.5) and are not Key Decisions as defined in the Council's Constitution.
- 12.4.2 The Chief Executive and Directors have delegated responsibility under this Scheme for identifying and advising on Cabinet Member Decisions and managing the process in line with the arrangements set out in 12.4.

Reports

- 12.4.3 Before asking a Cabinet Member to take a decision, the Chief Executive or Director shall draft a report using a pro-forma prepared by the Head of Legal & Democratic Services identifying:
- a) The title of the report.
 - b) The Cabinet Member portfolio responsibility or responsibilities.
 - c) The report author and telephone contact details.
 - d) The date the report will be considered.
 - e) The restrictions on publishing the Cabinet Member Decision report which will be determined by reference to Sections 100 and 100A to 100K of the Local Government Act 1972.
 - f) The electoral wards affected.
 - g) The purpose of the report, that is, the issue to be decided.
 - h) The recommendations being proposed.
 - i) The reasons for those recommendations.
 - j) The issues taken into consideration such as:
 - o the facts of the matter;
 - o any legislative requirements;
 - o any Council policies relating to the issue; and

- any relevant national or regional guidance.
- k) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- l) The employment/staffing implications.
- m) The legal issues.
- n) The financial implications, both strategic and operational.
- o) The risk management issues.
- p) The implications for any other areas of the Council's activities and crosscutting themes.
- q) Confirmation from the report author that they have sought comment from the Statutory Officers, Heads of Profession and any another Director affected by the proposals.
- r) The appendices.
- s) The background papers.

Consultation

12.4.4 The Chief Executive or Director shall then send a copy of the draft Cabinet Member Decision report to:

- a) The Cabinet Member whose portfolio includes the area of activity under consideration or, if unavailable for any reason or has a personal and prejudicial interest in the matter, the Leader or alternative Cabinet Member nominated by the Leader.
- b) Any other Cabinet Member whose portfolio might be affected by the proposed decision.
- c) Any local Member whose ward might be affected.
- d) All Statutory Officers.
- e) All relevant Heads of Profession.
- f) Any other member of the Corporate Management Board who is responsible for services that might be affected by the proposed decision.

Objection

12.4.5 The Cabinet Member and other consultees listed in 12.4.4 have 5 working days after receiving the draft report to object in writing to the report.

Determination

12.4.6 If no objections are received, the Cabinet Member must sign the report to confirm their agreement to the recommendations. The Chief Executive or Director can then implement the decision.

12.4.7 If a consultee has objected to the proposed decision, the report will be referred to Cabinet. The Chief Executive or Director shall not take any action in respect of the proposed recommendations until Cabinet has determined the matter.

12.4.8 The Chief Executive or Director shall send a copy of the report to the Head of Legal & Democratic services who will include it on the agenda for the next convenient Cabinet meeting. Cabinet shall determine the Chief Executive's or Director's recommendations.

Referring to Cabinet

12.4.9 The Chief Executive or Director may consider that an issue is too important to be decided by a Cabinet Member. In discussion with their Cabinet Member, the Chief Executive or Director may report the matter to Cabinet in such circumstances.

Urgent Cabinet Member Decisions

12.4.10 Cabinet Members have the power to take an Executive Decision in exceptional circumstances even if the full decision-making process has not been followed.

12.4.11 If the Chief Executive or Director is of the opinion that an Executive Decision should be taken by a Cabinet Member more urgently than the decision-making process allows – for example to prevent or reduce risk to persons, property or the Council's interests – the Chief Executive or Director shall:

a) Use their best endeavours, as far as the urgency of the matter permits, to consult those persons they would normally have consulted had the full decision-making process been followed before advising the Cabinet Member on the decision to be made.

b) Ensure that a report in the format outlined in 12.4.2 is written promptly and includes the reasons for taking the decision urgently. The report must be sent the Head of Legal & Democratic Services to present to the next convenient Cabinet meeting.

Recording Cabinet Member Decisions

12.4.12 The Chief Executive or Director drafting a Cabinet Member Decision report shall provide the Head of Legal & Democratic Services with the signed agreement of the Cabinet Member within two working days of the date of the decision.

12.4.13 The Head of Legal & Democratic Services shall publish all Cabinet Member Decisions within 5 working days of the date of the decision.

12.4.14 The Head of Legal and Democratic Services shall ensure that a record of Cabinet Member Decisions is published and reported to the relevant Scrutiny Committee. This record shall also be available for public inspection during normal office hours. The public shall have the right to copy, or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

12.4.15 The record of Cabinet Member Decisions shall include the Chief Executive's or the Director's report supporting the Decision subject to any requirement for confidentiality.

Call-in Mechanism

12.4.16 Where a Cabinet Member Decision involves expenditure or reductions in service in total of more than £500,000, then that decision is provisional unless the specific expenditure or reduction has previously been approved by the Council.

12.4.17 The provisional Cabinet Member Decision will be notified in accordance with the Scrutiny Committee rules.

- 12.4.18 The provisional Cabinet Member Decision may be called in subject to the provisions of the Council's scrutiny procedure rules.
- 12.4.19 The provisional Cabinet Member Decision can be implemented if not called-in.

Accountability

- 12.4.20 The Chief Executive and Directors are accountable to the Council for every Cabinet Member Decision they advise on. They may be required to report to and attend a Strategic Monitoring Committee or Scrutiny Committee in respect of their advice on Cabinet Member Decisions.

12.5 ADMINISTRATIVE DECISIONS

Definition

- 12.5.1 Administrative Decisions are the day-to-day operational decisions delegated to officers. Directors are encouraged to take responsibility for Administrative Decisions to assist with the effective discharge of the Council's functions.
- 12.5.2 A decision is deemed to be an Administrative Decision unless it:
- a) Is a Key Decision as defined in the Council's Constitution.
 - b) Is a reserved decision.
 - c) Is not included in the approved budget.
 - d) Conflicts with the Council's Budget and Policy Framework.
 - e) Raises new issues of policy.
 - f) Involves any of the following:
 - changing employees' employment contracts or TUPE transfer employees;
 - acquiring or disposing of land or property outside of the specific designations to the Head of Asset Management & Property Services;
 - viring capital or revenue budget of more than the prevailing European procurement limit for supplies and services (currently £144,000);
 - accepting a tender for a capital or revenue contract in excess of the European procurement limits for supplies or services (currently £144,000); or
 - accepting any tender for a contract that involves a departure from the Contract Procedures Rules.
 - g) Involves making, approving or publishing a draft order, scheme or plan that may require, either directly or in the event of an objection, the approval of a Secretary of State.
 - h) Requires the passage of local order or the adoption by the Council of national legislation.
 - i) Proposes the payment of an ex-gratia payment or payment of a sum in settlement of a complaint against the Council or in local settlement of an Ombudsman complaint.

- j) Is in response to an Ombudsman finding of maladministration with injustice.
- k) Proposes to write-off a debt to the Council of more than £20,000.
- l) Proposes an alteration in the charges that the Council makes for any of its services other than allowed for in the Financial Procedure Rules.
- m) Raises an objection from any of the Statutory Officers or a Head of Profession.
- n) The Chief Executive or Director is of the opinion it should be treated as an Executive Decision.

Consultation

- 12.5.3 The Chief Executive and Directors do not have to prepare or publish a formal written report in respect of an Administrative Decision, but they are responsible for ensuring that appropriate consultation is undertaken with the Statutory Officers and Heads of Profession.
- 12.5.4 If an Administrative Decision proposes the write-off of a debt to the Council, the Director of Resources/Head of Benefit & Exchequer Services must be consulted on the application of the relevant Financial Procedure Rules.

Referring an Administrative Decision

- 12.5.5 This Scheme encourages the Chief Executive and Directors to take responsibility for Administrative Decisions. However, the Chief Executive and Directors can decide to treat an Administrative Decision as an Executive Decision in which case the arrangements set out in 12.4 apply.

Recording and Reporting Administrative Decisions

- 12.5.6 There is no requirement to maintain a record of Administrative Decisions for the purpose of Member or public access.
- 12.5.7 There is no requirement to report Administrative Decisions to Council, Cabinet, Committees or Sub-Committees.
- 12.5.8 The Chief Executive and Directors are responsible for ensuring that all those who need to know about Administrative Decisions are informed promptly.

Retaining Records

- 12.5.9 The Chief Executive and Directors are responsible for retaining a record of Administrative Decisions that they take and the reasons for them. The records kept must be sufficient for audit and evidential purposes (for example Judicial Review, Employment Tribunal, Ombudsman, Audit Commission, OFSTED or other proceedings or investigation).
- 12.5.10 The Chief Executive and Directors are responsible for ensuring that records supporting Administrative Decisions are stored securely and for the period required in the Council's policy on document retention.

12.6 REPORTS TO COUNCIL, CABINET, COMMITTEES OR SUB-COMMITTEES

The Chief Executive's and Directors' Responsibilities

- 12.6.1 The Chief Executive and Directors are responsible for ensuring that reports are drafted in accordance with the protocol set out in this section of the Scheme of Delegation. **This includes obtaining comments from the Statutory Officers, Heads of**

Profession, any other Directors, relevant Cabinet Members and other Members affected by the proposals contained in the report in good time.

12.6.2 Any reports presented to the Head of Legal & Democratic Services that have not been drafted in accordance with the Scheme and do not contain confirmation that these consultations have taken place will be deferred until the process outlined in 12.6 has been followed.

Forward Plan

12.6.3 The Chief Executive and Directors are responsible for identifying reports that need to be incorporated into the Forward Plan.

Report Format

12.6.4 All reports must be prepared using the pro-forma prescribed by the Head of Legal & Democratic Services for Council, Cabinet, Committees, Sub-Committees and Cabinet Member decisions.

12.6.5 The Head of Legal & Democratic Services may prescribe a pro-forma specific to Council, Cabinet, each Committee, each Sub-Committee and Cabinet Member decision. Each pro-forma will however be designed to capture the following information as a minimum:

- a) The title of the report.
- b) The Cabinet Member portfolio responsibility or responsibilities.
- c) The meeting the report will be considered at.
- d) The date of the meeting the report is to be considered.
- e) The name of the report author and telephone contact details.
- f) The restrictions on publishing the report as set out in Sections 100 and 100A to 100K of the Local Government Act 1972.
- g) The electoral wards affected.
- h) The purpose of the report, that is, the issue to be decided.
- i) Whether the decision is a Key Decision or not, the reasons why in either case, and whether there are any Forward Plan implications.
- j) The recommendations being proposed.
- k) The reasons for those recommendations.
- l) The issues taken into consideration such as:
 - o the facts of the matter;
 - o any legislative requirements;
 - o any Council policies relating to the issue;
 - o any relevant national or regional guidance.

- m) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- n) The employment/staffing implications – comments must be agreed with the Head of Human Resources.
- o) The legal issues – comments must be agreed with the Head of Legal and Democratic Services.
- p) The financial implications, both strategic and operational – comments must be agreed with the Director of Resources, in their absence the Head of Financial Services, or their nominated representative.
- q) The risk management issues – comments must be agreed with the Risk & Insurance Manager.
- r) The consultations undertaken and the views expressed by the consultees.
- s) The implications for any other areas of the Council's activities and crosscutting themes.
- t) Confirmation from the report author that they have sought comment from the Statutory Officers, Heads of Profession any another Director affected by the proposals.
- u) The appendices.
- v) The background papers.

Finalising Reports

- 12.6.6 The Chief Executive is responsible for giving final approval to all reports scheduled for Council and Cabinet once he is satisfied that the Director of Resources and Head of Legal & Democratic Services have been properly consulted.
- 12.6.7 Directors are responsible for giving final approval to all reports scheduled for Committees and Sub-Committees once they are satisfied that the Statutory Officers have been properly consulted.

Agenda Despatch

- 12.6.8 The Chief Executive and Directors are responsible for ensuring that their reports are available for the Head of Legal & Democratic Services to despatch with the agenda papers.
- 12.6.9 The Chief Executive and Directors will make every endeavour to ensure that a report following despatch of the agenda only happens in exceptional circumstances in the interest of efficiency and to aid effective decision-making.
- 12.6.10 Directors must take personal responsibility for seeking approval from the Chief Executive for late despatch of a report to Council and Cabinet prior to the agenda being printed. The Chief Executive will discuss the position with the Leader before confirming late despatch is acceptable.
- 12.6.11 Directors must take personal responsibility for agreeing late despatch of any of their reports to Committees or Sub-Committees with the Chair of the relevant Committee or Sub-Committee before the agenda is due to be printed.

12.7 GENERAL DELEGATIONS TO THE CHIEF EXECUTIVE AND DIRECTORS

General

- 12.7.1 The Chief Executive and Directors are authorised to act on behalf of the Council in relation to any matters within the service area for which they are responsible and as set out in Appendices 18, 22 and 23, subject to the limitations set out in 12.2.
- 12.7.2 The Chief Executive and Directors are expected to maintain a close liaison with the relevant Cabinet Members and Committee Chairmen.
- 12.7.3 The Chief Executive and Directors are expected to consult with the Councillors for the local electoral ward areas that might be affected by the exercise of their delegated powers.
- 12.7.4 The Chief Executive and Directors will comply with the Protocol for Member / Officer Relations as set out in the Council's Constitution.
- 12.7.5 Directors are expected to ensure the Chief Executive is consulted when appropriate and kept informed.
- 12.7.6 An authorised officer can exercise any power conferred on the Chief Executive or a Director in their absence or at other times subject to 12.3.
- 12.7.7 The Chief Executive, the Director of Resources, the Head of Legal & Democratic Services and the relevant Director shall take all necessary steps to protect or advance the business interests of the Council after having consulted with the relevant Cabinet Member, Committee Chairman or full Cabinet as appropriate. Any such action shall be reported to the appropriate body. The role and responsibilities of the Statutory Officers is set out in 12.8, 12.13 and 12.18.
- 12.7.8 The Chief Executive and Directors are authorised to decide whether the Common Seal of the Council should be affixed to a document. It must be affixed to all contracts with a total value in excess of the prevailing European procurement limits.
- 12.7.9 Directors are authorised, having consulted with the Chief Executive, to give notice of their intention to make a written report to the Council on a proposed decision they consider is be contrary to or not in compliance with the Council's Constitution, policies or government advice. Directors may not take any further action to implement the decision being challenged and the matter will be automatically reported to the Cabinet or Council for decision or recommendation as appropriate.
- 12.7.10 The Chief Executive and Directors are responsible for ensuring the Council's Criminal Records Bureau policies and procedures are followed.
- 12.7.11 The Chief Executive and Directors are responsible for contributing to the effective corporate management and leadership of the Council by ensuring that the Council's resources are well managed, by contributing to cross-authority issues and to the development of the Council.
- ### **Asset Management & Property Services**
- 12.7.12 The Chief Executive and Directors may in consultation with the Head of Asset Management & Property Services declare land or property surplus to requirements.

- 12.7.13 The Chief Executive and Directors may in consultation with the Head of Asset Management & Property Services arrange for sessional lettings of premises for periods of less than 24 hours.
- 12.7.14 The Chief Executive and Directors may in consultation with the Head of Asset Management & Property Services propose the acquisition of land or property in accordance with the provisions of the Asset Management Plan and Capital Strategy.
- 12.7.15 The Chief Executive and Directors may in consultation with the Head of Asset Management & Property Services propose the acquisition of a leasehold interest in land or property in accordance with the provisions of the Asset Management Plan and Capital Strategy.
- 12.7.16 The Chief Executive, Directors and Heads of Service will ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter land or property until a lease or agreement, in a form approved by the Director of Resources and the Head of Legal & Democratic Services, has been agreed.
- 12.7.17 The Chief Executive and Directors will ensure the proper security of all buildings and other assets under their control.
- 12.7.18 The Chief Executive and Directors will periodically review land and buildings in order to identify any that are surplus to requirements.
- 12.7.19 Where land and buildings are identified as surplus to requirements, a recommendation for the sale of land should be the subject of a joint report by the Chief Executive or Director and the Director of Resources.
- 12.7.20 Where the use of buildings or land is subject to appropriation between services, the Chief Executive or Director shall consult with the Director of Resources who will refer the appropriation for approval by the Cabinet Member (Resources) and relevant Cabinet Member(s), taking into account the alternative possible uses of the land.
- 12.7.21 The Chief Executive and Directors will pass title deeds to the Head of Legal and Democratic Services, who is responsible for custody of all title deeds.
- 12.7.22 The Chief Executive and Directors will ensure that no Council asset is subject to third party or personal use by an employee without proper authority.
- 12.7.23 The Chief Executive and Directors will ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- 12.7.24 The Chief Executive and Directors will ensure that the Directorate maintains a register of moveable assets in accordance with arrangements defined by the Director of Resources.
- 12.7.25 The Chief Executive and Directors will ensure assets are identified, their location recorded and that they are appropriately security marked and insured.
- 12.7.26 The Chief Executive and Directors will consult the Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

Financial management

- 12.7.27 The Chief Executive and Directors shall ensure that the relevant Cabinet Member is advised of the financial and legal implications of all proposals to change existing or develop new services. The Chief Executive and Directors are responsible for securing

such financial and legal advice from the Director of Resources and Head of Legal & Democratic Services respectively.

- 12.7.28 The Chief Executive and Directors shall ensure that all proposals to change existing or develop new services are identified as a result of a full options appraisal process that includes a financial assessment of the options identified that is delivered or supervised by the Director of Resources or their delegate.
- 12.7.29 The Chief Executive and Directors are responsible for promoting the financial management standards set by the Director of Resources in their areas of responsibility.
- 12.7.30 The Chief Executive and Directors are responsible for ensuring that the financial management arrangements within their area of responsibility are legal and consistent with the Director of Resources' requirements.
- 12.7.31 The Chief Executive and Directors are responsible for ensuring that a Scheme of Financial Delegation is in place for their Directorate that sets out the arrangements for the discharge of their responsibilities contained in the Council's Contract Procedure Rules and Financial Procedure Rules and is kept up to date.
- 12.7.32 The Chief Executive and Directors are responsible for ensuring that budget estimates reflecting agreed service plans are prepared in line with issued guidance.
- 12.7.33 The Chief Executive and Directors are authorised to sign contracts with third parties on behalf of the Council provided the expenditure to be incurred has the necessary budget approval in place.
- 12.7.34 The Chief Executive and Directors are responsible for consulting with the Director of Resources and seeking their written approval regarding any matters that are not included in the approved budgets and are liable to materially affect the Council's finances (amounts greater than the prevailing European procurement limit for supplies and services which is currently £144,000) before any commitments are incurred.
- 12.7.35 The Chief Executive and Directors are responsible for ensuring that their employees are aware of the existence and content of the Council's Contract Procedure Rules and Financial Procedure Rules and any related procedures and internal documents appertaining to or amplifying them. The Chief Executive and Directors must also ensure that these documents are readily available for reference within their Directorates.
- 12.7.36 The Chief Executive and Directors are responsible for ensuring that designated budget holders within their Directorate have attended the mandatory in-house financial management training appropriate to their level of budgetary responsibility and relevant refresher training courses. Attendance on the appropriate financial management training course is a pre-requisite to obtaining a 'practice to licence' that permits the budget holder to exercise certifying officer functions such as authorising payments.
- 12.7.37 The Chief Executive and Directors are responsible for managing service delivery within the agreed revenue and capital budgets for their area of responsibility. The permitted tolerance is +1% of budget for revenue budgets and +5% of approved capital budget over the lifetime of the project. These tolerances will allow for approved in-year changes to budgets and take account of any properly authorised urgent decisions.
- 12.7.38 The Chief Executive and Directors are responsible for providing performance information that contributes to effective financial modelling for budget setting and outturn forecasting purposes.

- 12.7.39 The Chief Executive and Directors are responsible for ensuring team, service and Directorate risk registers are established and maintained in line with the Council's Risk Management Strategy.
- 12.7.40 The Chief Executive and Directors are responsible for ensuring that works, goods and services are purchased from preferred Council suppliers where such have been identified.
- 12.7.41 The Chief Executive and Directors are responsible for ensuring that the Director of Resources and/or the Head of Legal & Democratic Services or nominated representatives have immediate access if required to any assets, documents or systems.
- 12.7.42 The Chief Executive and Directors are responsible for taking immediate remedial action if the financial governance arrangements in their Directorate do not achieve the required standard, instigating disciplinary proceedings if appropriate. They must also report the incident to the Director of Resources. The Chief Executive and Directors are responsible for ensuring that all fundamental systems achieve as a minimum a 'satisfactory' internal audit opinion.
- 12.7.43 The Chief Executive and Directors are responsible for ensuring that all fundamental systems and financial systems are reconciled on a monthly basis.

Human Resources

- 12.7.44 The Chief Executive and Directors are authorised to appoint, dismiss, discipline and determine all other matters relating to the employment of staff subject to the requirements set out in the Council's Constitution (Appointment and Discipline of Employees) and in accordance with the Council's terms and conditions of employment. The Chief Executive and Directors can sub-delegate such responsibilities in accordance with 12.3.
- 12.7.45 The Chief Executive and Directors are responsible for ensuring appropriate performance management capability or disciplinary action is taken in the event an employee fails to meet agreed standards.
- 12.7.46 The Chief Executive, Directors and all other officers will comply with the Code of Conduct for Employees and will be required to sign to acknowledge receipt and understanding of the Code.

Corporate Management and Leadership

- 12.7.47 The Chief Executive and Directors are responsible for contributing to the effective corporate management and leadership of the Council by:
- Contributing to the effective leadership of the Council.
 - Contributing to the management of the Council.
 - Ensuring the Council's financial resources are well managed.
 - Contributing to cross-authority issues and to the development of the Council.

12.8 SPECIFIC DELEGATIONS TO THE CHIEF EXECUTIVE

Statutory Officer Responsibilities

- 12.8.1 The Head of Paid Service is responsible for reporting to the Council on the manner in which the discharge by the Council of its functions is co-ordinated.

12.8.2 The Head of Paid Service shall have the right of access to all Members both individually and collectively and to the Council, Cabinet, Strategic Monitoring Committee, Audit & Corporate Governance Committee and any other Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political party.

Other Responsibilities

12.8.3 The Chief Executive is delegated the statutory responsibilities of the Head of Paid Service role.

12.8.4 The Chief Executive shall, without prejudice to the general and specific delegations of Directors and Statutory Officers set out in the Scheme of Delegation, be authorised to act on behalf of the Council in relation to any matter and consider and determine within the overall policies of the Council any matter except those reserved to the Council by statute, subject to consulting with the Leader and relevant Cabinet Member or Members.

12.8.5 The Chief Executive shall be authorised to act on behalf of the Council in relation to all functions relating to elections as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time.

12.8.6 The Chief Executive is responsible for the overall corporate management of the Council and has overall management responsibility for all employees.

12.8.7 The Chief Executive is responsible for the provision of professional advice to all parties on the decision making process.

