

Audit and Corporate Governance Committee

Date: **Friday, 16th November, 2007**

Time: **10.00 a.m.**

Place: **: Committee Room 1, Shirehall,
Hereford.**

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

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Audit and Corporate Governance Committee

To: Councillor ACR Chappell (Chairman)
Councillor GFM Dawe (Vice-Chairman)

Councillors MJ Fishley, JHR Goodwin, R Mills, RH Smith and AM Toon

	Pages
1. APOLOGIES FOR ABSENCE To receive any apologies for absence.	
2. NAMED SUBSTITUTES(IF ANY) To receive any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 19 October 2007.	1 - 6
5. UPDATE ON COMMUNITY NETWORK UPGRADE AND CRITICAL 1 RECOMMENDATIONS IN USE OF CONTRACTORS IN ICT SERVICES To consider a report which responds to the request made by the committee at its meeting on 19 th October for an update on the current position regarding the timetable on review of the Community Network contract and in relation to the four critical recommendations set out in paragraph 11 of the Update number two on the interim assurance report 07/08.	7 - 10
6. UPDATE ON ACTION IN THE SPECIAL REPORT - GOVERNANCE IMPROVEMENT PLAN To consider a report which complements the update provided by the Director of Resources in the Special Report on the Corporate Governance Improvement Plan.	11 - 14
7. PROGRESS REPORT NO.2 - DIRECTOR OF RESOURCES' SPECIAL REPORT To provide the Audit & Corporate Governance Committee with a second 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 & Customer Services.	15 - 28
8. IMPLEMENTATION OF RECOMMENDATIONS ARISING FROM	29 - 30

SPECIAL INVESTIGATION

To consider a report by the Head of Planning Services and the Head of Highways and Transportation on information requested by the Committee.

9. REVIEW OF THE SCHEME OF DELEGATION, BUDGET AND POLICY PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES 31 - 112

To formally refer proposed revisions to the Constitution to the Audit & Corporate Governance Committee for consideration in line with the resolution made by Council on 2nd November 2007.

10. REVISED AUDIT PLAN 2007/08 113 - 122

To submit a revised Audit Plan for 2007/08 to the Audit and Corporate Governance Committee.

11. REPORT OF THE INDEPENDENT REVIEW

To consider the report and the recommendations of the Head of Legal and Democratic Services regarding the outcome of the independent review undertaken by Mr Ian Crookall (*to follow*).

INDEPENDENT REVIEW OF ICT AND THE COUNCIL'S FINANCIAL AND CONTRACTUAL ARRANGEMENTS

To consider the outcomes and recommendations of the Independent Review into ICT Services carried out by Mr Ian Crookall, who was nominated by the Chief Executive of the Local Government Association.

EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the next item will not be, or is likely not to be, open to the public and press at the time it is considered.

RECOMMENDATION:

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act as indicated below.

12. REPORT OF THE INDEPENDENT REVIEW

To consider the report and the recommendations of the Head of Legal and Democratic Services regarding the outcome of the independent review undertaken by Mr Ian Crookall (*to follow*).

This item discloses information, which is likely to reveal the identity of an individual.

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Section Heads will call the roll at the place of assembly.

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Audit and Corporate Governance Committee held at Committee Room 1, Shirehall, Hereford on Friday, 19th October, 2007 at 10.00 a.m.

Present: Councillor ACR Chappell (Chairman)
Councillor GFM Dawe (Vice Chairman)

Councillors: PGH Cutter, MJ Fishley, JHR Goodwin, RH Smith and AM Toon

In attendance: Councillors H Bramer, Cabinet Member (Resources), PJ Edwards, TM James and AT Oliver

22. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R Mills.

23. NAMED SUBSTITUTES(IF ANY)

Councillor P Cutter substituted for Councillor R Mills.

24. DECLARATIONS OF INTEREST

There were no declarations of interest.

25. MINUTES

A Member referred to Minute No.2 of the Minutes of the meeting held on 21st September 2007 and was of the view that the Terms of Reference issued to the Independent Investigator did not include investigation into two contracts regarding the Community Network Upgrade and the Back Office project contract and would be unhappy if the contracts were not included. The Member also was of the view that the Minute should indicate that the Terms of Reference were to have been circulated to Members of the Committee for approval as well as the Chairman.

The Chairman took the view that the Minute indicated accurately and clearly that the Chairman of the Audit and Corporate Governance Committee only would be circulated with the Terms of Reference prior to the final document being agreed with the Investigator and the Leader.

A Member was of the view that the Terms of Reference should be a public document and should be information which could be accessed by the public.

The Head of Legal and Democratic Services informed Members that he did not have the authority to discuss the Terms of Reference with the Committee at this time.

RESOLVED: That the Minutes of the meeting held on 21st September 2007 be approved as a correct record and signed by the Chairman subject to the word 'finance' being amended to read 'financial' in part (iv) of the recommendation to Minute No. 21.

26. PROGRESS REPORT NO.1 - DIRECTOR OF RESOURCES REPORT

The Committee considered a report by the Director of Resources which provided the Committee with 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.

Members noted that the words 'is being implemented' should be added after the word 'services' in the second line of the 'Reasons' paragraph on the first page of the report, and that the words 'so that' should be inserted after the word 'urgency' in paragraph 3 on the first page of the report.

The Director of Resources informed Members that the Interim Head of Human Resources had now been briefed on which actions had been logged to her (paragraph 3 of the report refers). She referred to the table in paragraph 16 and stated that work emanating from the review of the Constitution was considerable and was being led by her Directorate Management Team..

A Member referred to paragraph 4 of the report and asked if the policy referred to would be agreed by the Cabinet and the Audit and Corporate Governance Committee. The Director of Resources stated that the policy referred to would usually be agreed by officers, but that it would be referred to Cabinet and this Committee for information.

A Member expressed concern that paragraphs 23 to 25 of the report contained bland jargon and that the issues referred to should have more detail attached so that Members are clearly aware of the current situation on each issue.

With regard to the dates referred to in the right hand column on Appendix 1, the Director of Resources indicated that a further report would be submitted to the next Committee meeting updating completion dates for the various actions.

In relation to a Member's inquiry regarding which issues the Interim Head of Human Resources is working on, the Director of Resources informed the Committee that the more straight forward issues were currently being actioned by the Human resources team but that certain elements were extremely complex and therefore would need input by the Interim Head of Human Resources.

A Member suggested that all overseas trips should be authorised in advance and are cash limited and that the appropriate Cabinet Member is informed.

A Member also referred to recommendation (iii) of Minute No. 21 of the Meeting of the Committee held on the 21st September 2007, and stated that there was no reference to this in the Appendix 2 of the report. They requested that a full report be submitted to the next meeting of the Committee on this recommendation and that the Director of Corporate and Customer Services should attend to present it.

A Member also made reference to recommendation (iii) of Minute No. 21 of the Minutes referred to in the above paragraph, and took the view that the contract referred to should be part of the Terms of Reference for the Independent Investigator.

The Head of Legal and Democratic Services informed the Committee that although the issues regarding