12.8.8 The Chief Executive is authorised to attest the application of the Common Seal of the Council to a document in a book provided for the purpose with sequentially numbered entries. The Head of Legal & Democratic Services is also authorised to attest entries in this book.

12.8.9 In the absence of the Head of Legal & Democratic Services, the Chief Executive is authorised to authenticate documents needed for legal proceedings or legal agreements, contract notices or orders under hand on behalf of the Council providing no other person is authorised to do so.

12.8.10 The Chief Executive is responsible for reviewing and enforcing the Council's Anti-Fraud and Corruption policy except for mattering relating to housing and Council Tax benefit.

12.9 SPECIFIC DELEGATIONS TO THE DIRECTOR OF ADULT & COMMUNITY SERVICES

12.9.1 To have responsibility for the following activities:

- Economic and Community Services.
- Strategic Housing Services.
- Adult Social Care Services.

12.9.2 To undertake the statutory Director of Adult Social Services (DASS) role.

12.9.3 To authorise modifications of diversions to Public Rights of Way.

12.9.4 To act as the Receiver for adults unable to manage their own affairs.

- 12.9.5 To ensure the Council meets its statutory responsibilities in respect of housing, libraries, parks, countryside and Public Rights of Way development.
- 12.9.6 To represent the Council on the Supporting People Commissioning Board.
- 12.9.7 To represent the Council on the Herefordshire Community Safety and Drugs Partnership.
- 12.9.8 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.10 SPECIFIC DELEGATIONS TO THE DIRECTOR OF CHILDREN & YOUNG PEOPLE'S SERVICES

- 12.10.1 To carry out the functions of the Council as a Children's Services Authority including those functions referred to in Section 18(1) of the Children Act 2004 (as amended from time to time) and set out in the Statutory Guidance for Director of Children's Services and Lead Member Children's Services dated 2004.
- 12.10.2 To carry out the function of the Council as Local Education Authority including the functions of the Council relating to child employment and the youth service but excluding functions relating to adult learning and further and higher education set out in Section 18(3) of the Children Act 2004 (as amended from time to time).
- 12.10.3 To exercise functions under the Local Authority Society Services Act 1970, so far as they relate to children and ensure local authority functions are discharged with regard to the need to safeguard and promote the welfare of children through the delivery of services which support:
 - (a) Hereford Safeguarding Children Board (HSCB);
 - (b) Children looked after by the Council, children fostered or adopted and those on the protection register;
 - (c) Social care services to vulnerable children and young people, and their families;
 - (d) Children subject to child protection;
 - (e) Children in need, including those with a disability;
 - (f) Emotionally and behaviourally disturbed children; and
 - (g) Any other vulnerable child or young person.
- 12.10.4 To exercise any health related functions exercised on behalf of any National Service body under the Health Act 1999 Section 31 agreement.
- 12.10.5 To establish, maintain and operate a children information database.
- 12.10.6 To prepare and publish a Children & Young Persons Plan.
- 12.10.7 To be responsible for the administration and planning of the review of organisation of schools within the County.

- 12.10.8 To carry out the functions of the Council in relation to early years/Education and care.
- 12.10.9 To carry out the functions of the Council in relation to Youth Offending Services.
- 12.10.10 To be responsible for the development of Corporate Parenting.
- 12.10.11 To carry out the functions of the Council as an Adoption Agency.
- 12.10.12 To carry out the functions of the Council under section 31 of the Health Act 1999 (as amended from time to time) so far as those functions relate to children.
- 12.10.13 To carry out the functions of the Council under sections 23C to 24D of the Children Act 1989 (as amended from time to time). (After care arrangements, etc).
- 12.10.14 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.
- 12.10.15 To discharge the functions for which the lead role is allocated to the Lead Member for Children's Services, including:
- (a) The Council's Performance and Partnership activities in relation to children and young people;
 - (b) The Council's commissioning activities in relation to children and young people;
 - (c) The improvement of schools and the provision of resources and support services to schools, including planning and information;
 - (d) School organisation and admissions;
 - (e) Education for children with special needs;
 - (f) Early years education and childcare;
 - (g) Exclusions from schools, and children at risk of offending; and
 - (h) Home to school transport;
- 12.10.16 To establish a Children's Trust engaging partners as required in the Children's Act 2004.
- 12.10.17 To ensure appropriate and robust monitoring functions in terms of Value for Money in liaison with the Schools Forum and partners.

12.11 SPECIFIC DELEGATIONS TO THE DIRECTOR OF CORPORATE & CUSTOMER SERVICES

- 12.11.1 To have responsibility for the following activities:
- Policy and Performance.
 - Legal and Democratic Services (except with reference to the Monitoring Officer).

- Information and Communications Technology and Customer Services.
- Communication.
- Herefordshire Partnership.
- Emergency Planning.
- Corporate Programmes/Herefordshire Connects.

12.11.2 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.12 SPECIFIC DELEGATIONS TO THE DIRECTOR OF ENVIRONMENT

12.12.1 To have responsibility for the following activities:

- Planning Services.
- Highways & Transportation Services.
- Environmental & Trading Standards Services.
- Environmental Support Services.

12.12.2 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.12.3 The Director of Environment is authorised to:

- a) Discharge any function relating to contaminated land.
- b) Discharge any function relating to the control of pollution or the management of air quality.
- c) Serve an abatement notice in respect of statutory nuisance.
- d) Investigate any complaint as to the existence of statutory nuisance.
- e) Obtain information under Section 330 of the Town and Country Planning Act 1990.
- f) Obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- g) Make agreements for the execution of highways works.
- h) Make decisions to advertise any proposals for a Traffic Regulation Order (including traffic calming measures) and proceeding to make the same if no objections are forthcoming.

- i) Commence prosecutions under the provisions of the Food Safety Act 1990 (as amended) and the European Communities Act 1972, including regulations made pursuant to those acts or any re-enactment thereof.
- j) Discharge any functions under any of the 'Relevant Statutory Provisions' within the meaning of Part 1 (Health, Safety and Welfare in connections with Work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974 to the extent that those functions are not discharged otherwise than in the Council's capacity as an employer.

12.13 SPECIFIC DELEGATIONS TO THE DIRECTOR OF RESOURCES

Statutory Officer Responsibilities

- 12.13.1 The Director of Resources is delegated statutory responsibilities of the Chief Finance Officer role.
- 12.13.2 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council that cannot be overridden. The statutory duties arise from:
 - a) Section 151 of the Local Government Act 1972.
 - b) The Local Government Finance Act 1988 and 1992.
 - c) The Local Government and Housing Act 1989.
 - d) The Local Government Acts 2000 and 2003.
 - e) The Accounts and Audit Regulations 2003.
 - f) The Local Government Pension Scheme Regulations 1974 and 1997.
 - g) The Local Authorities Goods and Services Act 1970.
- 12.13.3 The Chief Finance Officer shall ensure the lawfulness of expenditure and financial prudence of decision making in consultation with the Chief Executive and Monitoring Officer and report to the Council, Cabinet or external auditor as appropriate including any report under Section 114 of the Local Government and Finance Act 1988.
- 12.13.4 The Chief Finance Officer shall contribute to the corporate management and leadership of the Council, in particular provide professional financial advice as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.5 The Chief Finance Officer shall advise all Members and officers about statutory powers, financial maladministration, financial impropriety and probity, budget, reserves and policy framework issues as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.6 The Chief Finance Officer shall provide financial information to the media, members of the public and the community as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.7 The Chief Finance Officer shall have the right of access to all documents held by or on behalf of the Council needed to fulfil their statutory responsibilities. This does not extend to any documents or information held by or on behalf of any political party.

- 12.13.8 The Chief Finance Officer shall have the right of assistance of any officer in undertaking the role of the Chief Finance Officer.
- 12.13.9 The Chief Finance Officer shall have the right of access to all Members both individually and collectively and to the Council, Cabinet, Strategic Monitoring Committee, Audit & Corporate Governance Committee and any other Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political party.
- 12.13.10 The Chief Finance Officer shall have the right to add their written advice to the report of any other officer of the Council.
- 12.13.11 The Chief Finance Officer shall be a member of the Corporate Management Board in order to ensure that financial and funding implications are factored into decisions at the outset.
- 12.13.12 The Chief Finance Officer shall have line management responsibility for the internal audit function and the ability to control and influence both the work programme of internal audit in support of their statutory duties. The Council will make available the appropriate quantity and quality of staff to undertake the relevant audit review work.
- 12.13.13 The Chief Finance Officer shall have access to external audit and the inspectorates to ensure that they have a good understanding and complete, up to date information about the financial management arrangements in operation in the Council.
- 12.13.14 In line with guidance issued by the Chartered Institute of Public Finance & Accountancy, the Chief Finance Officer's functions and responsibilities will be discharged in the following ways in order to fulfil the statutory and public interest responsibilities of the role by:
- a) **Maintaining strong financial management underpinned by effective financial controls** by:
- Advising on corporate risk profiling, and management, including safeguarding assets, risk avoidance and insurance.
 - Advising on effective systems of internal control.
 - Ensuring there is an effective system of internal financial control.
 - Ensuring financial management arrangements are sound and effective.
 - Ensuring a prudential financial framework is in place.
 - Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well-documented internal financial controls.
 - Securing effective arrangements for prudential borrowing, treasury management and trust and charitable funds.
 - Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny.
 - Advising on anti-fraud and anti-corruption strategies and measures.
 - Securing effective systems of financial administration.

- Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.
- b) **Contributing to the effective corporate management and leadership of the Council** by:
- Contributing to the effective leadership of the Council.
 - Contributing to the management of the Council.
 - Ensuring the Council's financial resources are well managed.
 - Contributing to cross-authority issues and to the development of the Council.
- c) **Supporting and advising democratically elected representatives** by:
- Advising on protocols setting out the respective roles and responsibilities of Members and officers for financial management.
 - Providing advice to Members on developing an overall financial strategy that serves policy and service objectives.
 - Advising on the level and utilisation of reserves.
 - Helping Members to identify priorities, prepare the annual budget and identify how resources will be used.
 - Helping Members to monitor financial performance against the annual budget and resourcing plan.
 - Ensuring that all 'branches' of the Council (including the Council, Cabinet, Strategic Monitoring Committee, Scrutiny Committees, political groups and individual Members) receive advice and information.
- d) **Supporting and advising officers in their operational roles** by:
- Ensuring there is an effective approach to financial management.
 - Ensuring that financial strategies serve policy and service objectives.
 - Ensuring that the Council's resources are well managed.
 - Ensuring that budgets are properly managed.
 - Ensuring that financial advice and information is provided.
 - Advising on performance management and measurement.
- e) **Leading and managing an effective and responsive finance function** by:
- Securing high standards of performance and service to the public.
 - Demonstrating accountability to members of the public and the community by providing robust financial and performance information.

- Establishing a good, professional working relationship with external auditors, inspectors and other statutory agencies.
- Ensuring that services provided by the finance function are in line with the expectations and needs of internal stakeholders.
- Ensuring there are high standards of performance throughout the finance function.
- Leading and managing the finance function.
- Acting as the head of profession for all finance staff in the Council.

12.13.15 The Chief Finance Officer's functions and responsibilities will be discharged when:

- Officers formulating new policy proposals routinely inform and consult them.
- Significant breaches of Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegation arrangements for consulting the Chief Finance Officer are reported in accordance with the principles of open government so as to avoid the external auditor making a report in the public interest.
- Potential breaches of the Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegation arrangements for consulting the Chief Finance Officer are resolved amicably whilst ensuring that any illegality, failure of process or breach of the Council's Constitution is avoided or rectified.

12.13.16 The Council shall provide the Chief Finance Officer with such officers, accommodation and other resources as are in the opinion of the Chief Finance Officer necessary to allow them to perform their duties including those under Section 114 of the Local Government and Finance Act 1998.

Director Responsibilities

12.13.17 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.13.18 To report on the sustainability of the Council's medium term financial strategy and resource plans.

12.13.19 To approve virement or use of general or specific reserves, subject to the Council's policies for maintaining and using such reserves, in cases of urgency for expenditure not otherwise covered by the Director of Resources' delegated authority.

12.13.20 To approve use of general or specific reserves, subject to the Council's policies for maintaining and using such reserves, for items that are unavoidable and are not inconsistent with the approved financial strategy that:

- Result from pay awards or price increases not taken into account in approved revenue budgets.
- Result from expenditure arising from the mandatory implementation of Acts of Parliament or other Government directives.

- c) Relate to goods, services or other expenses which were budgeted for and properly ordered or committed in the previous year but which, due to delays in the delivery or execution, have to be accounted for in the following year.
- d) Are urgently necessary to maintain existing services and cannot reasonably be met from appropriate approved revenue budgets.
- e) Authorise virements in accordance with the Council's Financial Procedure Rules providing there are not greater consequential revenue effects in later years.
- f) Approve additional use of capital reserves and resources, subject to the Council's policies for maintaining and using such reserves and resources, and subject to the limitations set out in the Financial Procedure Rules.

12.13.21 To undertake the Council's functions relating to pensions as set out in Schedule 1(H) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time.

12.13.22 To authorise and approve, with the Head of Legal & Democratic Services consent, the disposal of land and the granting, or variation in granting, of leases, licences, dedications of or over any land.

12.13.23 To authorise and approve the granting of smallholding tenancies.

12.13.24 To have overall responsibility for the activities of the following:

- Asset Management & Property Services;
- Audit Services;
- Benefit & Exchequer Services; and
- Financial Services.

Asset Management & Property Services Responsibilities

12.13.25 Operational responsibility for the Asset Management & Property Services division is sub-delegated to the Head of Asset Management & Property Services.

12.13.26 The responsibilities sub-delegated to the Head of Asset Management & Property Services are as follows:

- a) Maintaining an effective Asset Management & Property Service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- b) Managing the Council's land and property portfolio.
- c) Concluding terms for the purchase and sale of land and property that the Council has previously approved.
- d) Developing and maintaining the Council's Asset Management Plan.

12.13.27 The Director of Resources shall maintain a property database for all properties. Any use of property by a Directorate or establishment other than for director service delivery should be supported by documentation identifying terms, responsibilities and duration of the use.

12.13.28 The Director of Resources shall arrange for the valuation of assets for accounting purposes to meet requirements of relevant codes of accounting practice.

Audit Services

12.13.29 Operational responsibility for Audit Services is sub-delegated to the Audit Services Manager.

12.13.30 The responsibilities sub-delegated to the Audit Services Manager are as follows:

- a) Maintaining an effective internal audit service in accordance with the Accounts and Audit Regulations 2003, all other relevant legislation, codes of best practice, external inspection regimes and Council policy.
- b) Carrying out a risk based audit review of all Council services and function on a continuous basis.
- c) Reviewing at least annually the Council's Financial Procedure Rules making recommendations for change to Council.
- d) Updating annually the monetary sums included in the Financial Procedure Rules in line with appropriate price indices.
- e) Carrying out or supervising investigations into any suspected financial irregularity and involve the Chief Finance Officer and Monitoring Officer as appropriate.
- f) Making appropriately authorised imprest account advances and determining the arrangement for operating such accounts.
- g) Prescribing the form of inventories.
- h) Reporting annually on planned audit activity in the coming year and actual audit activity in the previous year.
- i) Reporting annually to the Audit & Corporate Governance Committee on the effectiveness of the Council's internal control arrangements.

Benefit & Exchequer Services

12.13.31 Operational responsibility for the Benefit & Exchequer Services division is sub-delegated to the Head of Benefit & Exchequer Services.

12.13.32 The responsibilities sub-delegated to the Head of Benefit & Exchequer Services are as follows:

- a) Maintaining an effective Benefit & Exchequer Service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- b) Issuing summonses and signing and issuing orders, notices and other such documents.
- c) Setting the cost of a summons annually in line with inflation.
- d) Employing firms of certified bailiffs to execute liability orders under the terms of the Local Government Finance Acts 1988 and 1992 and associated regulations.
- e) Authorising sanctions against those found committing housing and Council Tax fraud (caution, administrative penalty or prosecution).

- f) Determining applications for discretionary rate relief under Sections 47 and 49 of the Local Government Finance Act 1988, the Local Government and Rating Act 1997 and associated regulations in accordance with the guidelines agreed with the Director of Resources.
- g) Determining applications for local council tax discounts under Section 13A of the Local Government Act 1992 in accordance with the guidelines agreed with the Director of Resources.
- h) Determining Discretionary Housing Payments for benefit claimants under the Child Support, Pensions and Social Security Act 2000.
- i) Maintaining, developing and publicising the Council's anti money laundering policies as the Council's designated Anti Money Laundering Officer.
- j) Writing off any account that is deemed suitable for write off up to the limits specified in the Financial Procedure Rules, referring all other cases to the Director of Resources to action in accordance with the Financial Procedure Rules.
- k) Supervising any system that involves the receipt of money and determining the form of income records.
- l) Making payments promptly once they have been authorised in accordance with Financial Procedure Rules by certifying officers.
- m) Managing and maintaining the corporate sundry debtors system.
- n) Paying salaries, wages, compensation and other emoluments.
- o) Declaring the rate of interest payable on loans for housing and other purposes.

Financial Services

- 12.13.33 The Head of Financial Services is the Council's deputy Chief Finance Officer and will assume the statutory responsibilities defined in Section 151 of the Local Government Act 1972 in the absence of the Chief Finance Officer due to a vacancy, holiday, illness or other reason, or as directed by the Director of Resources.
- 12.13.34 Operational responsibility for the Financial Services division is sub-delegated to the Head of Financial Services.
- 12.13.35 The responsibilities sub-delegated to the Head of Financial Services are as follows:

Treasury Management

- a) Recommending for adoption treasury management policies, strategies and practices that accord with the Chartered Institute of Public Finance & Accountancy's latest code of practice.
- b) Executing and administering treasury management decisions in accordance with the Council's approved treasury management policies, strategies and practices.
- c) Reporting annually on treasury management strategy in advance of the year and annual activity following the end of each year.
- d) Making any urgent changes necessary to the list of organisations on the approved investors list or criteria for investment purposes in consultation with the Director of Resources.

- e) Engaging specialist treasury management advisers and cash fund manager to support execution of the Council's approved treasury management policies, strategies and practices.
- f) Monitoring proposed changes in the local government finance system and reporting on the implications to Council.

Financial Management

- g) Maintaining an effective financial management service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- h) Administering the Council's Financial Procedure Rules.
- i) Reviewing the Council's banking arrangements to ensure they meet operational needs and represent value for money.
- j) Operating the Council's bank accounts in accordance with the banking agreement approved by the Council and its bankers.
- k) Managing the cashflow implications of BACS and CHAPS transactions and determining directions for their authorisation.
- l) Maintaining and developing the medium term financial strategy, the annual budget preparation strategy and financial monitoring procedures, including reporting on progress with Council approved financial targets.
- m) Arranging lease finance facilities.
- n) Providing advice on any liability falling on the Council that is not otherwise covered by the Financial Procedure Rules.
- o) Closing the annual accounts in line with all relevant codes and standards, taking appropriate action as part of the process to maximise the Council's financial position.
- p) Developing and maintaining the Council's capital strategy.
- q) Administering the employee loan schemes.

Procurement & Efficiency Review

- r) Maintaining and developing the Council's procurement policy for goods and services.
- s) Administering, in consultation with the Head of Legal & Democratic Services, the Council's Contract Procedure Rules, including maintenance of contract registers.
- t) Maintaining and developing the Council's benefit realisation processes.
- u) Carrying out financial checks on prospective Council contractors.
- v) Reviewing annually the Council's Contract Procedure Rules making recommendations for change to Cabinet.

Risk Management & Insurance

- w) Co-ordinating and sustaining the Council's risk management strategy and monitoring compliance and effectiveness.
- x) Arranging economic, efficient and effective insurance cover for all insurable risks, including self-insurance if appropriate.

12.14 SPECIFIC DELEGATIONS TO THE HEAD OF ASSET MANAGEMENT & PROPERTY SERVICES

- 12.14.1 The Head of Asset Management & Property Services is delegated responsibility for the Corporate Property Officer role.

12.15 SPECIFIC DELEGATIONS TO THE HEAD OF FINANCIAL SERVICES

- 12.15.1 The Head of Financial Services is delegated responsibility for the Deputy Chief Finance Officer role.
- 12.15.2 The Head of Financial Services is delegated responsibility for Head of Profession in respect of all contracting and procurement arrangements for all goods and services.

12.16 SPECIFIC DELEGATIONS TO THE HEAD OF HUMAN RESOURCES

- 12.16.1 The Head of Human Resources is delegated responsibility for Head of Profession in respect of all human resources and employee health and safety issues.

12.17 SPECIFIC DELEGATIONS TO THE HEAD OF ICT & CUSTOMER SERVICES

- 12.17.1 The Head of ICT & Customer Services is delegated responsibility for Head of Profession in respect of all information and communications technology.

12.18 SPECIFIC DELEGATIONS TO THE HEAD OF LEGAL & DEMOCRATIC SERVICES

Statutory Officer Responsibilities

- 12.18.1 The Head of Legal & Democratic Services is delegated statutory responsibility for the Monitoring Officer role.
- 12.18.2 The Monitoring Officer shall report to the Council and Cabinet in any case where they are of the opinion that a proposed action or decision would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5(a) of the Local Government and Housing Act 1989 – more usually referred to as 'reportable incidents'.
- 12.18.3 The Monitoring Officer shall investigate any matters relating to possible reportable incidents or matters referred to them by an Ethical Standards Officer.
- 12.18.4 The Monitoring Officer shall be the principal adviser to the Standards Committee, except where the Monitoring Officer is involved in an investigation on a reportable incident that the Standards Committee is considering or where a conflict of interest arises.
- 12.18.5 The Monitoring Officer shall maintain the register of Members' Interests.

- 12.18.6 The Monitoring Officer will ensure the preparation, publication and retention of records of decisions taken by or on behalf of Council, Cabinet, Committees and Sub-Committees.
- 12.18.7 The Monitoring Officer shall deal with Ombudsman complaints.
- 12.18.8 The Monitoring Officer shall deal with the Standards Board for England in respect of any complaint of a breach of the Council's Code of Conduct.
- 12.18.9 The Monitoring Officer shall be responsible for all Monitoring Officer functions in respect of Town and Parish Councils within the Council's area.
- 12.18.10 The Monitoring Officer shall make arrangements in conjunction with the Standards Committee for the provision of advice and training to Members of the Council and Members of Town and Parish Councils on the ethical framework.
- 12.18.11 The Council shall provide the Monitoring Officer with such officers, accommodation and other resources as are in the opinion of the Monitoring Officer necessary to allow them to perform their duties.
- 12.18.12 The Monitoring Officer shall have the right of access to all documents held on behalf of the Council. This does not extend to any documents held by or on behalf of any political party.
- 12.18.13 The Monitoring Officer shall have the right of access to any meetings of officers (including Corporate Management Board) or Members of the Council. This does not extend to any meetings held by or on behalf of any political party.
- 12.18.14 The Monitoring Officer shall have the right of assistance of any officer in undertaking the role of the Monitoring Officer.
- 12.18.15 The Monitoring Officer shall have the authority to agree a local resolution of any complaint of maladministration or breach of the Council's Code in consultation with the Chief Executive, including the power to agree a compensation payment up to £1,000 in any one case.
- 12.18.16 The Monitoring Officer shall have the authority to disclose information and documents to the Standards Board or an Ethical Standards Officer, even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the Council.
- 12.18.17 The Monitoring Officer shall have the authority, after consultation with the Head of Paid Service and the Chief Finance Officer, to notify the police and other regulatory agencies of concern in respect of any matter.
- 12.18.18 The Monitoring Officer shall have the right to obtain at the Council's expense external legal advice.
- 12.18.19 The Monitoring Officer shall have the right to add their written advice to the report of any other officer of the Council.
- 12.18.20 The Monitoring Officer's functions and responsibilities will be discharged when:
- a) Officers formulating new policy proposals routinely inform and consult them.
 - b) The Monitoring Officer considers a report in the public interest should any officers fail to follow advice they have given.

- c) Potential reportable incidents are resolved amicably whilst ensuring that any illegality, failure of process or breach of the Council's Code of Conduct is avoided or rectified.
- d) The Monitoring Officer being able to rely on existing processes within the Council, such as internal appeals procedures or insurance arrangements, to resolve any potential reportable incidents.

Other Responsibilities

- 12.18.21 The Head of Legal & Democratic Services is authorised to serve statutory notices to ascertain the legal interests of any person in land.
- 12.18.22 The Head of Legal & Democratic Services is authorised to institute, defend or settle legal proceedings (either in the name of the Council or an individual officer of the Council) at Common Law or under any enactment, statutory instrument, order or bylaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any such decision. This authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices and Notices to Quit.
- 12.18.23 The Head of Legal & Democratic Services is authorised to delegate authority to officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.
- 12.18.24 The Head of Legal & Democratic Services shall, without prejudice to the generality of the powers of the Director of Environment, the Head of Environmental Health and Trading Standards and the Head of Strategic Housing, have power to institute proceedings either in the name of the Council or the name of an officer of the Council under those statutory provisions that relate to their specific service areas. The Head of Legal & Democratic Services shall maintain a list of the enabling statutory provisions.
- 12.18.25 The Head of Legal & Democratic Services is authorised to issue and sign documents in relation to the Right to Buy provisions of the Housing Act 1985.
- 12.18.26 The Head of Legal & Democratic Services is authorised to make arrangements pursuant to:
 - a) Subsection (1) of Section 67 of, and Schedule 18 to, the Appeals Against Exclusion of Pupils Act 1998.
 - b) Section 94 (1) and (4) of, and Schedule 24 to, the Admissions Appeals Act 1994.
 - c) Section 95 (2) of, and Schedule 25 to, the Children to Whom Section 87 Applies: Appeals by Governing Bodies Act 1998.
- 12.18.27 The Head of Legal & Democratic Services, after consultation with the relevant Cabinet Member, and Group Leaders as appropriate, has the authority to make and give effect to appointments to outside bodies. Where appropriate, and excluding quasi-judicial matters, those bodies will work with the relevant Cabinet Member and Director and report through the Cabinet to Council.
- 12.18.28 The Head of Legal & Democratic Services will maintain a Scheme of Delegation to Officers for planning matters and is authorised to review that Scheme at least annually and make recommendations for change. The Scheme currently approved is attached as Appendix 18 to the Constitution.

- 12.18.29 Head of Legal & Democratic Services shall keep the Common Seal of the Council under lock and key and shall be responsible for the key.
- 12.18.30 The Head of Legal & Democratic Services is responsible for ensuring that the Common Seal of the Council is affixed to appropriately authorised documents only.
- 12.18.31 The Head of Legal & Democratic Services is authorised to attest the application of the Common Seal of the Council to a document in a book provided for the purpose with sequentially numbered entries. The Chief Executive is also authorised to attest entries in this book.
- 12.18.32 The Head of Legal & Democratic Services is authorised to authenticate documents needed for legal proceedings or legal agreements, contract notices or orders under hand on behalf of the Council providing no other person is authorised to do so.

12.19 ARRANGEMENTS FOR REVIEWING THE SCHEME OF DELEGATION

- 12.19.1 The Chief Executive will be responsible for arranging at least an annual review of the Scheme of Delegation for each November meeting of Council. Any changes proposed need to be agreed by the Director of Resources and the Head of Legal & Democratic Services.
- 12.19.2 The Audit & Corporate Governance Committee is charged with reviewing the effectiveness of and level of compliance with the Scheme on an ongoing basis. It has the remit to make appropriate recommendations to Council for improvements to the Scheme as a method of internal control.
- 12.19.3 The Scheme will be treated as a fundamental system as defined by the Chief Internal Auditor. The Chief Internal Auditor will provide regular assurance reports to the Audit & Corporate Governance Committee on the operation of the Scheme as agreed by Cabinet and confirmed by Council. All elements subject to audit review are expected to achieve an audit opinion of **satisfactory** as a minimum on the scale of unsound, unsatisfactory, marginal, satisfactory and good.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE BUDGET AND POLICY FRAMEWORK

1.1 The Council is responsible for the adoption of a Budget and Policy Framework. This is set out in Standing Order 4.1 as follows:

- Children and Young People’s Plan.
- Council’s Corporate Plan including the Best Value Performance Plan.
- Crime and Disorder Reduction Strategy.
- Cultural Strategy.
- Economic Development Strategy.
- Herefordshire Plan (Sustainable Community Strategy incorporating the Local Agenda 21 Strategy).
- Local Transport Plan.
- Unitary Development Plan / Local Development Framework.
- Youth Justice Plan.
- Medium-Term Financial Strategy including:
 - Annual capital and revenue budget;
 - Proposed contingencies, general reserves and specific reserves;
 - Statutory Council Tax calculations;
 - Treasury management policy and annual borrowing limits;
 - The Chief Finance Officer’s statutory declarations on budget setting;
 - Virement limits; and
 - Scale of fees and charges.

1.2 Council cannot delegate responsibility for determining the Budget and Policy Framework.

1.3 Once a Budget and Policy Framework is in place, it is Cabinet’s responsibility to implement it. The Cabinet can only determine matters affecting the Budget and Policy Framework where special urgency applies under rule 19 of the Cabinet Procedure Rules (Appendix 1 of the Constitution refers).

2. PROCESS FOR IMPLEMENTING THE BUDGET AND POLICY FRAMEWORK

2.1 Cabinet will publicise by including in the Forward Plan, by publishing at the Council’s offices and other methods (e.g. on its website and in the local press), a timetable for making

proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Strategic Monitoring Committee and Chairmen of the Scrutiny Committees will also be notified.

- 2.2 Budget consultees will include Parish Councils, the Local Strategic Partnership, the Schools Forum, Business Ratepayers, Council Taxpayers, the Trade Unions, Political Groups, Strategic Monitoring Committee, Scrutiny Committees and such other organisations and persons as are deemed appropriate.
- 2.3 Having consulted on their initial proposals for any plan, strategy or budget that forms part of the Budget and Policy Framework, the Cabinet will draw up firm proposals taking into account the responses to the consultation. If the Strategic Monitoring Committee or relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the Strategic Monitoring Committee and Scrutiny Committees are responsible for setting their own work programmes, it is open to them to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Strategic Monitoring Committee or Scrutiny Committees into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- 2.4 Once the Cabinet has approved the firm proposals, the relevant officer will refer them to the Council for decision.
- 2.5 The Council may not consider a proposal on a matter that forms part of the Budget and Policy Framework if the Cabinet has not considered it.
- 2.6 The Council may consider a proposal on a Budget and Policy Framework matter that has not been considered by Cabinet providing the Leader indicates that the Cabinet is in agreement with the proposal.
- 2.7 If Council decides to reject or amend the Cabinet's firm proposals, the Cabinet will delay implementation of the proposals pending a further report to Council requesting the matter is reconsidered.
- 2.8 If Council decides to reject or amend a proposal from Cabinet, immediately prior to the close of the meeting, the Chairman of the Council will adjourn the meeting until a date agreed by Council on the recommendation of the Leader of the Council. This shall be the date that Cabinet will report further to Council on the matter and Council must specify a period of at least five working days within which the Leader may:
 - a) Submit a revision of the draft budget, plan or strategy with the Cabinet's reasons for any amendments for the Council to consider;Or
 - b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such objections.
- 2.9 If the Chairman of the Council considers it is unlikely that the Council will agree the date for the Council meeting recommended by the Leader, he / she may agree an alternative date providing at least 10 working days elapse starting from the following day.
- 2.10 The Council must take into account Cabinet's reasons for revising any budget, plan or strategy or reasons for disagreeing with the Council's objections to its proposals before it amends the relevant draft budget, plan or strategy (as revised) or approves it.

- 2.11 If a strategy, plan or budget allows for a policy intention to be developed and the financial implications reflected in the Council's Medium-Term Financial Management Strategy are in excess of £500,000, the relevant Director must report back to Cabinet for approval to detailed plans for implementing the policy and committing the financial resources.
- 2.12 The Cabinet has responsibility for the proper administration of the Council's financial affairs within the framework of the agreed Contract Procedure Rules and Financial Procedure Rules.
- 2.13 Cabinet is responsible for monitoring, reviewing and formulating the Council's budget.
- 2.14 Each Cabinet Member shall be responsible for making sure that the Council's Contract Procedure Rules and Financial Procedure Rules are observed for those functions within their terms of reference.

3. DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- 3.1 The Cabinet, Committees, Sub-Committees, officers and joint arrangements discharging executive functions on behalf of the Council may only take decisions that are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to or not wholly in accordance with the Budget and Policy Framework, then that decision can only be taken by Council except as outlined in 3.2 below.
- 3.2 If the Cabinet, Committees, Sub-Committees, officers and joint arrangements discharging executive functions on behalf of the Council want to take a decision outside of the Budget and Policy Framework or think a decision they want to make might be outside it, they must refer to the Chief Executive or Monitoring Officer, and also the Chief Finance Officer if it relates to the budget, for advice.
- 3.3 If the Chief Executive or Monitoring Officer, and Chief Finance Officer if it is a budget matter, determine that the decision would be outside the Budget and Policy Framework, then the proposal must form a recommendation to Council, unless the decision is a matter of urgency in which case the provisions of section 4 of the Budget and Policy Framework Procedure Rules apply.

4. URGENT DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- 4.1 Cabinet, Committees, Sub Committees, officers or joint arrangements discharging executive functions of the Council may take a decision that is contrary to or not wholly in accordance with the Council's Budget and Policy Framework Procedures if the decision is a matter of urgency. However, such a decision may only be taken if:
 - a) It is not practical to convene a quorate meeting of the Council; and
 - b) The Chairman of the Strategic Monitoring Committee or relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- 4.2 The reason why it is not practical to convene a quorate meeting of the Council and the agreement of the Chairman of the Strategic Monitoring Committee or relevant Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Strategic Monitoring Committee or

relevant Scrutiny Committee, the Chairman of the Council or, in his / her absence, the Vice Chairman of the Council will be sufficient.

- 4.3 Following the decision, the decision taker will provide a full report to a subsequent Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. VIREMENT

- 5.1 Arrangements for budget virement will be in accordance with the provisions of the Council's Financial Procedure Rules.

6. IN-YEAR CHANGE TO BUDGET OR POLICY FRAMEWORK

- 6.1 Any decisions that involve an in-year change to the Budget or Policy Framework must be approved or adopted by the full Council unless:

a) It is an urgent decision in which case it will be dealt with as set out in section 4 of the Budget and Policy Framework Procedure Rules;

Or

b) Council has previously defined the scope for in-year decisions that can be made by Cabinet.

7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 7.1 Where the Strategic Monitoring Committee or a Scrutiny Committee is of the opinion that a Cabinet decision is contrary to or not wholly in accordance with the Budget and Policy Framework and that it therefore should be a recommendation to Council, then it shall seek advice from the Chief Executive, Monitoring Officer and Chief Finance Officer.

- 7.2 For executive functions that are a Cabinet responsibility, the Chief Executive, Monitoring Officer and Chief Finance Officer will either:

a) Prepare a report for the Cabinet if they determine that the decision the Cabinet has taken is outside the Budget and Policy Framework; in these circumstances, the Cabinet must make a report to Council; or

b) Prepare a report for the Strategic Monitoring Committee or Scrutiny Committee if they determine that the Cabinet's decision was not contrary to the Budget and Policy Framework.

- 7.3 If the decision referred to in 7.2 (a) has yet to be made then that decision will become a recommendation to Council.

FINANCIAL PROCEDURE RULES

1. INTRODUCTION

- 1.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Director of Resources.
- 1.2 It should be taken as read that the Head of Financial Services has delegated authority to act on behalf of the Director of Resources in their absence or if requested by the Director to do so.

Background

- 1.3 The Financial Procedure Rules control the way the Council manages its finances and safeguards its assets. They form part of the Council's Constitution and are to be read in conjunction with other sections of the Constitution in particular:
- a) Parts 6–9 inclusive – the delegations to Cabinet, Committees and Sub- Committees.
 - b) Part 12 – the delegations to officers.
 - c) Appendix 3 – the Budget and Policy Framework Procedure Rules.
 - d) Appendix 5 – the Contract Procedure Rules.
- 1.4 The Financial Procedure Rules apply to every Member and officer of the Council and anyone acting on its behalf except where separate arrangements are made under the scheme for the Local Management of Schools.
- 1.5 The Council encourages innovation providing this is within the framework laid down by the Financial Procedure Rules and that the necessary risk management arrangements and approvals are in place.
- 1.6 Every report to Members will contain a statement setting out the financial implications of the recommendation(s) proposed that has been approved by the Director of Resources.

General Responsibilities

- 1.7 Members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.8 Members, officers and others acting on behalf of the Council are required to follow the advice and guidance issued by the Director of Resources on the Financial Procedure Rules.

Cabinet Responsibilities

- 1.9 Cabinet is responsible for regulating and controlling the Council's finances and ensuring that sound financial management policies are in place and are adhered to.
- 1.10 The Cabinet should maintain a written record where decision-making has been delegated.
- 1.11 Each Cabinet Member shall be responsible for the observance of the Council's Financial Procedure Rules for those functions within their terms of reference.

Director of Resources' Responsibilities

- 1.12 The Director of Resources has been appointed under Section 151 of the Local Government Act 1972 as the officer with responsibility for the proper administration of the Council's financial affairs.
- 1.13 Reference in these Financial Procedure Rules to the Director of Resources shall be taken to mean to include any officer nominated by the Director of Resources to act on their behalf. It shall be taken to mean the Head of Financial Services in their absence.
- 1.14 The Director of Resources shall be entitled to attend a meeting of any body on which Members are represented where matters affecting the financial affairs of the Council are being discussed.
- 1.15 The Director of Resources, under the general direction of Cabinet, is responsible for determining the basis for all accounting procedures and financial records for the Council and for exercising a check over all financial matters.
- 1.16 The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and advising the Council of any additions or changes necessary.
- 1.17 The Director of Resources is responsible for reporting, where appropriate, breaches of the Financial Procedure Rules or any other element of the Constitution that relates to the proper administration of the Council's financial affairs to the Council and / or Cabinet.
- 1.18 The Director of Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules.

Corporate Management Board Responsibilities

- 1.19 Members of the Corporate Management Board should maintain a written record where decision-making has been delegated.
- 1.20 Members of the Corporate Management Board are responsible for ensuring that all employees are aware of the content of the Financial Procedure Rules and other internal regulatory documents and that they are complied with.
- 1.21 Members of the Corporate Management Board are responsible for consulting with the Director of Resources on any matter within their area of responsibility that is liable to materially affect the finances of the Council before any provisional or other commitment is incurred or before reporting the matter to a Cabinet Member.
- 1.22 Members of the Corporate Management Board are responsible for supplying the Director of Resources with all information necessary for the proper administration of the Council's affairs.
- 1.23 Members of the Corporate Management Board will allow the Director of Resources and their authorised representatives access to all documents and records they keep on demand.
- 1.24 Members of the Corporate Management Board shall observe the following division of duties in the allocation of financial responsibilities to employees:
 - a) The duty to provide information regarding money due to or from the Council, including calculating, checking and recording, will be separated from the duty of collecting or dispersing such money.

- b) The duty of examining and checking the accounts of each transaction will be separated from the duty of making those transactions.

2. PREVENTING FINANCIAL IRREGULARITIES

- 2.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Director of Resources.
- 2.2 The Council will not tolerate fraud and corruption in the administration of its responsibilities whether from inside or outside the Council.
- 2.3 The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to financial and legal requirements, rules, procedures and practices.
- 2.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud and corruption.
- 2.5 The key controls regarding the prevention of financial irregularities are that:
 - (a) The culture and tone of the Council is one of honesty and opposition to fraud and corruption.
 - (b) All Members and staff act with integrity, and lead by example.
 - (c) All individuals and organisations associated in any way with the Council will act with integrity.
 - (d) Senior managers are required to deal swiftly and firmly with those who defraud the Council or who are corrupt.

Responsibilities of the Director of Resources

- 2.6 The Director of Resources is responsible for:
 - (a) Maintaining adequate and effective audit arrangements for the Council.
 - (b) Ensuring that financial irregularities are reported to the Head of Paid Service, Cabinet and the Audit and Corporate Governance Committee.
 - (c) Determining, in conjunction with the Chief Internal Auditor, the scope of any internal enquiries or investigations, subject to consultation with the relevant member of the Corporate Management Board as appropriate.
 - (d) Deciding, in consultation with the relevant member of the Corporate Management Board as appropriate, whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.
 - (e) Keeping the Head of Paid Service informed if a suspected irregularity occurs involving staff who are the responsibility of the Director of Resources.
 - (f) Ensuring, in conjunction with the relevant member of the Corporate Management Board, that the Council's disciplinary procedures are followed where the outcome of an audit or other investigation indicates fraud or irregularity.

- (g) Ensuring that any case of fraud or loss or financial irregularity or bribery or corruption discovered or suspected to exist which involves the Council's interest will be dealt with in accordance with the Council's Anti-Fraud and Anti-Corruption policy.
- (h) Appointing senior officers to be the Council's Anti Money Laundering Officer and deputy to the Council's Anti Money Laundering Officer.

Responsibilities of Directors, Heads of Service and Officers

2.7 Directors, Heads of Service and officers are responsible for:

- (a) Ensuring that all suspected irregularities are reported to the Director of Resources and Chief Internal Auditor.
- (b) Instigating the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- (c) Being aware of the Council's policies for the prevention of money laundering and other financial irregularities.

Responsibilities of the Anti Money Laundering Officer

- 2.8 The Money Laundering Reporting Officer (MLRO) shall ensure that all staff likely to receive payments from the public, businesses or professions are aware of the Authority's responsibilities under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2003 and any other relevant acts and regulations, such as the Anti-terrorism acts.
- 2.9 The MLRO, or the Deputy MLRO in the MLRO's absence, shall receive reports from staff about suspicious payments of any value for any purpose and payments in cash in excess of £10,000 or €15,000 for property or goods.
- 2.10 The MLRO shall report any instance of suspected money laundering to the appropriate authority.

3. ASSET MANAGEMENT**Introduction**

- 3.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Asset Management and Property Services.
- 3.2 The Asset Management section of the Council's Financial Procedure Rules provides a framework of principles, minimum requirements, levels of authority and delegations to ensure that Herefordshire Council property is managed effectively to achieve maximum value for money.

Overarching principles

- 3.3 A set of overarching principles govern the operation of this section of the Council's Financial Procedure Rules. These are:
 - (a) All property owned or leased by Herefordshire Council is held corporately (including Herefordshire Council-owned schools).
 - (b) The Director of Resources (in consultation with the Cabinet Member for Resources) is responsible for ensuring that the occupation of all Herefordshire Council property by Directorates is in accordance with best management practice and in the interests

of the Council as a whole, with the authority to direct the use, disposal or acquisition of any land or property within the Council's budgetary framework and decision-making process.

- (c) Directorates have discretion to manage the property they occupy in order to promote effective service delivery. However, this discretion operates subject to the corporate responsibilities of the Director of Resources, who (in consultation with the Cabinet Member for Resources) has the authority to intervene in property matters to protect Herefordshire Council's overall interests.
- (d) Resolution of disputes on property matters is through the Cabinet Member for Resources and then, if necessary, the Leader of the Council.
- (e) All property transactions should be referred to the Director of Resources who will consult with the Cabinet Member for Resources and seek the comments of all interested parties, including other relevant Cabinet Members, Directorates and local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this section of the Council's Financial Procedure Rules and the decision making procedures set out in the Council's Constitution.

3.4 This section of the Council's Financial Procedure Rules is organised to reflect the lifecycle of property (acquisition – management in use – disposal) with additional requirements to support specific initiatives and exceptional circumstances.

Acquisitions

3.5 Objective: To ensure that land and property requirements are appropriately identified and appraised and that all acquisitions have the necessary authority and funding, including an assessment of the impact on revenue of funding from borrowing.

3.6 All acquisitions (freehold and leasehold) must be authorised by the Director of Resources (following consultation with the Cabinet Member for Resources, the Head of Financial Services, the Head of Legal & Democratic Services, other relevant Cabinet Members, Directorates and local Members) either in accordance with the delegations set out in paragraphs 3.7 to 3.14 below or the decision making procedures set out in the Council's Constitution.

Non-Highways Acquisitions

3.7 For all non-highways acquisitions, the relevant Directorate will provide the Director of Resources with:

- (a) A definition of the service requirement giving rise to the proposed acquisition.
- (b) A full financial appraisal of options for meeting service delivery requirements (developed as appropriate with support from the Corporate Asset Strategy Group).
- (c) An evaluation of the potential (if any) for joint use.

3.8 The Cabinet Member for Resources will be consulted on all proposed acquisitions and kept informed of their progress.

3.9 Property acquisitions will be dealt with in accordance with the appropriate provisions of this section of the Council's Financial Procedure Rules and decision making procedures set out in the Council's Scheme of Delegation.

- 3.10 The use of compulsory powers for acquisitions must be agreed by Cabinet.

Highways Acquisitions

- 3.11 The Director for Environment will, in the case of all highway acquisitions, seek local Member views as part of the consultation process for highways and traffic schemes.
- 3.12 Highways scheme design and cost (including land acquisition) shall be approved by the Cabinet Member of Environment and the Director for Environment (or officer authorised by them), after considering the views of the Corporate Asset Strategy Group (CASG).
- 3.13 Highways acquisitions may be made by the Director of Resources in consultation with the Cabinet Member for Resources provided the scheme is in an approved programme or falls within blight policies.
- 3.14 All other highways acquisitions (i.e. land not incorporated in the highway) will be referred by the Director of Resources to the Cabinet Member for Resources, who will determine if s/he or an officer will give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers will be made by the Cabinet in accordance with the terms of this section of the Council's Financial Procedure Rules and the decision making procedures set out in the Constitution.

Management and Use

- 3.15 Objective: To ensure that property is used efficiently, effectively and economically with due regard to legislative requirements; and that when it is no longer required for operational purposes it is formally declared surplus, at which point its management reverts to the Director of Resources, and the budgetary implications of this are identified and reported to the Cabinet Member for Resources.
- 3.16 The occupation and use of property by a Directorate is subject to the authority of the Director of Resources (in consultation with the Cabinet Member for Resources) to approve all material changes to property, including change of use, appropriations, granting/taking of interests, reversion to operational use, alterations or additions. Such changes must be reported to the Head of Financial Services for correct accounting treatment and apportionment of charges.

Premises Management

- 3.17 The Director of Resources has the authority to undertake reviews of the property portfolio, or parts of it, to determine if it is optimised in terms of its utilisation, cost and value and within this to challenge the retention or use of existing properties occupied by Directorates.

Building works

- 3.18 Major capital works for properties should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes.

Health & Safety

- 3.19 Staff are required to ensure that in respect of all property matters all obligations under health and safety legislation and Herefordshire Council's health and safety policies are followed.

Disposals

- 3.20 Objective: To ensure that land and property surplus to operational need is either reallocated to meet alternative needs or disposed of in line with statutory requirements and/or Herefordshire Council policy.
- 3.21 Directorates will notify the Director of Resources of:
- (a) Any property (or part) that is:
 - Vacant.
 - Held against a future operational need.
 - Not used for the principal purpose for which it is held.
 - Likely to be surplus to requirements (with estimated time-scale).
 - (b) Any operational issues associated with such property (e.g. longer term requirements).
 - (c) Any statutory/process issues relevant to its disposal (e.g. established consultation processes, reference to the Secretary of State, etc.).
 - (d) Any other issues which need to be considered prior to disposal.
- 3.22 The Director of Resources may identify any property (or part) that s/he considers is, or could be made, surplus to operational requirements.
- 3.23 The Director of Resources will consult with the Cabinet Member for Resources on all disposals and inform him/her of the comments of local Members. The Cabinet Member for Resources will determine whether s/he or an officer will give approval for disposal in accordance with this section of the Council's Financial Procedure Rules and the decision making procedures set out in the Council's Constitution.

Treatment of Capital Receipts

- 3.24 Capital receipts from disposals are deemed to be a corporate capital resource available for allocation in line with corporate priorities.
- 3.25 All receipts are agreed through the Capital Strategy & Monitoring Group (CSMG) with no assumption on application to particular schemes.
- 3.26 Use of capital receipts are subject to the following rules:
- (a) Overspending on schemes dependent on receipts must be contained within the portfolio.
 - (b) Capital schemes dependent on receipts are included in the Capital Programme only after full vetting and valuation by CSMG and ultimate approval by Cabinet or Council as appropriate.
 - (c) All dependencies, assumptions and risks to be clearly identified by the project sponsor leading to prudent valuation adopted in project sign-off.

- (d) Scheme assumptions about the quantum, timing and phasing of receipts to be explicit and receipts cannot generally be “counted” until the sale is complete.
 - (e) Monitoring will be undertaken by CSMG with Asset Management and Property Services using a traffic light system to assess the level of risk around the receipts.
- 3.27 The process for planning for the realisation of capital receipts will take a medium term approach (3 years minimum) to allow:
- (a) Asset Management & Property Services to be able to work on projects in good time prior to consideration by CSMG. Larger, complex schemes can need 12-24 months lead-in.
 - (b) Asset Management & Property Services to agree the strategy for disposal including timescale, planning, marketing, viewing arrangements, temporary occupation, minimising holding costs, surplus declarations etc. as core components of project justification to CSMG.
 - (c) Directorates must deliver vacant possession when required by project plan.
 - (d) Risk analysis to be included as part of project plan.

Urgent Decisions

- 3.28 In exceptional circumstances, where an urgent decision is required on property matters, this will be taken by the Director of Resources in accordance with the provisions of this section of the Council’s Financial Procedure Rules and only after consultation with the Cabinet Member for Resources, the Head of Financial Services and the Head of Legal and Democratic Services. If the matter is outside the delegations set out in paragraph 3.32 below then the matter can only be authorised by the Cabinet Member for Resources in accordance with the procedures for the taking of urgent decisions set out in the Council’s Constitution.
- 3.29 Any decisions made under the ‘Urgent Decision’ arrangements will be reported to the relevant Director, Cabinet Members and Local Members.

Financial Procedure Rules

- 3.30 All of the protocols set out in the Council’s Financial Procedure Rules and Schemes of Delegation must be adhered to. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in paragraph 3.28 above.

Reporting

- 3.31 The Director of Resources will prepare each month a schedule of acquisitions and disposals dealt with by the Cabinet Member for Resources or by themselves, and send this to Head of Legal & Democratic Services for publication.

Delegation to Officers

- 3.32 Subject to the consultation provisions set out in this section of the Council’s Financial Procedure Rules, the Director of Resources is authorised to:
- Determine and settle the acquisition or disposal of any land or property, or an interest in land or property where the consideration (including any associated works) does not exceed the prevailing European procurement limit for supplies and services (currently £144,000) in any single transaction.

- Determine and settle the terms of a lease (taken or granted) for any land or property, not exceeding a period of 20 years or where the consideration does not exceed the prevailing European procurement limit for supplies and services (currently £144,000) per annum in any single transaction.

3.33 As provided by arrangements made in the Constitution for the Leader to discharge executive functions, the Chief Executive may exercise any power delegated under this section of the Council's Financial Procedure Rules to the Director of Resources; and the Director of Resources may delegate his/her powers in writing to other officers.

Supporting Mechanisms

3.34 Whilst having no Constitutional or decision-making status, the management of assets and property will be exercised through a variety of mechanisms which amplify and support this section of the Council's Financial Procedure Rules. The key mechanisms and their purpose are summarised below:

- **Corporate Asset Strategy Group** chaired by the Director of Resources provides a forum to discuss and agree the strategic direction for asset management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- **Capital Strategy and Monitoring Group (CSMG)** considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Council's Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Cabinet for schemes to be included in Herefordshire Council's capital programme.
- **Asset Management and Property Services Annual Service Delivery Plan** prepared in accordance with Herefordshire Council's planning guidelines identifies the main priorities of the Asset Management and Property Services division and includes as an annex a schedule of properties for disposal. This provides delegated authority to proceed with disposals in line with the provisions of this protocol.
- **Strategic Asset Review Group** assesses the corporate need for land and property to support service delivery. It assists Services and Directorates to achieve a sustainable property asset base which is both sufficient and suitable for service delivery. It considers the opportunities for co-location and shared working with partners in the public sector.
- **Medium Term Financial Management Strategy** sets out Herefordshire Council's spending priorities and/or financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Management Strategy.

Information to the Council and Scrutiny

3.35 The Director of Resources will prepare each month a schedule of property transactions dealt with by the Cabinet Member for Resources or themselves, and send this to Head of Legal & Democratic Services for publication.

3.36 Transactions proposed to be authorised by the Cabinet Member for Resources are subject to the normal processes of publication and scrutiny for Cabinet Member decisions.

4. AUDIT

- 4.1 Further advice on this section of the Financial Procedure Rules can be obtained from the Director of Resources or Chief Internal Auditor.

Responsibilities of the Director of Resources

- 4.2 The Director of Resources has delegated responsibility for maintaining an adequate and effective internal audit service.
- 4.3 Where an appropriate response to audit recommendations has not been made within the agreed period, the Director of Resources will refer the matter to the Head of Paid Service and/or the Audit and Corporate Governance Committee.
- 4.4 The Director of Resources is responsible for ensuring that the Chief Internal Auditor submits an annual report to the Audit and Corporate Governance Committee detailing internal audit activity for the previous year and reporting significant findings and areas of concern.
- 4.5 The Director of Resources is responsible for producing an annual Statement on Internal Control for inclusion with the annual Statement of Accounts based on assurances provided by the Chief Internal Auditor.
- 4.6 The Director of Resources is responsible for ensuring that Audit Services complies with the Chartered Institute of Public Accountancy's Code of Practice for Internal Audit.
- 4.7 The Director of Resources is responsible for maintaining strategic and annual audit plans that take account of the characteristics and relative risks of the activities involved. They must liaise with the Corporate Management Board on the audit strategy and plan. In addition to the statutory requirement, this takes into account the need to seek added value, effective use of resources, improved performance and cost-effective controls.
- 4.8 The Director of Resources is responsible for investigating promptly any irregularity or fraud they become aware of and report to the Head of Paid Service to discuss and agree appropriate legal proceedings and disciplinary action in consultation with the relevant member of the Corporate Management Board as appropriate.

Responsibilities of Directors and Heads of Service

- 4.9 Officers are responsible for ensuring that internal and external auditors have:
- (a) Access at reasonable times to premises or land used by the Council;
 - (b) Access to all assets, records, documents, correspondence and control systems relating to any matter or business of the Council; and
 - (c) Any information and explanation considered necessary concerning any matter under examination.
- 4.10 Officers are responsible for requiring any employee of the Council to account for cash, stores or any other Council property under their control and produce such items for inspection if required by Audit Services.
- 4.11 Officers are responsible for considering and responding within two weeks to recommendations in audit reports.

- 4.12 Officers are responsible for ensuring that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 4.13 Officers are responsible for ensuring that new systems for maintaining financial records, or records of assets, or changes to such systems are discussed and agreed with the Chief Internal Auditor prior to implementation.
- 4.14 Officers are responsible for ensuring that internal and external auditors are provided promptly with any information and explanations they seek in the course of their work.
- 4.15 Officers are responsible for notifying the Director of Resources or Chief Internal Auditor immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of Council property or resources. Pending investigation, all further steps should be taken to prevent further loss and secure records and documents against removal, destruction or alterations.
- 4.16 Officers are responsible for ensuring that all paperwork and systems are up to date and available for inspection by internal or external audit.
- 4.17 Officers are responsible for ensuring all fundamental systems and financial systems are reconciled on a monthly basis and that records are up to date and available for internal or external audit inspection with the minimum of notice.

Responsibilities of the Head of Financial Services

- 4.18 The Head of Financial Services is responsible for drawing up the timetable and issuing guidance for final accounts purposes and to advise employees and the external auditors accordingly.

5. IMPREST ACCOUNTS

- 5.1 Further advice on this section of the Financial Procedure Rules can be obtained from the Head of Benefit and Exchequer Services.

Responsibilities of the Head of Financial Services

- 5.2 To consider requests from Heads of Service and Head Teachers to provide a cash or bank imprest account to meet minor expenditure on behalf of the Council.
- 5.3 To prescribe rules for operating imprest accounts.
- 5.4 To maintain a record of all advances made and reconcile to the Council's main financial system.

Responsibility of the Head of Benefit and Exchequer Services

- 5.5 To reimburse imprest holders as often as necessary to restore the imprest balance.

Responsibilities of Heads of Service and Head Teachers

- 5.6 To ensure that all officers operating an imprest account:
 - (a) Obtain and retain vouchers to support each payment from the imprest account including official VAT receipts where appropriate.
 - (b) Make adequate arrangements in their office for the safe custody of the account.

- (c) Produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest account.
- (d) Record transactions promptly.
- (e) Reconcile and balance the account at least monthly with reconciliation sheets to be signed and retained by the imprest holder.
- (f) Provide the Head of Financial Services with a certificate of the value of the account held at 31st March by 31st May each year.
- (g) Ensure that the imprest is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the imprest and change relating to purchases where an advance has been made.
- (h) Income due to the Council is collected and banked as provided in Section 6 of the Council's Financial Procedure Rules and not through an imprest account.
- (i) On leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Head of Service or Head Teacher for the amount advanced to them.
- (j) Do not allow any bank imprest account to become overdrawn.

5.7 To ensure that payments are limited to minor items of expenditure with a maximum transaction value set by the Director of Resources from time to time (set at £50 in November 2007).

5.8 To submit a claim for reimbursement at least monthly.

5.9 To notify the Head of Financial Services of any new signatories.

6. INCOME

6.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit & Exchequer Services.

6.2 The Director of Resources has overall responsibility for the Council's income and collection functions and has sub-delegated this to the Head of Benefit and Exchequer Services who is required to ensure the effective collection and recording of all monies due to the Council.

6.3 The Director of Resources will agree arrangements for the collection of all income and approve procedures and systems. In order to achieve this, the following controls have been put in place:

- (a) All income due to the Council is identified, charged correctly and billed promptly.
- (b) All money received by an employee on behalf of the Council is paid without delay to the Director of Resources or to a nominated officer or into the Council's specified bank account and is properly recorded.
- (c) All receipts given for money should be on an official receipt form.
- (d) All income is collected from the correct person, at the right time using the correct procedures and appropriate stationery and effective recovery action to pursue outstanding sums is taken within defined timescales.

- (e) A formal approval process for write-offs of uncollectable debts using the criteria detailed below.
- (f) Personal cheques must not be cashed out of money held on behalf of the Council.

6.4 The Director of Resources has determined the following authorisations for writing off uncollectable debt:

- Under £150 – individual Service Managers.
- Between £150 and £500 – Revenues Manager.
- Between £500 and £1,000 – Head of Benefit and Exchequer Services.
- Between £1,000 and £20,000 – Director of Resources.

6.5 For write offs of amounts exceeding £20,000 the Director of Resources will seek agreement from the relevant Cabinet Member and Cabinet Member (Resources).

6.6 The Director of Resources will report details of amounts over £1,000 written off to Cabinet twice a year for information purposes.

6.7 Write off of amounts raised on behalf of other directorates require the recommendation of the relevant Director.

7. PAYMENTS

7.1 Further information on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit & Exchequer Services.

7.2 The Director of Resources has overall responsibility for making payments on behalf of the Council and has sub-delegated this to the Head of Benefit and Exchequer Services.

7.3 Individual Directors will ensure that payments are authorised by appropriate officers who can certify that goods and services have been received and that price, quantity and quality are in accordance with the initial order, where appropriate.

7.4 Directors will provide the Director of Resources with a list of authorised officers showing their signing levels with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.

7.5 Unless specifically authorised otherwise by the Director of Resources:

- (a) Directors must authorise all payments in excess of £250,000 (excluding VAT).
- (b) Heads of Service may authorise payments up to £250,000 (excluding VAT).
- (c) Managers who report to Heads of Service may authorise payments up to £100,000 (excluding VAT).
- (d) Other officers as delegated by the Director up to £5,000 (excluding VAT).

7.6 Once certified all accounts paid through the centralised payment system must be passed to the payments section who will ensure that the required payment is made to the correct person by the agreed method of payment and that all expenditure including VAT is accurately recorded against the correct budget.

- 7.7 Requests for payment will be rejected by the Payments Manager unless certified by an officer using their full signature who has the appropriate level of authority.
- 7.8 All accounts should be paid promptly, normally within 30 days unless in dispute, having due regard to the Payment of Commercial Debts (Interest) Act 1998 and to maximise performance measured by the Best Value Performance Indicator for this area. All accounts received must be date stamped on with the day of receipt.
- 7.9 The Director of Resources will ensure that all appropriate payment documentation is retained for the required period of time in accordance with the 'Guidelines on the Destruction of Financial records'.

8. SALARIES, WAGES, PENSIONS, TRAVEL AND SUBSISTENCE

- 8.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit & Exchequer Services.
- 8.2 The Director of Resources is responsible for making payments to employees, former employees and Members on behalf of the Council and has sub-delegated this responsibility to the Head of the Benefit and Exchequer Service.
- 8.3 Directors will provide the Director of Resources with a list of officers authorised to sign claims and other payroll documents showing their signing limits with specimen signatures. This list should be updated and reported promptly to reflect staff changes.
- 8.4 Directors and Heads of Service will ensure that:
- (a) Appointments are made in accordance with Council policies and approved establishments and grades and that there is adequate budget provision for the length of the appointment.
 - (b) The following information is notified to Human Resources within the required timescales:
 - Starters and leavers.
 - Absence.
 - Variations to remuneration, other than annual increments and pay awards.
- 8.5 Directors are responsible for ensuring a record of annual leave entitlement due and the actual leave taken by each employee is maintained for their Directorate in a form recommended by the Head of Human Resources.
- 8.6 All claims for payment of allowances, subsistence, travelling and expenses must be submitted within one month of the period they relate to on the approved form, duly certified in a form approved by the Director of Resources with all required supporting evidence including VAT receipts for fuel and other expenses where appropriate. Any exceptions will require individual certification by both the Director and the Head of Service.
- 8.7 The certification of claims by or on behalf of a Director or Head of Service will be taken to mean that the certifying officer is satisfied that the journeys and the expenses incurred were necessary and authorised as being in line with the Council's policies on travel and subsistence claims.
- 8.8 The Director of Resources will ensure that all appropriate payroll documents are retained for the required period of time in accordance with the 'Guidelines on the Destruction of Financial records'.

9. REVENUE BUDGET MANAGEMENT

- 9.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 9.2 The Cabinet shall recommend an annual budget to Council that includes the following:
- (a) Annual capital and revenue budget.
 - (b) Proposed contingencies, general reserves and specific reserves.
 - (c) Statutory Council tax calculations;
 - (d) Treasury management policy and borrowing limits.
 - (e) The Chief Finance Officer's statutory declaration on budget setting.
 - (f) Virement limits.
 - (g) Scale of fees and charges.
- 9.3 Budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continual process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.
- 9.4 By identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved in setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within +1% of the cash limited budget allocated to it.
- 9.5 Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or create future commitments, including a full-year effect of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.
- 9.6 The format of the revenue budget determines the level of detail to which budget management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.
- 9.7 The key controls for the budget format are that it:
- (a) Complies with all legal requirements.
 - (b) Complies with CIPFA's "Best Value Accounting – Code of Practice".
 - (c) Reflects the accountabilities of service delivery.
- 9.8 The Director of Resources will advise the Cabinet on the format of the budget that is approved by the full Council.

10. CAPITAL BUDGET MANAGEMENT

- 10.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 10.2 The Cabinet shall, following the submission of proposals by Cabinet Members, recommend to Council:
- (a) A capital programme for each financial year.
 - (b) A future indication of a capital programme over a three year period.
 - (c) The recommended funding method for each capital project (including the use of Prudential Borrowing, capital receipts, revenue or other financing methods).
- 10.3 All capital spending proposals including ICT should be subject to approval through the Council's capital planning processes.
- 10.4 Following the approval of a capital programme, and subject to any conditions specified in that programme, or specified by the relevant Cabinet Member, the relevant Director shall take all appropriate action to carry into effect the approved schemes, within the budget and time scale agreed in the capital programme. Any material variation in cost or time scale shall be reported to the Cabinet.
- 10.5 Any report for a project or policy of a capital nature will include details of:
- (a) The estimated cost of the proposal.
 - (b) Any phasing of the capital expenditure.
 - (c) The proposed method of financing, whether by loan, revenue or otherwise.
 - (d) The effect on the revenue estimates in the first and subsequent years.
 - (e) The additional staff and grades required both initially and ultimately.
 - (f) An assessment and measurement of the need for the scheme and the benefits it will produce.
 - (g) A technical and financial appraisal of the alternative approaches to meeting the need.
- 10.6 In-year decisions on new capital spending requirements not in the approved budget should be dealt with via the Council's Scheme of Delegation (sections 12.4 and 12.5 refer).

11. BUDGETARY CONTROL

- 11.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

General

- 11.2 Directors will be responsible for budgetary control of the estimates relevant to their Directorate and, after consultation with the Director of Resources, will keep the relevant Cabinet Member informed of any significant variations.

- 11.3 It shall be the duty of every Cabinet Member to monitor the revenue and capital budget throughout each year and to ensure that those budgets are not exceeded.
- 11.4 Inclusion within an approved revenue budget provides authority for expenditure on those approved items, subject to any limitation expressed in the Constitution, the budget or by the relevant Cabinet Member.
- 11.5 Any new proposal or variation which would materially affect the finances of the Council shall require approval by the Cabinet.
- 11.6 Each Director shall be responsible for monitoring the revenue and any capital budget relevant to his/her Directorate to ensure that such budgets are properly spent and not exceeded.
- 11.7 If it appears to a Director that his/her overall cash limited budget may be exceeded, he/she shall report the details as soon as practicable to the Chief Executive, the Director of Resources and to the Cabinet Member. The relevant Cabinet Member will then report on the matter to the Cabinet.
- 11.8 The Council may permit Directorates to carry forward managed underspends into the following financial year provided that all other budget targets have been met. The first call on any underspendings will be to offset any Directorate overspends.
- 11.9 Managed underspends carried forward will be part of the Directorate budget plan for the next financial year and must be used to fund one-off expenditure only. Carrying forward underspendings in order to ensure external funding is received is also allowed.
- 11.10 Windfall reductions in spend or additional income will be transferred into the Council's General Reserves at the end of the financial year.
- 11.11 Action plans must be put in place by each Directorate at any early stage in the financial year in order to manage overspendings (e.g. due to additional spending or below target income). Where appropriate the additional spending or below target income should be met by virements from other elements of the Directorate budgets. If such action plans are put into place at an early stage and properly adhered to there will be no carry forward of the overspendings into the following financial year.
- 11.12 Underspendings where any savings should not accrue to the Council (e.g. schools standards fund, schools sickness absence scheme) can be carried forward.
- 11.13 The Director of Resources will furnish each Director with periodic statements of income and expenditure under each head of approved estimate along with other relevant information.
- 11.14 It is the duty of Directors to ensure that responsibility for budgetary control is allocated to appropriate officers in their Directorates.
- 11.15 Directors shall monitor spend and income against budgets monthly and ensure, so far as practicable, that expenditure in excess of their net approved budgets is not incurred without prior approval. If actual income is expected to be below budget, this must also be actively managed.
- 11.16 Directors will be required to put in place recovery plans for any overspend in excess of 1% of their net budget.

- 11.17 For the purposes of budgetary control by managers a budget will normally be the planned income and expenditure for a service area of cost centre. However, budgetary control may take place at a more detailed level if this is required.
- 11.18 The key controls for managing and controlling the revenue budget are:
- (a) Budget Managers should be responsible only for income and expenditure that they can influence.
 - (b) There is a nominated Budget Manager for each cost centre heading.
 - (c) Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
 - (d) Budget Managers follow an approved certification process for all expenditure.
 - (e) Income and expenditure are properly recorded and accounted for.
 - (f) Performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
 - (g) The gross expenditure budget position is monitored and controlled.
- 11.19 The Director of Resources will establish an appropriate framework of budgetary control that ensures that:
- (a) Budgetary control is exercised within annual cash limits unless the full Council agrees otherwise.
 - (b) Each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
 - (c) Expenditure is committed only against an approved budget head.
 - (d) All officers responsible for committing expenditure comply with relevant guidance and the Financial Procedure Rules.
 - (e) Each cost centre has a single named manager, determined by the relevant Director. As a general principle budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
 - (f) Significant variances from approved budgets are investigated and reported by budget managers regularly.
- 11.20 The Head of Financial Services shall provide financial management training courses that all budget managers must attend in order to obtain a 'licence to practice' as a budget manager in Herefordshire Council. Refresher training must also be undertaken every two years or the licence to practice will be removed.

Virement

- 11.21 The Council operates a scheme of virement intended to enable budget holders to manage budgets with a degree of flexibility within the overall policy framework determined by the Council and therefore optimise the use of resources.

- 11.22 Directors have authority to vire expenditure between individual budget heads in accordance with the virement policy.
- 11.23 Key controls for the scheme of virement are:
- (a) That it is administered by the Director of Resources within guidelines set by Council. Any variation from this scheme requires the approval of Council.
 - (b) That the overall budget is agreed by Cabinet and approved by Council. Directors, and budget holders are therefore authorised to incur expenditure in accordance with those estimates. The rules below cover virement, that is switching resources between budget heads. For the purposes of these Rules a budget head is considered to be a line in the Council's budget book which, as a minimum, is at an equivalent level to the standard service sub-division as defined by CIPFA. The scheme applies equally to a reduction in income as to an increase in expenditure.
- 11.24 All virements below £25,000 must be approved by the Head of Financial Services. All virements above £25,000 must be approved by the Director of Resources. All virements of above £25,000 will be reported in the budget monitoring report provided to Cabinet.
- 11.25 The Director of Resources will prepare a report to the Cabinet where virements in excess of £100,000 for capital or revenue are proposed.
- 11.26 The prior approval of the Cabinet is required to any virement of £25,000 or more where it is proposed to:
- (a) Vire between budgets of different portfolio Cabinet Members.
 - (b) Vire between budgets managed by different Corporate Directors.
- 11.27 Virement which is likely to impact on the level of service activity of another Director should be implemented only after consultation with the relevant Director.

12. FINANCIAL PLANNING

- 12.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 12.2 The Head of Financial Services will prepare and review annually a three-year financial plan and strategy to provide an estimate of resources available to the Council and identify budget pressures.
- 12.3 Proposed budgets over periods of one year or longer shall be prepared by Directors, in consultation with the Director of Resources, for submission through the Cabinet to the Council.
- 12.4 Directors shall evaluate the financial implications of any new policy option, initiative or major project in conjunction with the Director of Resources and Head of Financial Services prior to a report to the Cabinet and/or Council.

13. BORROWING APPROVALS

- 13.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 13.2 The Director of Resources will report to Cabinet, on an annual basis, with recommendations to Council to determine the limits for the borrowing of monies

14. EMERGENCIES

- 14.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 14.2 Nothing in these standing orders shall prevent expenditure required to meet immediate needs caused by a sudden emergency to which Section 138 of the Local Government Act 1972 applies, provided that such expenditure shall be reported as soon as possible to the appropriate Cabinet Member and the Cabinet.

15. BANKING ARRANGEMENTS

- 15.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 15.2 All arrangements with the Council's bank concerning the Council's bank accounts and for the ordering and issue of cheques will be made by, or under arrangements approved by, the Director of Resources. The Director of Resources will be authorised to open and operate such banking accounts, as he or she may consider necessary. This authority will include the power to give the necessary directions to the bank as to signatures for withdrawals. The Director of Resources will report periodically to the Cabinet or Audit & Corporate Governance Committee as to the opening or closing of such accounts.
- 15.3 All cheques, including National Giro payment forms will be ordered only on the authority of the Director of Resources who will satisfy himself or herself that proper arrangements are in place for their safe custody. Where the signature is printed on the cheque by a Council system, the signature will be that of the Director of Resources.

16. INSURANCE AND RISK MANAGEMENT

- 16.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services or the Risk & Insurance Manager.
- 16.2 All organisations, whether they are in the private or public sector, face risks to people, property and continued operations. Risk is defined as the chance or possibility of loss, damage or injury caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk.
- 16.3 Insurance has been the traditional means of protecting against loss, but this cannot be seen as the complete answer. By reducing or even preventing the incidence of losses (whether they result from crime or accident), the Council will benefit from reduced costs of providing insurance cover and will also avoid the disruption and wasted time caused by losses and insurance claims.
- 16.4 It is the overall responsibility of the Cabinet to approve the authority's Risk Management Strategy and to promote a culture of risk management awareness through the Council. Monitoring of and reporting on the effectiveness of the Strategy is an essential part of the process.
- 16.5 The key controls for risk management and insurance are:
- (a) Robust systems are in place to identify, assess, prevent or contain significant operational risks on an integrated basis and these systems are promoted throughout the organisation.

- (b) Acceptable levels of retained risk are identified and evaluated and arrangements are in place for their funding, either by internal provision or external insurance as appropriate.
 - (c) Managers know that they are responsible for managing relevant risks and are provided with appropriate and timely information on claims experience and risk management initiatives relating to their areas of responsibility.
 - (d) Procedures are in place to investigate and process claims within required timescales.
 - (e) A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 16.6 The Director of Resources will affect all insurance cover and negotiate all claims in consultation with the relevant Director and Head of Legal & Democratic Services where appropriate.
- 16.7 Directors will give prompt notification to the Director of Resources of all new risks, properties, vehicles and other assets that are required to be insured or any alterations affecting existing insurances.
- 16.8 Directors will promptly notify the Director of Resources in writing of any actual or potential loss, liability or damage or any event likely to lead to an insurance claim by or against the Council.
- 16.9 The Head of Financial Services will oversee and ensure the preparation of the Council's Risk Management and promote the Strategy throughout the Authority.
- 17. LOANS, LEASING AND INVESTMENTS**
- 17.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 17.2 The Director of Resources will borrow as necessary to finance the approved capital programme and deal with all matters in connection with the raising or repayment of loans and is authorised to borrow for meeting expenses pending the receipt of revenues.
- 17.3 All investments and all borrowing will be made in the name of the Council or the appropriate trust when the Council is acting as trustee and the security will be lodged with the Director of Resources, Head of Legal & Democratic Services or the Council's banker as deemed most appropriate by the Director of Resources.
- 17.4 Directors will not enter into financial leasing arrangements except with the consent of the Director of Resources.
- 17.5 The Director of Resources will arrange the borrowing and investment activities of the Council such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Authority's Treasury Policy Statement.
- 17.6 The Director of Resources will prepare an Annual Treasury Strategy for the forthcoming financial year for approval by Council prior to the start of that financial year including the determination of statutory financing limits in accordance with Section 45 of the Local Government and Housing Act 1989 and report annually to Cabinet on the implementation and effectiveness of the Treasury Strategy.

17.7 The Council has the discretion to provide loan facilities to staff and members that help individuals fulfil their duties. These include car loan facilities, corporate loan facilities and bicycle loan facilities. From time to time government initiatives may bring forward other proposals that will be investigated for suitability.

17.8 Each loan facility will be supported by a written policy developed by the Head of Financial Services and agreed by Corporate Management Board. Variations to the facilities will be delegated to the Head of Financial Services on consultation with the Director of Resources.

18. TRUST FUNDS

18.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

18.2 The Director of Resources will:

- (a) Arrange for all trust funds to be held wherever possible in the names of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Director of Resources unless the deed otherwise provides.
- (b) Arrange where funds are held on behalf of third parties for their secure administration approved by the Director of Resources and to maintain written records of all transactions.
- (c) Ensure that trust funds are operated within any relevant legislation and the specific requirement for each trust.

19. INVENTORIES AND STOCKS AND STORES

19.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Chief Internal Auditor.

19.2 The Director of Resources will:

- (a) Advise on the form, layout and content of inventory records to be maintained by the Council.
- (b) Advise on the arrangements for the care and custody of stocks and stores in Directorates.

19.3 Directors will:

- (a) Maintain inventories in a form approved by the Director of Resources to adequately record and describe furniture, fittings and equipment, plant and machinery under their control.
- (b) Carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.
- (c) Ensure attractive and portable items, such as computers, cameras and video recorders should be identified with security markings as belonging to the Council and appropriately controlled and secured.
- (d) Make sure that property is only used in the course of the Council's business unless the Director concerned has given permission otherwise.

- (e) Seek Cabinet Member approval to the write-off of redundant equipment where individual items are valued in excess of £5,000.
- (f) Make arrangements for the care and custody of stocks and stores in Directorates.
- (g) Ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- (h) Ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- (i) Write-off discrepancies of up to £5,000 and seek advice from Internal Audit on discrepancies above this limit.
- (j) Authorise or write-off disposal of redundant stocks and equipment by competitive quotations or auction unless, following consultation with the Director of Resources, it is decided otherwise in a particular case.
- (k) Seek approval from the Director of Resources to the write-off of redundant stocks and stores valued in excess of £5,000.
- (l) Record the reasons for the chosen method of disposing of redundant stocks and equipment if not by competitive quotation or auction.

20. ORDERS FOR GOODS, WORKS AND SERVICES

- 20.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services or the Strategic Procurement Manager.
- 20.2 Orders will not be issued for goods, work or services unless the cost is covered by an approved budget.
- 20.3 All orders given on behalf of the Council will be in a written or electronic form approved by the Director of Resources and Head of Legal & Democratic Services. All orders are to be authorised by officers nominated by the appropriate Director who will be responsible for official orders issued from his or her Directorate. Orders given verbally will be confirmed by written or electronic order as appropriate as soon as possible.
- 20.4 Official written or electronic orders will be issued for all work, goods or services to be supplied to the Council except where a written contract is required or is operative for supplies of public utility services, periodical payments such as rent or rates, for petty cash purchases or for such other expenditure as the Director of Resources may approve.
- 20.5 Each order will conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials and with respect to Contract Procedure Rules.
- 20.6 Written orders will be marked with invoice details when relevant accounts are passed for payment. When an electronic procurement system is in use an appropriate entry will be made in when payment is authorised.
- 20.7 The key controls for ordering and paying for work, goods and services are:
 - (a) All works, goods and services are ordered only by appropriate persons and recorded.

- (b) All works, goods and services shall be ordered in accordance with the Council's Procurement Strategy and Contract Procedure Rules unless they are purchased from internal sources within the Council.
- (c) Works, goods and services received are checked to ensure they are in accordance with the order.
- (d) Payments are authorised by officers who can certify that goods have been received to price, quantity and quality.
- (e) All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
- (f) All appropriate payment documents are retained and stored for the defined period in accordance with the Council's 'Guidelines on the Destruction of Financial Record'.
- (g) All expenditure including VAT, is accurately recorded against the right budget and any exceptions corrected.
- (h) That processes are in place to maintain the security and integrity of data for transacting business electronically.

CONTRACT PROCEDURE RULES

1. INTRODUCTION

- 1.1 The primary objective of the Council's Contract Procedure Rules is to ensure that all contracts for works, goods and services are entered into in a manner that secures value for money and is demonstrably free from impropriety.
- 1.2 The Council's Contract Procedure Rules also ensure that:
- a) Contract selection and award procedures are conducted fairly, in a properly regularised manner and in accordance with relevant legal requirements.
 - b) Strategic service delivery and supply partners are used wherever possible to ensure value for money is obtained and the cost to procure is minimised.
 - c) Local firms are employed whenever they offer as good value for money as other firms and their selection is in accordance with the Council's legal obligations, for example in relation to European procurement rules.
 - d) The Council's strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment.
 - e) Alternative methods of procurement compatible with the objectives of the Contract Procedure Rules have been considered.
 - f) Procurement procedures are kept under review in order to ensure continuous improvements to services and provide Best Value to the community of Herefordshire.
 - g) Procurement of ICT equipment is achieved using the Council's on-line procurement system.
- 1.3 The Director of Resources has overall responsibility for the preparation of the Council's Contract Procedure Rules. The Head of Financial Services has delegated responsibility for all contracting and procurement issues relating to works, goods and services. The Strategic Procurement Manager assists the Head of Financial Services in this task.
- 1.4 The Head of Financial Services and Strategic Procurement Manager work very closely with the Head of Legal & Democratic Services due to the significant legal issues involved in contracting and procurement activity. This separation of duties within the Council's contracting and procurement function is an important internal control.
- 1.5 It should be noted that the Council's Contract Procedure Rules should be read in conjunction with the Council's Standing Orders, Scheme of Delegation, Budget & Policy Framework Rules and Financial Procedure Rules.
- 1.6 **It should also be noted that failure to observe the Council's Contract Procedure Rules could lead to disciplinary action.**
- 1.7 Please note that all financial limits outlined in this document exclude Value Added Tax (VAT).

2. STANDARDS OF CONDUCT

2.1 Declarations of Interest

2.1.1 Members and officers must ensure that they comply with the provisions of Standing Order 2.8 (Members) on the declaration of interests and Appendix 14 of the Constitution (officers) regarding the declaration of interests.

2.2 Gifts and Hospitality

2.2.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the Council must be treated with extreme caution.

2.2.2 Any such offers must be noted on the appropriate form and reported to the Head of Legal and Democratic Services who shall maintain and make available to the Council's internal and external auditors a register of such matters.

2.2.3 Acceptance of gifts and hospitality must be in accordance with the Council's policies on such matters.

2.3 Honesty

2.3.1 All Members must follow the Members' Code of Conduct.

2.3.2 All employees must follow the Employee Code of Conduct (as set out in the Council's Employee Induction Handbook and available from Human Resources).

2.3.3 All officers must make sure that employees involved in an in-house tender for a contract do not take part in the decision on the award of such a contract.

3. OFFICER RESPONSIBILITIES

3.1 Chief Executive's Responsibilities

3.1.1 The Chief Executive is responsible for resolving issues concerning the operation of the Council's Contract Procedure Rules seeking advice as necessary from the Director of Resources **and** the Head of Legal & Democratic Services.

3.2 Directors' Responsibilities

3.2.1 All Directors are responsible for:

- a) Monitoring compliance with the Council's Contract Procedure Rules in relation to contracts funded by their Directorate budget.
- b) Appointing Contract Monitoring Officers (see 3.4 below) and ensuring they support them in their role and obtain regular briefings from them.
- c) Appointing a senior member of staff to the Corporate Procurement Group (see 3.5 below).
- d) Establishing, maintaining and utilising Approved Contractors Registers for their Directorate in accordance with section 4 of the Council's Contract Procedure Rules.

- e) Bringing the provisions of the Council's Contract Procedure Rules to the attention of their staff.
- f) Ensuring that the contracts within their Directorate are legal, comply with Contract Procedure Rules and Financial Procedure Rules and protect the Council's interests fully.
- g) Ensuring that the Council's Criminal Records Bureau policies and procedures are followed.

3.2.2 The Director of Resources has overall responsibility for the preparation and review of the Council's Contract Procedure Rules but must do so in agreement with the Head of Legal & Democratic Services.

3.3 Head of Service Responsibilities

3.3.1 The Head of Legal & Democratic Services is responsible for:

- a) Providing legal advice and guidance to Members and officers on the operation of the Council's Contract Procedure Rules and all contracting and procurement activity.
- b) Working with the Director of Resources on the preparation and review of the Contract Procedure Rules.
- c) Assisting the Chief Executive with the resolution of questions regarding the interpretation of the Council's Contract Procedure Rules.
- d) Advising on the preparation of contract documentation.
- e) Maintaining a central Procedures Exemption Register.
- f) Informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the Council.
- g) Maintaining a Contracts Register and keeping it up to date following notification of changes.

3.3.2 The Head of Financial Services is responsible for providing the professional lead on all the non-legal aspects of contracting and procurement relating to works, goods and services. They are also responsible for supervising the Corporate Procurement Group's activities (see 3.5 below).

3.4 Contract Monitoring Officers' Responsibilities

3.4.1 Directors shall appoint one or more Contract Monitoring Officer(s) to take responsibility for contracts with an estimated total value (excluding VAT) in excess of £50,000. Directors shall nominate a Contract Monitoring Officer for each contract and nominate one of their Contract Monitoring Officers to be responsible for the overall reporting and maintenance of contract records within the Directorate. A responsible officer shall be appointed for all contracts below £50,000.

3.4.2 Contract Monitoring Officers are responsible for liaising fully with Financial Services and Legal Services on all matters relating to contracting and procurement.

- 3.4.3 Contract Monitoring Officers are responsible for agreeing exemptions from the formal tendering procedures with the Head of Financial Services/Strategic Procurement Manager **and** the Head of Legal and Democratic Services. All exemptions are to be approved in writing and reported in line with the requirements of Section 10 of the Council's Contract Procedure Rules.
- 3.4.4 Contract Monitoring Officers are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.
- 3.4.5 Contract Monitoring Officers are responsible for posting any information they receive concerning the suitability of a contractor to carry out work for the Council on the Contracts Watch sub-folder of the Procurement/Contract Management public folder on the Council's Intranet. The message should advise any officer who has employed or is considering employing the contractor to contact the Head of Legal & Democratic Services for further information as the message should not state the reason for concern. The Contract Monitoring Officer should inform the Head of Legal & Democratic Services in writing of the reasons for the alert.
- 3.4.6 Contract Monitoring Officers are responsible for emailing copies of their Approved Contractor Registers to the central Approved Contractor Register sub-folder of the Procurement / Contract Management public folder on the Council's Intranet. They are responsible for keeping their Approved Contractor Registers updated with any additions, suspensions or removals (section 4 of the Council's Contract Procedure Rules refer). A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.7 Contract Monitoring Officers are responsible for emailing copies of their Suspended and Removed Contractors Lists to the central Suspended and Removed Contractors List sub-folder of the Procurement / Contract Management public folder on the Council's Intranet. A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.8 Contract Monitoring Officers are responsible for maintaining records of the:
- a) Contractors included in their Approved Contractor Registers.
 - b) Contracts awarded including the nature and value of contracts and the names of successful tenderers.
 - c) Total value of contracts awarded to each successful tenderer during each financial year.
 - d) Names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price.
 - e) Details of any failure by a tenderer to comply with instructions to tenderers.
 - f) Details of the reasons for any tenders being withdrawn.
 - g) Details of failures by contractors to submit tenders after having requested and been invited to do so.
 - h) Contractors' performance.
 - i) Reasons for opening late tenders (see section 5 of the Council's Contract Procedure Rules).

- j) Reasons for exceptions to tendering procedures (see section 10 of the Council's Contract Procedure Rules).

3.4.9 The lead Contract Monitoring Officer appointed by the Director is responsible for keeping their Director briefed on contract and procurement issues within the Directorate.

3.5 Strategic Procurement Manager's Responsibilities

3.5.1 Working to the Head of Financial Services, the Strategic Procurement Manager is responsible for providing advice on all aspects of the Council's Contract Procedure Rules save for the legal issues. The responsibility for the legal aspects of the Council's Contract Procedure Rules rests with the Head of Legal & Democratic Services.

3.5.2 The Strategic Procurement Manager is responsible for chairing the Council's Corporate Procurement Group. Each Director shall appoint a senior officer to be a member of the Corporate Procurement Group and the membership shall include the Head of Legal & Democratic Services or their nominated representative.

3.5.3 The Council's Corporate Procurement Group will meet at least quarterly in order to fulfil the following responsibilities:

- a) Continually reviewing the Council's Procurement Strategy and making recommendations on appropriate enhancements to the relevant Head of Financial Services to take forward in consultation with the Head of Legal & Democratic Services.
- b) Maintaining a register of current contracts.
- c) Monitoring compliance with the Council's Contract Procedure Rules and reporting exceptions to the Head of Financial Services and Head of Legal & Democratic Services for action.
- d) Preparing an annual report on the operation of and compliance with the Council's Contract Procedure Rules for the Head of Financial Services to take forward in consultation with the Head of Legal & Democratic Services.
- e) Continually reviewing the Council's Contract Procedure Rules to ensure they keep pace with developing best practice and advising amendments as necessary.
- f) Prescribing the information needed from Contract Monitoring Officers and maintaining a central record of the information notified by Contract Monitoring Officers.
- g) Reviewing the Contract Procedure Rules Exemption Register and preparing an annual report on the exemptions recorded for the Head of Legal & Democratic Services.
- h) Providing training and support for employees involved in procurement activities.

3.6 Responsibilities of all Officers

3.6.1 All officers are responsible for:

APPENDIX 5

- a) Following the Council's Contract Procedure Rules and any codes of practice, guidance or instructions provided by the Head of Financial Services/Strategic Procurement Manager and the Head of Legal & Democratic Services.
- b) Following all relevant English and European procurement laws.
- c) Seeking advice from the Head of Financial Services/Strategic Procurement Manager and the Head of Legal & Democratic Services in the case of any uncertainty.
- d) Ensuring that any departure from these Contract Procedure Rules is agreed with the Head of Financial Services/Strategic Procurement Manager **and** the Head of Legal & Democratic Services.
- e) Following the Council's Employee Code of Conduct (a copy is included in the Employee Induction Handbook and can be obtained from Human Resources).
- f) Following the Council's Financial Procedure Rules and the systems and procedures that are in place to control budgets properly.
- g) Declaring any interest that could influence their judgement in contracting matters to their Director and the Head of Legal & Democratic Services.
- h) Not taking part in **any** decisions relating to the procurement of work, goods or services if they are part of a formal in-house bid for that work.
- i) Reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor.
- j) Ensuring that approved contracts are value for money.

4. APPROVED CONTRACTOR REGISTERS

4.1 Introduction

- 4.1.1 Approved Contractor Registers are very useful for some types of works, goods or services contracts and can be an efficient way of identifying suppliers.
- 4.1.2 **Approved Contractor Registers cannot be used for contracts governed by the European procurement rules as such contracts must be advertised unless the Approved Contractor Register has been drawn up in compliance with European procurement rules.**
- 4.1.3 If an Approved Contractor Register exists and it is appropriate to use it then the register should be used.
- 4.1.4 If an Approved Contractor Register is to be used, a method for selecting the suppliers on it that will be invited to tender must be determined. The method chosen must ensure that all the suppliers on the relevant Approved Contractor Register have the same opportunity over time to tender for work.
- 4.1.5 Officers may use Government-backed Approved Contractor Registers or other registers approved by the Corporate Procurement Group to select those to be invited to bid for a

contract or to buy one-off items. The process and criteria used for choosing prospective suppliers from a Government-backed or other registers must be agreed with the Head of Financial Services/Strategic Procurement Manager **and** the Head of Legal & Democratic Services.

4.2 Managing an Approved Contractor Register

- 4.2.1 Officers must advertise and invite applications from potential suppliers to be added to an Approved Contractor Register for any given type of contract for works, goods or services.
- 4.2.2 Advertisements inviting applications from potential suppliers to be included in an Approved Contract Register should be placed in the relevant local and trade press and, if necessary, the EC Journal.
- 4.2.3 The information needed from potential suppliers in order to assess whether they are suitable for inclusion on an Approved Contract Register should be gathered using the same method for all suppliers seeking inclusion on the Register. Further advice on the methods that can be used to gather information from potential suppliers is given in section 5 of the Council's Contract Procedure Rules.
- 4.2.4 When considering whether to include a contractor on an Approved Contractor Register, officers must look at each contractor's:
- a) Past performance on similar contracts (quality and costs).
 - b) Technical capacity.
 - c) Other existing contractual commitments.
 - d) Specialist experience in the type of products and services being procured.
 - e) Financial situation.
 - f) Public and employer's liability insurance arrangements.
 - g) Health & safety arrangements.
 - h) Equalities policy.
 - i) Contractors' reputation.
- 4.2.5 Officers may add other criteria to help them select suppliers for inclusion on an Approved Contractor Register providing the additional criteria are relevant, do not prevent fair competition and do not illegally discriminate between suppliers.
- 4.2.6 An Approved Contract Register must state the value of work that can be placed with each supplier at any one time.
- 4.2.7 An Approved Contractor Register should normally contain at least five suppliers. Advice and guidance must be sought from the Head of Financial Services/Strategic Procurement Manager where fewer than five suppliers qualify for inclusion as this might indicate that an Approved Contractor Register is not the most suitable route for the works, goods or services in question.

- 4.2.8 Officers must review their Approved Contractor Registers at least every two years using the criteria set out in 4.2.4 and 4.2.5 to assess whether a supplier should remain on the Register. The review should also consider whether the value of work that can be placed with each supplier at any one time should be revised.
- 4.2.9 Officers should consider suspending or removing suppliers from an Approved Contractor Register as a result of such a review or at other times if there are grounds to do so such as poor performance, disputes or poor financial standing. See 4.3 below for guidance on how to suspend or remove a supplier from an Approved Contractor Register.
- 4.2.10 Officers must advertise to compile subsequent Approved Contractor Registers at least every five years or earlier if less than five suppliers remain on the Register.
- 4.2.11 All contracts let using an Approved Contractor Register must comply with the Council's Contract Procedure Rules in every respect.

4.3 Suspending or Removing a Supplier from an Approved Contractor Register

- 4.3.1 If an officer receives a materially adverse report concerning a contractor's performance that suggests they should no longer be on an Approved Contractor Register, the officer must seek advice from the Head of Financial Services/Strategic Procurement Manager who will, in consultation with the Head of Legal & Democratic Services, advise whether suspension or removal is appropriate.
- 4.3.2 If the Head of Financial Services/Strategic Procurement Manager determines after consultation with the Head of Legal & Democratic Services that the supplier should be suspended or removed from an Approved Contractor Register, the officer shall follow this advice and amend the Register accordingly. The officer shall also include the contractor in a List of Suspended and Removed Contractors and notify the contractor accordingly.
- 4.3.3 An officer must seek approval as outlined in 4.3.1 and 4.3.2 to lift a suspension on a supplier or re-admit a supplier to an Approved Contractor Register.
- 4.3.4 If an officer concludes as a result of a routine review of an Approved Contractor Register that a supplier should be removed from that Register, then they must seek advice as outlined in 4.3.1 and 4.3.2.

5. FORMAL QUOTATION AND TENDERING PROCEDURES

5.1 Introduction

- 5.1.1 West Mercia Supplies (WMS) or their supply partners must be used for all purchases of office supplies and consumables, furniture, photocopiers, janitorial supplies and personal protective equipment.
- 5.1.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the Strategic Procurement and Efficiency Review Manager.
- 5.1.3 Requests to use an alternative supplier to WMS will be approved or otherwise by the Head of Financial Services.

- 5.1.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction.
- 5.1.5 Officers must also use Council approved strategic service delivery partners (such as Amey Wye Valley Limited and Owen Williams) where appropriate to do so.
- 5.1.6 Procurement of ICT equipment must be achieved using the Council's online procurement system.
- 5.1.7 The following procedures must be followed for all other types of procurement:
- a) **Purchases in total valued less than £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
 - b) **Purchases in total valued between £1,001 and £10,000** – two formal quotations must be obtained (see 5.2 below).
 - c) **Purchases in total valued between £10,001 and £50,000** – three formal quotations must be obtained (see 5.2 below).
 - d) **Purchases in total valued between £50,001 and up to relevant EU limit** – formal tendering arrangements must be followed (see 5.3 below).
 - e) **Purchases in total valued in excess of relevant EU limit** – European procurement rules must be followed (see section 6 of the Council's Contract Procedure Rules).
- 5.1.8 It is important to respect confidentiality in formal quotation and tendering processes. Officers must not therefore disclose any information they have about potential suppliers to other persons / suppliers potentially competing for the same contract.
- 5.1.9 Official orders should be raised for works, goods and services in line with the Council's Financial Procedure Rules.

5.2 Formal Quotation Procedure

- 5.2.1 The requisite number of formal quotations must be obtained for all purchases (other than those with WMS or a Council approved strategic service delivery partner) between £1,001 and £10,000 in total (see 5.1.5).
- 5.2.2 A quotation is a written estimate of the cost to execute works or supply goods, materials or services.
- 5.2.3 Officers must produce a description of the goods or specification of the services required before seeking tenders. This will enable a fair comparison of prices. The level of detail in the description or specification will depend on the value and type of goods or services being purchased. Advice can be obtained from the Strategic Procurement Manager
- 5.2.4 Formal quotations should contain as a minimum the following information:
- a) Date and reference number.

- b) Supplier company details.
- c) Council officer / department name.
- d) Item/part number.
- e) Description specification.
- f) Quantity required.
- g) Unit/service cost.
- h) Total cost.
- i) Delivery information.
- j) Payment details.
- k) Any special requirements.
- l) Details of any discounts/rebates.

5.2.5 An appropriate Approved Contractor Register should be used if available to select the suppliers that will be asked to provide a quotation.

5.2.6 Every person or firm who makes a quotation must be treated fairly. Selection of the preferred supplier from the quotations received must be done in accordance with the principles set out in the formal tendering procedures (5.3 refers).

5.2.7 Any departures from the formal quotation procedures must be discussed with the Head of Financial Services / Strategic Procurement Manager who will agree or otherwise any exception in consultation with the Head of Legal & Democratic Services. A record must be kept of the reasons for and approval given for departing from the formal quotation procedure.

5.2.8 Formal quotations for contracts below £50,000 (excluding VAT) should be kept for a minimum of two years after the contract has been awarded.

5.3 Formal Tendering Procedure

Introduction

5.3.1 Formal tendering procedures apply to all contracts with a total value between £50,001 and the prevailing European procurement limit for supplies and services (currently £144,00) except for those with WMS or a Council approved strategic service delivery partner. To ensure that European procurement rules are properly applied, Contract Monitoring Officers should liaise with the Strategic Procurement Manager for all contracts with an estimated value in excess of £50,000.

5.3.2 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not therefore disclose any information they have about potential suppliers to others persons / suppliers potentially competing for the same contract.

5.3.3 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Strategic Procurement Manager.

Selecting Potential Tenderers

- 5.3.4 An Approved Contractor Register should be used wherever possible for selecting potential tenderers for an ordinary contract. Officers must record the names of the persons / suppliers invited to tender from an Approved Contractor Register.
- 5.3.5 If an Approved Contractor Register does not exist or is unsuitable for selecting potential tenderers, officers will either need to advertise for potential tenderers or approach selected ones in cases where specialist works, goods or services are required.
- 5.3.6 If an Approved Contract Register is available but considered unsuitable for a specific contract, the Contract Monitoring Officer should discuss the reason with the Head of Financial Services/Strategic Procurement Manager. The Head of Financial Services/Strategic Procurement Manager should then consult with the Head of Legal & Democratic Services. If agreement is reached, the Director shall give approval in writing.
- 5.3.7 Officers must also seek guidance as outlined in 5.3.6 above if they propose to approach selected persons or firms as potential tenderers.
- 5.3.8 Officers must keep a written record of the reasons for departing from the usual practice of selecting potential tenderers from an existing Approved Contractor Register and the approval given. They must also record the reasons for approaching selected tenderers and the approval given.
- 5.3.9 Advertisements for potential tenderers may be placed in relevant trade or professional journals, local and national newspapers and the Council's website.
- 5.3.10 The method for collecting the information needed from potential suppliers to assess whether to invite them to submit a formal tender and the method of assessment must be agreed before the selection process begins.
- 5.3.11 A standard business questionnaire may be used to collect information from the potential suppliers but the same questionnaire must be used for all potential suppliers. Alternatively, information may be gathered by inviting potential suppliers to express an interest in writing covering the specifics identified by the officer in the advertisement or letter of invitation. Further advice can be obtained from the Strategic Procurement Manager.
- 5.3.12 The method for selecting tenderers must:
 - a) Treat all tenderers in the same way.
 - b) Keep the process clear and simple.
 - c) Record all the selection decisions.
- 5.3.13 Officers must consider the following when selecting suppliers to be invited to tender for a particular contract:
 - a) Past performance on similar contracts (quality and costs).
 - b) Technical capacity.
 - c) Other existing contractual commitments.

- d) Specialist experience in the type of products and services you are looking for.
- e) Financial situation.
- f) Public and employer's liability insurance arrangements.
- g) Health & safety arrangements.
- h) Equalities policy.
- i) Contractors' reputation.

5.3.14 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.

5.3.15 At least three potential suppliers should be invited to tender. If there are only three potential suppliers (e.g. due to the number of suppliers responding to an advertisement) they must all be invited to tender.

5.3.16 If there are only one or two suppliers indicating they wish to be considered then an exemption from the Contract Procedure Rules **must** be sought from the Head of Legal & Democratic Services and his approval given before proceeding. The names or details of suppliers must not be passed on to anyone at any time during the tendering process.

Inviting Tenders

5.3.17 Having arrived at a preferred tenderer list using the process described in the preceding paragraphs of 5.3, the officer needs to decide and record how the tenders will be assessed before inviting potential suppliers to tender.

5.3.18 Each potential supplier should be sent an invitation to tender, the contract documents, a tender form and a return label bearing the name of the contract and the word 'Tender' together with instructions on when and how the tenders should be returned. They must be instructed to return their tender in a plain envelope addressed to the Head of Legal & Democratic Services. There should be no marks or writing on the envelope, other than the address and the return label. Tenderers must be advised not to use a franking machine if they propose posting their tender.

5.3.19 A copy the Council's standard contract terms should also be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used advice should be sought from the Head of Legal & Democratic Services on which of the standard clauses to incorporate.

5.3.20 Tenderers must be told that tenders sent by fax or e-mail will not be accepted because the information cannot be kept confidential.

5.3.21 Tenders can be returned by hand or by post to the Head of Legal & Democratic Services, Brockington, 35 Hafod Road, Hereford, HR1 1SH. Tenderers should be advised to use postal services that provide them with proof of postage and the time of sending.

5.3.22 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.

- 5.3.23 The invitation to tender **must** state that the Council does not bind itself to accepting the lowest or any tender.
- 5.3.24 The invitation to tender needs to explain how the Council will deal with any mistakes it identifies in the tender documentation submitted (see Assessing Tenders below).
- 5.3.25 The invitation to tender **must** set out the criteria that will be used to select the preferred supplier. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 5.3.26 The responsible officer must discuss and agree the tender assessment process with the Head of Financial Services/Strategic Procurement Manager who will consult the Head of Legal & Democratic Services as appropriate. This will include a decision on who is involved in the tender assessment process. It is expected that at least two officers are involved, one of whom may be the Strategic Procurement Manager of their nominated representative if the contract is high value or non-standard.
- 5.3.27 The tender assessment criteria might include:
- a) Price.
 - b) Technical standard.
 - c) Experience and skills.
 - d) Practical considerations.
 - e) Financial proposals.
 - f) Financial standing.
 - g) Contract management arrangements.
 - h) Quality management proposals.
 - i) Delivery proposals.
 - j) Employment practices.
 - k) Environmental considerations.
 - l) Diversity issues.
- 5.3.28 If an officer wants to know whether the supplier has received an invitation to tender, they must enclose a 'Tender Received Confirmation Form' with the invitation to tender documentation. They must not contact the potential supplier to check they have received the documentation.
- 5.3.29 During the period allowed for preparing tenders, all communications with tenderers must be recorded. If a tenderer raises a query during this period, it must be passed on to all other tenderers, together with the reply. The identity of the tenderer who has raised the query **must not** be revealed.

Receiving Tenders

- 5.3.30 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. The date cannot be extended to allow only some suppliers extra time or to allow for late tenders. The extension must apply to all. Any proposal to extend the closing date must be agreed by the Head of Legal & Democratic Services.
- 5.3.31 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date.
- 5.3.32 Tenders should be recorded in a register that shows the time, date and name of the contract as they are received. Tenders delivered by hand should be acknowledged with a written receipt and the time, date and name of the contract similarly recorded in the register. All tender envelopes must be date stamped on receipt with the time of receipt written on the envelope and countersigned by the receiving officer.
- 5.3.33 Tenders must not be opened until the final deadline for receiving them. Tenders must be stored securely until it is time for them to be opened. The storage used should be locked and access to it available only to those officers in Legal & Democratic Services responsible for handling tenders and they must ensure that keys are secure at all times.
- 5.3.34 A Legal & Democratic Services officer shall be responsible for opening the tenders for a contract in the company of at least one other officer, one of whom must be the responsible officer or Contract Monitoring Officer for the contract. The Legal & Democratic Services officer must ensure the number of tender envelopes to be opened tallies with the number recorded in the tender register and shall sign the register to indicate that this is the case.
- 5.3.35 If a tender is opened by mistake before the deadline, a record of how this has happened should be attached to the packaging. The tender should be re-sealed immediately and its contents kept confidential.
- 5.3.36 If fewer tenders are received than expected, do not contact tenderers to ask whether they have sent one in.
- 5.3.37 In exceptional circumstances, Legal & Democratic Services, in consultation with the Head of Legal & Democratic Services, can accept a late tender (see below).

Opening & Recording Tenders

- 5.3.38 The Head of Legal & Democratic Services must make sure that the procedures for opening tenders are followed and that the correct records and documents are completed.
- 5.3.39 It is important that at least three officers are present throughout the tender opening and recording process. One must be a Legal & Democratic Services officer who will assume responsibility for the tender opening process. One of the others must be the responsible officer or Contract Monitoring Officer. The third officer must be from Financial Services or Audit Services.
- 5.3.40 A time for opening the tenders must be agreed before the tenderers return them. The tenders should be opened as soon as possible after the deadline for returning them. If a delay becomes necessary, the responsible officer must agree to this and the reason must be recorded. **Never delay the time for opening tenders to allow for late tenders.**

- 5.3.41 All tenders relating to a contract must be opened at the same session and opened one at a time. Each officer present must sign, date and write on the tender form the time that the tender was opened.
- 5.3.42 The details of each tender must be recorded on a tender return form. Each officer must check, sign and date the form.
- 5.3.43 The officers must sign each page of the tender document unless it is very long. In this case, they may only sign the pricing pages.
- 5.3.44 Once the tenders have been opened, they should be held in a secure place by the responsible officer or Contract Monitoring Officer.

Late Tenders

- 5.3.45 The Head of Legal & Democratic Services must reject tenders that are received after the deadline unless none of the tenders submitted on time have been opened or there is proof that the tender was posted in enough time to meet the deadline (for example, the postmark date is the day before the deadline for a first class delivery or is three days before the deadline for a second class delivery).
- 5.3.46 If the Head of Legal & Democratic Services decides to accept a late tender, they must treat that tender in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded on file.
- 5.3.47 If the late tender is rejected, it should be returned unopened to the tenderer and a record of posting kept on file for two years. The tenderer should be informed in writing of the date and time the tender was received.

Assessing Tenders

- 5.3.48 The responsible officer or Contract Monitoring Officer will ensure the tenders are assessed in accordance with the advice provided by the Head of Financial Services/Strategic Procurement Manager (5.3.26 refers).
- 5.3.49 Before assessing the tenders, the responsible officer needs to check that each part of them meets the requirements of the specification. The responsible officer also needs to make sure that there are no mistakes and that nothing is missing
- 5.3.50 If there are substantial omissions of data or documentation that make it impossible to assess the tender, or if there is a fundamental mistake, this should be fully recorded and the tender rejected.
- 5.3.51 The accuracy of the figures in each tender must be checked. If mistakes are found that do not affect the overall price of the goods or services, the tenderer must be contacted and asked to confirm the correct figures in writing. If there appears to be any other mistake then the tender should be rejected.
- 5.3.52 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.
- 5.3.53 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.

- 5.3.54 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.
- 5.3.55 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify to whom such documents have been issued and the date returned.
- 5.3.56 The responsible officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.
- 5.3.57 Once the assessment has been completed the responsible officer should produce a report showing:
- a) The result of the assessment of each tender.
 - b) A comparison of assessment results.
 - c) The recommendation on which tenderer should be offered the contract.

Accepting and Rejecting Tenders

- 5.3.58 The officer should accept the tender that is in the Council's best interests. This will usually be:
- a) The lowest tender where the Council is the purchaser or the highest tender where the Council is the supplier.
- Or
- b) The tender that will be of most economic benefit to the Council. Where this is not the lowest tender, the officer should explain in writing giving objective reasons why that tender is preferred and seek approval from the Head of Legal & Democratic Services to proceed to appoint. A note should be placed on file.
- 5.3.59 The responsible officer should always consider whether their recommendation for awarding the contract should be put before a Cabinet Member, the Cabinet or Council for formal approval **before** contacting the successful tenderer. Sections 12.4 and 12.5 of the Scheme of Delegation (Part 12 of the Constitution) that set out the Council's procedures for making Executive Decisions and Administrative Decisions respectively refer. If in doubt, seek advice and approval from the Head of Financial Services/Strategic Procurement Manager and the Head of Legal & Democratic Services.
- 5.3.60 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received.**
- 5.3.61 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the appropriate number of authorised signatories.
- 5.3.62 Acceptance letters, in response to a formal tender, can be used to enter into certain contracts without the need for any additional contract documentation, provided that the letter is signed by the required number of authorised persons appropriate to the value of the contract.

5.3.63 Where the tender and acceptance letter are not to form the formal contract documentation (e.g. when an industry standard contract is used or where the formal written contract is to follow), the acceptance letter must be headed "SUBJECT TO CONTRACT". This is to avoid the Council inadvertently entering into a contract before all terms and conditions have been agreed and incorporated and before both parties agree to be formally bound by the contract.

5.3.64 Unsuccessful tenderers should be informed after the successful tenderer has been told. If unsuccessful tenderers ask why their tender was not successful then general feedback should be given on the areas of their tender that scored poorly. Officers should not become involved in detailed arguments or discussions in order to justify their decision. If the tenderer requires more detailed information the officer should advise them to put their request in writing and seek appropriate advice before responding in writing.

Negotiating

5.3.65 If it is in the Council's best interests, the officer may negotiate with tenderers for more favourable prices or terms. The following conditions apply to negotiating:

- a) Guidance must be sought from the Head of Financial Services / Strategic Procurement Manager who will consult with the Head of Legal & Democratic Services as appropriate before advising on the appropriate course of action.
- b) Two officers must always be present at negotiations and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with the Head of Financial Services / Strategic Procurement Manager.
- c) All negotiations must be carried out at the Council's offices.
- d) Officers must not discuss one tenderer's detailed prices, conditions or terms with another tenderer.
- e) Officers must not give anyone information about the criteria used for assessing the tenders or any other matter connected with the contract or tenders.
- f) If negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. If this is the case, the whole process of assessment should start again.

5.3.66 If there is an in-house tender for a contract, negotiations must not take place without permission from the Head of Financial Services / Strategic Procurement Manager as outlined in 5.3.65 a) above.

5.3.67 Where the Council is the supplier, the officer, subject to 5.3.65 a) above, may negotiate with the highest tenderer with a view to increasing any consideration payable to the Council.

Awarding a Contract

5.3.68 Before awarding any contract, the officer concerned must first obtain the approval of their Director or their authorised representative, providing the authorising officer with confirmation of:

- a) The competency of the proposed contractor and the adequacy of any necessary insurance.

- b) The prices quoted by the proposed contractor.
- c) The consistency of the proposed action with the objectives and requirements of the Council's Contract Procedure Rules.
- d) The financial stability of the proposed contractor.
- e) A satisfactory credit check if the Council has not dealt with that contractor for more than two years for contracts in excess of £50,000. A credit check should be carried out on all short listed tenderers for contracts in excess of the European procurement limit for supplies and services (currently £144,000). Advice on credit checks should be sought from Audit Services.

5.3.69 Once this approval has been granted, the officer needs to complete the contractual arrangements. The documents should clearly set out the name of the supplier, what the contract is for, and the terms and conditions of the contract. They should also show that there is suitable insurance to protect the Council's interests. Advice on insurance matters is available from the Council's Insurance and Risk Manager. Where an official order is used and where it makes reference to the Council's General Terms and Conditions for Services, Supplies and Works those terms will apply to the contract. If in any doubt with the contract documentation, advice should be sought from the Head of Legal & Democratic Services.

5.3.70 All contracts must be signed by the Head of Legal & Democratic Services. The Head of Legal & Democratic Services will only sign contracts if the Director has given written authority for him to do so. A Director must also sign all contracts where European procurement rules apply.

5.3.71 Officers are responsible for seeking advice from Legal & Democratic Services if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by the Council.

5.3.72 The relevant Contract Monitoring Officer must be informed of the contract and must record the details of all contracts in the Directorate contract register. Where the value of such contracts exceeds £50,000 they shall be notified to the Head of Legal & Democratic Services.

5.3.73 Officers must keep written records of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them.

Publication of Contract Details

5.3.74 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.

5.3.75 The only information officers should make public is the name of the successful tenderer and the value of their bid. However, this information must not be released until the contract has been awarded and signed.

5.3.76 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed. Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the Council will need to meet its obligations under the Freedom of Information Act.

6. EUROPEAN PROCUREMENT RULES

6.1 Introduction

- 6.1.1 Officers are expected to follow the principles set out in the Council's Contract Procedure Rules even in if the procurement process comes under the European procurement rules.
- 6.1.2 The European procurement rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from the Head of Financial Services / Strategic Procurement Manager and the Head of Legal & Democratic Services.

6.2 European Limits

- 6.2.1 The following table sets out the public sector thresholds for 1st January, 2006 to 31st December, 2007:

	Supplies	Services	Works
Other public sector contracting authorities	£144,371	£144,371	£3,611,319
Indicative Notices	£513,166	£513,166	£3,611,319

- 6.2.2 The figures are revised every two years on 1st January and officers should check with the Head of Legal & Democratic Services for the latest values.
- 6.2.3 If a contract for supplying goods or services will be worth more than the limits set out in the table above, the contract may be governed by EC Directives and English Regulations.
- 6.2.4 The value limits apply to individual contracts and groups of contracts with similar characteristics that are to be agreed in the same year. Contracts with similar characteristics have to be added together to see whether they have reached the value limits. This is to prevent organisations packaging similar contracts into small units to avoid the rules.
- 6.2.5 Individual contract values are calculated as follows:
- a) If the contract is part of a series or is renewable, its value will be:
 - The value given in the previous financial year (over a 12-month period).

Or

 - The estimated value over the next 12 months from the date the goods, work or service is first provided.
 - b) If the contract is for a fixed term of less than four years, the value will be the total value of the contract.
 - c) If the contract has no end date or is for a fixed term of more than four years, the value will be the monthly value of the contract multiplied by 48.

- 6.2.6 If more than one of the above applies, the method that gives the highest value must be used. Again this is to prevent organisations by-passing the rules by choosing a calculation that puts a contract or group of contracts below the value limit.
- 6.2.7 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or group of contracts with similar characteristics is greater than the value limit, European procurement rules must be followed. To ensure that the aggregation rules are properly applied, Contract Monitoring Officers should liaise with the Strategic Procurement Manager for all contracts in excess of £50,000.
- 6.2.8 **Before going any further with a European procurement process, officers must discuss the next steps with the Head of Financial Services / Strategic Procurement Manager and the Head of Legal & Democratic Services.**

6.3 Awarding Contracts Subject to European Procurement Rules

- 6.3.1 Before issuing an award notification, or if contact is made by an unsuccessful tenderer at any time during the standstill period, contact the Head of Financial Services / Strategic Procurement Manager or your external procurement consultants for advice.
- 6.3.2 To ensure compliance with the European Court of Justice judgement in the Alcatel case, there must be a **minimum** standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract. This 10-day standstill period incorporates other specific deadlines that can result in the standstill period being extended.
- 6.3.3 The standstill period is to allow unsuccessful tenderers an opportunity to challenge any award decision. Where a legal challenge is made within the 10-day standstill period, the contract cannot be awarded until the outcome of the application to court is known. **It is imperative that any correspondence amounting to an acceptance letter is not issued during this period.**
- 6.3.4 The written notification to the unsuccessful tenderers which triggers the standstill period **must** contain:
- a) The award criteria.
 - b) The tenderer's score (where appropriate).
 - c) The winning tenderer's score (where appropriate).
 - d) The name of the winning tenderer.
- 6.3.5 The European procurement rules require tender results to be published in the Official Journal within 48 days of the date a contract is awarded. This must be done in consultation with the Head of Legal & Democratic Services.
- 6.3.6 The Head of Financial Services/Strategic Procurement Manager and the Head of Legal & Democratic Services must be consulted on all EU procurements.

7. FRAMEWORK CONTRACTING

- 7.1.1 Framework contracting involves selecting a contractor from a list of contractors on an approved "Framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or European law.
- 7.1.2 Purchasers can enter into subsequent 'call-off' contracts from a Framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.
- 7.1.3 Frameworks can be externally formed (e.g. by Government) or internally formed (e.g. by the Council). The number of approved contractors on a Framework can vary but the minimum number should be three. Frameworks should not be confused with internal Approved Contractor Registers.
- 7.1.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchasers' 'call-off' contract and contractors are not obliged to agree to any amendments to them.
- 7.1.5 From the 1st January 2006, **EU Procurement Directive 2004/18/EC** has governed the process under which contracts under Frameworks are to be awarded and in the interests of competition has placed a maximum duration of 4 years on any Framework (unless special justification can be made for a longer period).
- 7.1.6 Officers must take the following steps to ensure compliance with EU Procurement Directive 2004/18/EC when using a Framework contract created since the 1st January 2006:
- a) All the contractors on a Framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.
 - b) The reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced.
 - c) Award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.
- 7.1.7 The Head of Financial Services/Strategic Procurement Manager and the Head of Legal & Democratic Services must be consulted on all Framework contract procurements.

8. OTHER PROCUREMENT PROCEDURES

- 8.1 There are a number of other procurement procedures that may be available in particular circumstances:
- a) Design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
 - b) Public housing schemes where the size and complexity of schemes necessitate the close collaboration between the Council and Contractors.

c) Concession contracts where contractors derive income from the completed work, for example a toll bridge.

8.2 The Head of Financial Services / Strategic Procurement Manager and Head of Legal & Democratic Services must be consulted regarding any proposals to follow any such procedures.

9. CONTRACTS UNDER SEAL

9.1 All contracts for building, engineering (excluding highway maintenance), property repairs and property maintenance works with an estimated value in excess of the European procurement limit for supplies and services (currently £144,000) shall be sent to the Head of Legal & Democratic Services for execution under the Council's seal.

10. EXEMPTIONS FROM THE COUNCIL'S CONTRACT PROCEDURE RULES

10.1 Exemptions from the Council's Contract Procedure Rules are only allowed in exceptional circumstances. Permission must be obtained for any exemption from the Head of Legal & Democratic Services. Major contracts may be subject to the European procurement rules and the Head of Legal & Democratic Services cannot provide an exemption from those requirements.

10.2 A written application for an exemption from the Council's Contract Procedure Rules must be made to the Head of Legal & Democratic Services setting out the reasons for the application. The Head of Legal & Democratic Services must respond within 21 days. If agreed by the Head of Legal & Democratic Services, the exemption must be approved as an Executive Decision as such decisions are not defined as an Administrative Decision (Sections 12.4 and 12.5 of Part 12 of the Council's Constitution – the Scheme of Delegation – refer).

10.3 Tenders need not be invited in accordance with the provisions of section 5 of the Council's Contract Procedure Rules if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least two quotations must be obtained and the provisions within the Council's Financial Procedure Rules for making urgent decisions must be followed.

**APPENDIX 19 OF THE COUNCIL'S CONSTITUTION –
MEMBERSHIP OF COMMITTEES AND OTHER BODIES****Report By: Head Of Legal & Democratic Services****Wards Affected**

County-wide

Purpose

To approve the amendment to Appendix 19 of the Constitution.

Financial Implications

There are no financial implications

Considerations

1. This reflects the Members appointed to Cabinet, outside bodies and the various committees of the Council following the election in May 2007. Council is recommended to approve Appendix 19 of the Constitution

RECOMMENDATION**THAT Appendix 19 of the Council's Constitution be agreed.****APPENDICES**

- Appendix 19 of the Council's Constitution

BACKGROUND PAPERS

- None

CABINET

RJ Phillips (Leader) (Con)
JP French (Deputy Leader) (Con)
Corporate Strategy and Finance
Corporate and Customer
Services and Human Resources

LO Barnett (Con)
AJM Blackshaw (Con)
H Bramer (Con)
JA Hyde (Con)
JG Jarvis (Con)
DB Wilcox (Con)

Social Care Adults and Health
Economic Development and
Community Services
Resources
Children's Services
Environment and Strategic
Housing
Highways and Transportation

COMMITTEES

AUDIT AND CORPORATE GOVERNANCE COMMITTEE
(7) Councillors:

ACR Chappell (C) (Lab)
GFM Dawe (VC) (Green)
MJ Fishley (Con)
JHR Goodwin (Con)

R Mills (Con)
RH Smith (Con)
AM Toon (LD)

PLANNING COMMITTEE (19) Councillors:

ACR Chappell (Lab)
PGH Cutter (Con)
H Davies (LD)
GFM Dawe (Green)
DW Greenow (Con)
JW Hope MBE (Con)
B Hunt (Ind)
TW Hunt (C) (Con)
G Lucas (Con)
RI Matthews (Ind)

R Mills (Con)
PM Morgan (Con)
JE Pemberton (Con)
RV Stockton (VC) (Con)
AP Taylor (LD)
DC Taylor (Ind)
WJ Walling (LD)
PJ Watts (Con)
JD Woodward (Ind)

REGULATORY COMMITTEE: (11) Councillors

CM Bartrum (LD)
DJ Benjamin (Ind)
ME Cooper (Con)
PGH Cutter (Con)
SPA Daniels (LD)
JHR Goodwin (Con)
JW Hope MBE (Con)

P Jones CBE (C) (Con)
R Mills (Con)
A Seldon (Ind)
DC Taylor (Ind)

STANDARDS COMMITTEE

R Gething (Town and Parish Council Representative)
J Harwick
R Rogers (C) (Independent Member)
D Stevens
J Stone (Con)
JB Williams (Ind)

PLANNING SUB-COMMITTEES

CENTRAL AREA (24) Councillors:

PA Andrews (LD)
WU Attfield (Lab)
DJ Benjamin (Ind)
AJM Blackshaw (Con)
ACR Chappell (Lab)
SPA Daniels (LD)
H Davies (LD)
GFM Dawe (Green)
PJ Edwards (Ind)
DW Greenow (Con)
KS Guthrie (Con)
MAF Hubbard (Ind)

MD Lloyd-Hayes (LD)
RI Matthews (Ind)
AT Oliver (LD)
JE Pemberton (C) (Con)
GA Powell (VC) (Ind)
SJ Robertson (Ind)
AP Taylor (LD)
AM Toon (LD)
NL Vaughan (LD)
WJ Walling (LD)
DB Wilcox (Con)
DJ Woodward (Ind)

NORTHERN AREA (21) Councillors:

LO Barnett (Con)
WLS Bowen (Ind)
RBA Burke (Con)
ME Cooper (Con)
JP French (Con)
JHR Goodwin (Con)
KG Grumbley (Con)
JW Hope MBE (C) (Con)
B Hunt (Ind)
RC Hunt (Con)
TW Hunt (Con)

TM James (LD)
P Jones CBE (Con)
R Mills (Con)
PM Morgan (VC) (Con)
RJ Phillips (Con)
A Seldon (Ind)
RV Stockton (Con)
J Stone (Con)
JK Swinburne (Con)
PJ Watts (Con)

SOUTHERN AREA (13) Councillors:

CM Bartrum (LD)
H Bramer (Con)
PGH Cutter (Con)
MJ Fishley (Con)
AE Gray (Ind)
JA Hyde (Con)
JG Jarvis (Con)

G Lucas (C)(Con)
TMR McLean (Con)
PD Price (VC)(Con)
RH Smith (Con)
DC Taylor (Ind)
JB Williams (Ind)

(The Chairman and Vice-Chairman of the Planning Committees have the right to attend and speak, but not to vote, at any meeting of an Area Planning Sub-Committee of which they are not a member.)

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SCRUTINY COMMITTEES

ADULT SOCIAL CARE AND STRATEGIC HOUSING
(11) Councillors:

PA Andrews (C) (LD)
WLS Bowen (VC) (Ind)
ME Cooper (Con)
H Davies (LD)
MJ Fishley (Con)
AE Gray (Ind)

KG Grumbley (Con)
AT Oliver (LD)
JE Pemberton (Con)
RV Stockton (Con)
JK Swinburne (Con)

CHILDREN'S SERVICES (11) Councillors:

WU Attfield (VC) (Lab)
ME Cooper (Con)
P Jones CBE (Con)
G Lucas (Con)
JE Pemberton (Con)
SJ Robertson (C) (Ind)

RV Stockton (Con)
JK Swinburne (Con)
AM Toon (LD)
WJ Walling (LD)
JD Woodward (Ind)

Statutory Co-opted Members

Parent Governors Members: Diocesan members

1 Representative each from:
Secondary Schools
Primary Schools
Special Schools

1 Representative each from:
Roman Catholic Church
Church of England

Non-voting co-opted representative:

(to be considered)

SCRUTINY COMMITTEES (Continued)

APPENDIX 19

COMMUNITY SERVICES (11) Councillors:

CM Bartrum (LD)
DJ Benjamin (Ind)
PGH Cutler (Con)
DW Greenow (Con)
KS Guthrie (Con)
MAF Hubbard (Ind)
B Hunt (Ind)
TM James (C) (LD)

PM Morgan (Con)
RH Smith (VC) (Con)
RV Stockton (Con)

1 Representative each from:

Chamber of Commerce
HALC
Herefordshire Voluntary Action (TBC)
Herefordshire NFU
Tourism Sector

ENVIRONMENT (11) Councillors:

JHR Goodwin (Con)
~~KG Grumbley (VC) (Con)~~
JW Hope MBE (Con)
MAF Hubbard (Ind)
TW Hunt (Con)
MD Lloyd-Hayes (LD)

RI Matthews (C) (Ind)
PM Morgan (Con)
AT Oliver (LD)
A Seldon (Ind)
PJ Watts (Con)

HEALTH (11) Councillors:

WU Attfield (Lab)
SPA Daniels (VC) (LD)
MJ Fishley (Con)
KS Guthrie (Con)
P Jones CBE (Con)
G Lucas (Con)

GA Powell (Ind)
A Seldon (Ind)
JK Swinburne (C) (Con)
AP Taylor (LD)
PJ Watts (Con)

STRATEGIC MONITORING COMMITTEE (11) Councillors:

PA Andrews (LD)
WU Attfield (Lab)
WLS Bowen (VC) (Ind)
SPA Daniels (LD)
PJ Edwards (C) (Ind)
KG Grumbley (Con)

TM James (LD)
RI Matthews (Ind)
SJ Robertson (Ind)
RH Smith (Con)
JK Swinburne (Con)

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Vice-Chairman of the Council
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**MEMBERSHIP OF COMMITTEES AND
OTHER BODIES**

AS AT

October 2007

(Con) = Conservative group
(Ind) = Independent group
(Lab) = Labour group
(LD) = Liberal Democrat group

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REPORT OF THE STANDARDS COMMITTEE

REVISION OF THE PROTOCOLS ON MEMBER/OFFICER RELATIONS, AND USE OF RESOURCES, AND THE PLANNING CODE FOR MEMBERS AND OFFICERS

1. As promised in its Report to Council of 27th July 2007, the Standards Committee reviewed these documents at its meeting on the 19th October 2007, in order to make them consistent with the new Code of Conduct adopted by the Council in July.

2. **REVISION OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS APPENDIX 12 ANNEX 1 (A12 9 – 12) OF THE CONSTITUTION**

The Standards Committee has reviewed this Protocol. There are some minor drafting/editorial changes:

- 1.5 second line, comma after "do".
- 2.1, second line at end add "be", thus "or be an MP".
- 2.3 second line "Leader" should be singular.
- Line 5, commas around "or attend any meeting".
- 2.5, last line, change to "Members-only"
- 2.6, third line, comma after "that".
- Fifth line, comma after "themselves".
- 2.7, last line, initial caps for "group leader(s)".
- 3.1, first line "Members' Services" for "Member's Services"
- Second line, "which also covers" for "extended to cover"
- 3.3, first line "because" for "as"
- 5.2, first line "Part 6 of the Constitution" for "The Constitution, Part 6"
- 5.4 first line "Department or Directorate" for "Department/Directorate".
- 6.1 fourth line, "for guiding and supporting" for "to guide and support"
- 8.1 second line, change to: "However, there is no objection to officers giving...."
- Fourth line, insert "in order" after "officers"
- Sixth line, capital M for "Member"
- 8.2, third line, "for example" for "e.g." (we don't need any Latin!)
- Fifth line, leave out "for example,"

3. **REVISION OF THE PROTOCOL USE OF COUNCIL RESOURCES BY MEMBERS
APPENDIX 12 ANNEX 2 (A12-13-14) OF THE CONSTITUTION**

The Standards Committee has reviewed this Protocol. There are two minor drafting/editorial amendments:

2.1 stop at end of para.

3.2 substitute "including" for second "this will include" (to avoid repetition).

4. **REVISION OF THE HEREFORDSHIRE COUNCIL CODE OF CONDUCT FOR
MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS APPENDIX
13 (A13 –1 TO) OF THE CONSTITUTION**

The Standards Committee reviewed this Code in the light of the new Code of Conduct for Members adopted by the Council at its meeting on the 27th July 2007. The Council had resolved to adopt the discretionary provisions of Paragraph 12 (2) of the revised code, permitting members to participate at meetings where they have a personal and prejudicial interest.

5. The Standards Committee's recommended changes to the Planning Code are set out in the "track changes" version of the Code, which, due to printing constraints, has been sent separately to this agenda. The "track changes" version shows the proposed changes clearly and in context.

6. The main changes of substance are in the handling of provisions relating to "dual hatted" Members (those who are elected to Town or Parish Councils in addition to their Herefordshire Council responsibilities). The Committee has sought to take the position of these Members fully into account, while maintaining a balance with the legal and other requirements of the planning process. These changes in the parent Code were welcomed by Councillors when Council approved that Code in July.

7. The committee has also taken the opportunity to make a number of minor changes to improve drafting and clarity. These too will be clear from the track changes version.

The Standards Committee recommends that

The revised documents be approved.

BACKGROUND PAPERS

- None

HEREFORDSHIRE COUNCIL CONSTITUTION

CODES OF CONDUCT AND PROTOCOLS

PROTOCOL FOR MEMBER/OFFICER RELATIONS (BASED ON ADVICE FROM THE STANDARDS COMMITTEE)

1. General

- 1.1 Mutual respect is the key to establishing good Member-officer relations. Close personal familiarity should be avoided.
- 1.2 Officers are employed to manage the Council and to help councillors achieve their policy goals. Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members should not assume that this is deliberate obstruction. Officers have a duty to give unbiased professional advice – even if it is not what Members want to hear.
- 1.3 You should remember that officers cannot respond to personal criticism in the same way that politicians can, and so you may need to temper your remarks accordingly.

Undue Pressure

- 1.4 You should recognise that employees (especially junior employees) may feel overawed and at a disadvantage in their dealings with you. This feeling can be intensified when you hold official and political office.
- 1.5 You must not apply undue pressure on an employee to do anything that he or she is not empowered to do, nor to undertake work outside normal duties or outside normal hours.

2. Officer Advice to Political and Party Groups

- 2.1 No officer can be a Member of their employer local authority. Also, senior officers, except those specially exempted, cannot be a member of any other local authority or be an MP. Nor can they speak or publish written work for the public with the apparent intention of affecting public support for a political party.
- 2.2 Because political groups are a feature of modern local government and have a role in the successful running of the Council, on occasion officers may be asked to provide support and assistance to political groups.
- 2.3 This support can take many forms, ranging from a briefing meeting with a Group Leader or spokesperson, to a presentation to a full party group meeting. It is an important principle that such support is available to all political or party groups. In accordance with the Council's Code of Conduct for employees, officers must not be involved in advising any political group of the Council, or attend any meeting, without the express consent of their Director or the Chief Executive.
- 2.4 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
 - (a) officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business.

The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;

- (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
 - (c) similarly, where officers provide information and advice to a political or party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee when the matter in question is considered; and
 - (d) Members often seek officers' assistance in drafting resolutions or amendments which they wish to move at a meeting. It is proper for an officer to advise on the wording of such a proposal to ensure it is accurate, practical and lawful but there can be no inference that the officer supports the substance or merits of the proposition.
- 2.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a political or party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Members-only meeting.
- 2.6 Officers must respect the confidentiality of any political or party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. It follows that, whilst there is no reason why other such groups should not be aware that a Group has sought and received officer advice or be inhibited from requesting officer support themselves, no political point should be made of that fact.
- 2.7 Any particular cases of difficulty or uncertainty in this area of officer advice to political or party groups should be raised with the Chief Executive who will discuss it with the relevant Group Leader(s).

3. Key Contacts

- 3.1 You will find a list of Key Officer Contacts in the Council Diary. Members' Services also keep an up to date list which also covers areas where councillors need urgent assistance. These officers are designated to provide you with information you need for all your casework and service queries. They can be contacted by letter, telephone or via the Council's e-mail system. They are responsible for replying within five working days. Some queries may take longer but you will be updated on progress.
- 3.2 The Council's Chief Executive, Directors, Head of Legal and Democratic Services and Head of Human Resources are also available to assist you as required.
- 3.3 Please make the key contact officer your first point of contact because contacting other officers can cause confusion and duplication. However, if they are not

available then the relevant Director or Head of Service will arrange for someone else to contact you quickly.

4. Local Members

4.1 You will be kept fully informed about significant issues which affect your ward or bodies on which you represent the Council. Officers will be alert to advise members at the earliest possible stage of relevant development proposals. Over and above this general responsibility the Head of Legal and Democratic Services will:

- notify a Member that a report on any such local matter is being tabled or discussed as soon as the decision to place that item on the agenda of a Committee is taken;
- ensure that this report is sent to the Member as soon as it is published.

4.2 You will be invited to any public meeting organised by the Council to consider an issue affecting your ward. You will be notified of any consultative exercise at the outset of the exercise proposed for your ward or on an issue affecting your ward.

4.3 You will, wherever practicable, also be notified of any visits by the Chairman or Vice-Chairman of the Council or Committee Chairmen or Cabinet Members to Council sites or establishments in your ward, except where these are purely courtesy visits.

4.4 You will be notified of all decisions taken by the Cabinet or by Cabinet Members affecting your ward.

5. Relationships between Cabinet Members and Officers

5.1 There should be a close working relationship between Cabinet Members and Directors and other senior officers of the Council. However, care must be taken to ensure that this arrangement does not affect an officer's ability to deal impartially with Scrutiny Committee Members, other members and party groups.

5.2 Part 6 of the Constitution provides that a Cabinet Member has delegated powers to take any decision in respect of the functions of the Cabinet.

5.3 When this process is used, a report of the action taken must be made to the Head of Legal and Democratic Services who will arrange for it to be reported to all Members and made available for public inspection.

5.4 Finally, it must be remembered that officers within a Directorate or Department are accountable to their Director and that whilst officers should always seek to assist a Cabinet Member or Chairman (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

6. Relationships between Scrutiny Committee Members and Officers

6.1 There should be a close working relationship between Scrutiny Chairmen and Vice-Chairmen and Directors and other senior officers. Directors and their nominees are responsible for providing professional support, advice and assistance to Scrutiny Committees and for guiding and supporting Scrutiny Committee Chairmen as well as Executive Members.

7. Press Releases

- 7.1 You are encouraged to represent your local constituents in discussions with the media and external organisations. You must, however, take care that you portray yourself as representing the Council only if you have an explicit mandate to do so. The Council's Public Relations Officer can assist as necessary.

8. Correspondence

- 8.1 Your correspondence with officers should not normally be copied (by the officer) to any other Member. However, there is no objection to officers giving correspondence the same circulation as the original. You need to exercise caution in your distribution of queries made to officers in order to avoid duplication and confusion. You are encouraged to use the key officer contacts to avoid this. Where exceptionally it is necessary for an officer to copy your correspondence to another Member, this should be made clear to you.
- 8.2 Official letters on behalf of the Council should normally be sent out in the name of the relevant officer who carries the legal and administrative responsibility. It may be appropriate in certain circumstances (for example, representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception. Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

9. Access to Documents, Information and Council Property

- 9.1 You may contact the key officer contacts for information, explanation and advice to help you in your role as a Member of the Council. Your legal rights to inspect Council documents are set out in Part 2 of the Constitution.
- 9.2 You may not inspect Council land, premises or other property unless specifically authorised to do so by the relevant Director in consultation with the relevant Cabinet Member.

**Herefordshire Council
November 2007**

PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

1. Introduction

- 1.1 The Herefordshire Council Member Code of Conduct provides that, when using Council resources, you must ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate the functions of the Council or of any office to which you have been elected or appointed.
- 1.2 A breach of this Protocol is a breach of the Code and carries penalties up to and including disqualification from office.
- 1.3 If you are in any doubt about the application of this Protocol, you should seek advice from the Head of Legal and Democratic Services.

2. Council Resources

- 2.1 These include: the use of Council premises; ICT equipment such as computers and software; telephone and fax; photocopiers; stationery; postage; Council transport; secretarial and clerical support; and allowances and expenses.

3. Permitted use

- 3.1 Except as set out in Section 5 of this Protocol, you may use Council resources only on Council business. If you represent the Council on outside bodies you may use Council resources to assist you in this role, and this Protocol applies to such use.
- 3.2 You may use Council resources for political purposes where that use will facilitate the functions of the Council or any office you hold at the Council. This will include e-mailing colleagues in your and other political groups registered with the Council (including the Independent Group), setting up political group meetings and conducting discussions on policy with political colleagues locally, regionally or nationally.

4. Prohibited use

- 4.1 You may not use Council resources:
 - For the publication of material which, in whole or in part, appears designed to affect public support for a political party. This includes campaigning leaflets and correspondence.
 - For mass mailings, even if these are related to Council business.
 - During an election period to promote yourself or others as candidates to the electorate.

5. ICT equipment

- 5.1 You may make modest personal use of Council-installed computers but you must not permit others (for example, family members) to do so.

6. Use of the herefordshire.gov.uk address

- 6.1 The Council is statutorily prohibited from publishing material designed to affect public support for a political party. You must therefore not use your Council e-mail address (name@herefordshire.gov.uk) for this purpose nor, on a matter of controversy, to promote a point of view which is associated with a political party.
- 6.2 E-mails from your official address will be seen to be associated with the Council and may get preferential treatment, or may be thought by the public to be seeking such treatment. You should not therefore use the address for placing orders and similar activity as a private individual.
- 6.3 You will be provided with a personal e-mail address to allow modest personal use of ICT equipment as permitted in Section 5.

Herefordshire Council
November 2007

HEREFORDSHIRE COUNCIL CODE OF CONDUCT FOR MEMBERS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code supplements the Code of Conduct for Members adopted by the Council under Section 51 of the Local Government Act 2000. The obligations and responsibilities of this Code apply to all Members of planning committees. In this Code “committee” means area planning sub-committees as well as planning committees.

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 other material considerations. Each planning application is considered on its merits. However, planning decisions by their very nature are often contentious, with strong contrary views being expressed. Any decision can be the subject of detailed scrutiny or challenge. Failure to follow the requirements of this Code may result in sanctions under the general Code of Conduct for Members, or may be regarded by the Local Government Ombudsman as incompatible with good administration.

This code covers the conduct of both Councillors and Officers. It relates to the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The code is designed to promote greater mutual support and understanding between Members 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 intends to carry out its planning responsibilities fairly and openly.

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

The Role of Councillors

1. In making decisions on planning applications, **You will**:
 - **act fairly and openly**
 - **approach each application with an open mind**
 - **carefully weigh up all the material planning considerations**
 - **avoid inappropriate contact with interested parties**
 - **ensure that valid reasons for decisions are clearly stated.**
2. **You will** be free to vote on planning applications as you consider appropriate (that is, without a Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the Town and Country Planning Act, **you will** base your decisions on the provisions of the relevant Development Plan (and Unitary Development Plan once adopted) and all material planning considerations.
3. **You may not** give instructions to Officers nor may you place pressure on Officers in order to secure a particular recommendation on an application.
4. **You will not** use your position improperly to confer or secure for yourself, or for any other person, an advantage or disadvantage.

Discussions with Applicants

5. Local authorities are encouraged by the Audit Commission, the Local Government Association and the National Planning Forum to enter into pre-application discussions with potential applicants. In addition, negotiations and discussions are likely to continue after an application has been submitted. Such discussions can often be interpreted by the public, and especially by objectors, as prejudicing the planning decision-making process. To avoid this, application discussions should take place within the guidelines below.
6. **Pre-application meetings** with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They **will normally only involve Officers**, except where the Head of Planning Services, in consultation with the Chairman of the relevant Planning Committee, has agreed that a pre-application meeting shall include Members along with an appropriate senior Planning Officer.
7. It will be made clear at pre-application meetings that:
 - Officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Development Plan and other adopted Council policy
 - no decisions may be made or advice given which would bind or otherwise compromise the relevant Planning Committee of the Council (or the Head of Planning Services if delegated to make the decision)
8. Where pre-application meetings involve a Member, a note of the discussion will be taken by the Planning Officer and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted. At least one appropriate Planning Officer will be present at all such meetings.
9. **You may, following discussion with the appropriate planning officer, and in consultation with the relevant Chairman, 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. At least one Planning Officer will be present at all such meetings.

Lobbying

10. Lobbying or seeking to influence a decision is a normal and perfectly proper part of the political process. However, it can lead to impartiality being called into question and the need to declare publicly that an approach of this nature has taken place. Problems could arise if Councillors indicate or give the impression of support or opposition to a development proposal or particular planning application, or declare their voting intention to anyone, before a decision is to be taken. To do so without all the relevant information and views would be unfair and would prejudice the impartiality of the decision making process. It may also mean that a Councillor is open to an accusation of predetermination or bias (which can give rise to a judicial review of a planning committee's decision); or it may limit the Councillor's ability to take part in further proceedings (see especially paragraphs 29 and 37 below).

11. Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, **you will:**
- **avoid discussing with an applicant or any other person your thoughts about the merits of a planning application or proposed development**
 - **not make it known in advance of the consideration of the application by Committee whether you support or oppose a proposal unless you accept that this will mean that you may not take part in the decision (see paragraph 12 below)**
 - **restrict your response to giving procedural advice, and make it clear that that is all you are prepared and allowed to do**
 - **direct lobbyists or objectors to the case officer, and**
 - **advise the Head of Planning Services as soon as possible of the existence of any substantial or abnormal lobbying activity.**
12. **If you express publicly a final view on an application** prior to the meeting of the Committee of which you are a Member at which a decision is to be taken, **you will create a prejudicial interest, and your further participation will be limited as set out in paragraph 29 below.** Public expression of a view would include, for example, making a statement to the press of your firm attitude to an application, or in any document to be made publicly available, at a meeting of the Council or a Town or Parish Council (or one of their Committees), or in any situation where the view expressed might reasonably be expected to gain wider circulation.

13. .

Site Visits

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

The criteria for holding site inspections are:

- the character or appearance of the development itself is a fundamental planning consideration;
 - a judgement is required on visual impact;
 - the setting and surroundings are fundamental to the determination or to the conditions being considered.
15. They should not be held when inspection of the site is irrelevant to the material conditions. Any Member of the Committee may request a site visit, but reasons based on the above criteria must be stated, and will be minuted. Site visits will not be agreed to lightly; a majority vote will decide. Only members of the Area

Committee and the Planning Committee may take part, together with supporting officers. Third parties, including the applicant or agent, will be allowed to attend, but not take part. A decision to inspect a site must be arrived at during the consideration of the application at the Planning Committee meeting.

16. If access to private land is necessary for a site visit by you, officers will secure the prior agreement of the landowner, explaining that you will not hear argument from any interested party while at the site.
17. Where a site visit has been agreed by the relevant Committee, as a member of the Committee and particularly in cases where you have requested a site visit personally you should attend, accompanied by appropriate officers.
18. **The purpose of the site visit is fact finding.** Officers will be able to point out relevant features of the site and surroundings. You will be able to see the physical features of the site and ask questions through the Chairman or the officers to seek clarification.
19. **No discussion of the merits of the case must be permitted and all questions from you will be put through the Chairman.**
20. The visiting party will stay together as a group. No lobbying by applicants or objectors who might be present will be allowed. If an applicant or group persists in attempting to lobby, the party and Officers will leave the site and the site visit will be abandoned.
21. As a member of the relevant Planning Committee when on site visits you should not make any comments that could create an impression that you had already formed a view on the merits of the application. No decision on the application should be made until the formal meeting of the Planning Committee at which the application is to be considered, when they will have before them all necessary information to be able to make an informed decision, including a record of the site visit.
22. Conduct of Visits
 - Visits will be conducted in a formal manner.
 - The Chairman or Vice-Chairman will open the meeting, and remind members of its purpose and conduct.
 - Officers will highlight issues **relevant to site inspection**. If issues are raised which necessitate consultation with the applicant or his agent, this should be done after the close of the meeting and the outcome reported to the subsequent committee.
 - Local Ward Members will be asked to highlight local issues relevant to the site inspection.
 - The Chairman or Vice-Chairman will close the meeting.
23. General Matters
 - There will be **no** debate about the merits of the application and no decision will be made.

- No formal notes will be made; an officer will orally update the Committee on any new findings or further developments when it next meets to consider the application.
 - **No** hospitality will be accepted.
24. **If you find it necessary to visit a site alone (perhaps because it was not possible for you to attend a Committee visit), you should view the site only from public vantage points, seek to avoid any discussion with interested parties, and, if there is such discussion, make it clear that no decision on the application will be taken until it has been discussed at Committee.**

Material Submitted to Committee

25. If you receive material from or on behalf of an applicant or third party in connection with an application before a Committee you should establish from the Planning Officers whether the material has been received by them. If it has not, you should make it available as soon as possible to the Planning Service.
26. Documents in connection with an application should all be dealt with in the officer's report to Committee. Any additional information received after the preparation of that report up to 17.00 hrs on the day before the Committee meeting will also be brought to the attention of the Committee if it raises new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their accuracy or to give consideration to their implications.

Declaration of Interests at Committee

27. **You should declare any interests in applications coming before the Planning Committee at the start of the meeting.** In order to be able to do that, you should seek early advice from officers, including the Monitoring Officer, if you are in any doubt whatsoever. However, if for some reason it is not possible for an interest to be declared by yourself at the outset of a meeting, or if it becomes clear at a later stage during the meeting that you have an interest in an item under discussion, then you must declare that interest at the first opportunity.
28. When declaring an interest, you must specify the nature of the interest, and whether it is personal or prejudicial. The minutes of the meeting must record what type of declaration was made.
- A **personal interest** exists where a decision on the matter at hand could reasonably be regarded as affecting your well being or financial position of a relevant person you, your employer, family or close friends to a greater extent than other people in the area affected by the decision. If it does you must **say** you have a personal interest but can **stay** and take part and vote in the meeting.
 - A **prejudicial interest** exists where a member of the public (who has knowledge of the relevant facts) would reasonably regard your personal interest as being so significant that it is likely to prejudice your judgement of the public interest.
29. **If you declare a prejudicial interest**, then under paragraph 12(2) of the Members' Code of Conduct (Appendix 12 of the Constitution), you may attend a Planning Committee meeting but only for the purposes of making representations, **provided** that the public are also allowed to attend the meeting for the same purpose. You must declare the nature of your interest at the start of the meeting. If you have such

an interest you should notify the Head of Legal and Democratic Services before the meeting that you wish to speak.

30. The procedure in Committee will be as follows. The Planning Officer will present the report. If you want to make representations, you take your place in the space allocated to public participation. You may make representations for no longer than three minutes (the time allocated to public participants at planning committee). Thereafter, you may take no further part in the debate or decision-making of the planning committee, and must immediately leave the meeting. You may not stay in the meeting or listen to any other public participation in respect of the application.
31. Withdrawal from the meeting involves physically leaving the meeting room. Moving to the public gallery is not sufficient. The Chairman of the Committee should suspend the proceedings of the Committee briefly while you leave the Committee room.
32. Where you have a dispensation granted by any appropriate person or body allowing you to speak and/or vote on a matter in respect of which a prejudicial interest has been declared, that dispensation applies also to this Code.

Cabinet Members

33. There will be occasions when a Cabinet Member will wish to press for a particular development. This may include where the Council is the applicant. In those circumstances where the Cabinet Member is clearly so committed to a particular development, that it would not be possible to demonstrate an ability to take account of counter-argument before a final decision is reached then **he or she may speak at the relevant Planning Committee meeting to argue for the development but must then withdraw from the meeting while the application is discussed and determined.**
34. Where the Cabinet Member also has a ward representation role, he or she may also speak as local member.

Planning Committee Members who serve on Parish and Town Councils

35. Some Councillors will be Members of Parish or Town Councils as well as Herefordshire Councillors. This situation can present problems where the Parish or Town Council is consulted on planning applications. The comments of the Parish Council should concentrate on local issues, but this is often the stage when Herefordshire Councillors come under pressure to indicate their support for or objection to a particular proposal. Of particular concern is the potential for a conflict of interest arising when a Member of both Councils votes on an application at a Parish or Town meeting before the Planning Committee meeting. A Councillor in this position could end up voting in the opposite way when all the relevant information is made available in the Planning Officer's report.
36. In order to avoid this potential conflict, **it is better that you do not serve on Parish or Town Council's planning committees.** If you cannot avoid that, you should not vote or say anything, which would create the impression that you have already made up your minds before to the Herefordshire Council planning meeting. In this way you will avoid being part of the formal process of submitting representations on planning applications to the Council, and so demonstrate your impartiality.

37. If this is unavoidable then you should indicate to the meeting **and request the Clerk to record in the minutes** that you vote based on the limited information available to the Parish/Town Council, and that your view change; and that if the matter comes before a planning committee of the Council you will approach it with an open mind, having regard to any Council policies, the Planning Officer's report, representations from the applicant and/or objectors and the views of other Councillors on the Committee. Those Members who have indicated a definitive view on an application or have voted without the matter being recorded as above should then proceed on the basis that they have a prejudicial interest.

Voting at Committee

38. **You should vote on an application before a Committee only if you have been present for the whole of the presentation of and discussion on the application.**

Non Members of Planning Committee Attending Meetings

39. You may attend meetings of the Council's Planning Committees even if you are not a member of that Committee unless you have a prejudicial interest. **You may speak but not vote on items under the procedures laid down in the Constitution unless under paragraphs 29 and 30 above.** When you attend any Planning Committee, you should not sit in the public gallery, but in the place reserved in the Committee room for Members of the Council who are not Members of the Planning Committee. When you speak at the meeting, either the Chairman of the Committee in calling upon you to speak or you in speaking should make it clear upon what basis you are taking part in the meeting, and that you have no right to vote on the application concerned. The rules on declaring interests set out at paragraphs 27-30 of this Code apply at all times.

Decisions Contrary to Officer Recommendations or to Development Plan Policies

40. From time to time, there will be occasions when you or the Committee of which you are a member disagree with the professional advice on an application given by the Head of Planning Services. In such cases the reasons for differing from the professional advice received should be specified in the resolution of the Committee, along with the reasons for refusing an application recommended for approval or the conditions to be imposed on any approval in a case recommended by officers for refusal. The same provisions apply to decisions taken contrary to Development Plan policies. These cases will be referred to the Head of Planning Services for consideration as to whether the decision on the application in question should be referred to the main Planning Committee for determination in accordance with the Council's Constitution.

Applications in which a Member of the Council has an interest

41. All applications which are submitted by or on behalf of you as a Member of the Council in your private capacity or by a relative or your partner (a "relevant person" as defined in paragraph 8(2) of the Code of Conduct for Members) must be drawn to the attention of the Head of Planning Services by yourself in writing, and will be reported to the Planning Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to Officers.

42. **You must take no part in the determination of the application. You must declare a prejudicial interest and leave the meeting and not seek to influence any decision made. You may, however, appoint an agent who can speak subject to Standing Order 5.11 (Public Speaking at meetings of Planning Committees and Area Planning Sub-Committees) on your behalf.**
43. If an application is submitted by your relative or partner (as defined in paragraph 8(2) of the Code of Conduct for Members), the applicant may speak at committee meetings (subject to Standing order 5.11 (Public Speaking at Meetings of Planning Committees and Area Planning Sub-Committees) or appoint an agent to speak on his or her behalf.
44. The Chairman of the Planning Committee which will determine the planning application in which you have an interest will appoint another Member of the Council to provide procedural and other advice and information to the applicant, and to the Town or Parish Council concerned.

Hospitality

45. As a Member of the Council **you are discouraged from receiving hospitality from people with an interest in a planning proposal.** If receipt of hospitality is unavoidable, you will ensure that it is of the minimum level and, if it exceeds the level to which the Code of Conduct for Members applies (£25), you must declare its receipt as soon as possible, in the Hospitality Register kept by the Head of Legal and Democratic Services.

Training

46. As a member of a Planning Committee you must undergo training in planning procedures, normally within three months of appointment to the Committee and at appropriate intervals thereafter. A record will be kept by the Head of Legal and Democratic Services of the training you undertake. Consistent failure to undertake this training may result in disqualification from voting at the Planning Committee.

The Role of Officers

47. In making delegated decisions on applications, officers will:
 - act fairly and openly
 - approach each application with an open mind
 - carefully weigh up all the material planning considerations
 - avoid inappropriate contact with interested parties
 - ensure that reasons for decisions are clearly stated
48. In reporting to Committee on non-delegated applications, officers will:
 - provide professional and impartial advice
 - make sure that all information necessary for a decision to be made is given
 - set the application in the context of the Development Plan and all other material considerations

- include the substance of objections and the views of people who have been consulted
 - provide a clear and accurate written analysis of the issues
 - give a clear recommendation
49. Record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. Particular care is to be taken with delegated decisions, which should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.
50. Any material planning information which is received after the written report has been prepared and before the cut-off time specified in paragraph 26 above will be presented orally to the Planning Committee by officers.
51. The Head of Planning Services, in discussion with the Chairman of the Planning Committee, may withdraw any item from the agenda of the Planning Committee after the preparation of the report but before discussion by the Planning Committee if the circumstances of the consideration of an application change within that period.
52. Officers are responsible for carrying out the decisions of the Planning Committee, whether or not those decisions are in line with officer recommendations.

Discussions About Planning Applications

53. All officers taking part in pre-application or post-submission discussions with applicants, supporters or objectors should make it clear that decisions on planning applications are taken either:
- by the elected Members in Committee, or
 - in specific circumstances by the Head of Planning Services or by an officer to whom he or she has the power to delegate.
54. A written note will be made of all such meetings and may be distributed. The meeting note and any follow-up correspondence must be placed on the planning application file, in case an application is made following initial discussions.

Disclosures of Interest

55. Officers must play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal or financial interests, those of their families or friends, and their professional duty. They must openly declare the existence of any such conflict in writing to the Head of Planning Services. Any interest the Head of Planning Services has in an application must be declared to the Head of Legal and Democratic Services.

Applications Submitted by Officers

56. All applications submitted from officers holding politically restricted posts as defined in the Local Government and Housing Act 1989 or employed in Planning Services must be reported to the relevant Area Planning Committee for a decision, rather than being dealt with in accordance with the Scheme of Delegation to officers. If the officer concerned is present at the meeting of the Planning Committee at which such

an application is determined, he or she must leave the room during consideration of the application.

Hospitality

57. Officers are discouraged from receiving hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, officers will ensure that it is of the minimum level. If it exceeds £25 they must declare it as soon as possible in the Hospitality Register which is retained by the Head of Legal and Democratic Services.

Action on Decisions Taken Contrary to Professional Advice

58. In cases where an officer recommendation for approval has been overturned by Committee and an appeal is lodged:
- officers must give full support to Members and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves.
 - officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached
 - where a hearing is to be held, with no cross-examination, officers may give evidence themselves, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation
 - officers must give full support to Member decisions which are appealed using the written representations procedures

General

59. The operation of this Code will be monitored by the Standards Committee and revised if necessary following a change in the Council's Rules of Procedure or Constitution

Herefordshire Council

November 2007

COUNCIL

9TH NOVEMBER, 2007

**REPORT OF THE HEREFORD & WORCESTER FIRE AND RESCUE
AUTHORITY TO THE CONSTITUENT AUTHORITIES
Meeting Held on 27 September 2007**

SERVICE REPORT

1. In 2006/07, the Authority was informed that the long periods of hot and dry weather had affected performance against Best Value Performance Indicators which coincided with school holidays and significant amount of flash flooding. These conditions had extended to the current year particularly in June. The Authority also noted the increases in the total fire, special service and false alarms incidents and the increased number of Road Traffic Collisions attended by a rescue pump within a specified period of time. Various other items of interest and information were noted by the Authority. Details of the Performance Statistics, Incident and Injury matters, Interest and Information items that have been reported to the Authority can be found on the Service's website (www.hwfire.org.uk).

JOINT SERVICE REVIEW WARWICKSHIRE FIRE AND RESCUE SERVICE

2. The Authority agreed to a joint options appraisal with Warwickshire County Council to consider opportunities for improving the service delivery and efficiency through closer working arrangements.

FLOODING UPDATE

3. The Authority expressed its deep appreciation to Service staff for their work during the June and July flooding.

NEW MODEL CODE OF CONDUCT

4. The Authority considered and adopted the new Model Code of Conduct which had previously been considered by the Authority's Standards Committee.

MEASURING AND CHALLENGING RECRUITMENT PROCESSES

5. A report which informed Members of the progress regarding the Service recruitment processes was noted and the Authority conveyed its thanks to staff in producing an excellent document which documented the processes.

YOUNG FIREFIGHTERS ASSOCIATION (YFA)

6. A report was noted which updated the Authority on the development of further governance arrangements for the YFA. Members acknowledged the worthwhile contribution that the YFA delivered to various communities and that additional YFA groups would be welcomed. The Authority agreed to support the establishment of a formal structure of governance and a constitution being adopted by the YFA groups and agreed that Mr Fry be nominated as the Chairman of the Hereford and Worcester Young Firefighters Association under the terms of the YFA's draft constitution.

**PAUL HAYDEN
CHIEF FIRE OFFICER/CHIEF EXECUTIVE
HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY
OCTOBER 2007**

FURTHER INFORMATION

Any person wishing to seek further information on this report should contact Committee Services on 0845 12 24454. Further information on the Fire and Rescue Authority and the Fire and Rescue Service can also be found on the Internet at (www.hwfire.org.uk).

BACKGROUND PAPERS

Agenda papers of the meeting of the Fire and Rescue Authority held on 27 September, 2007.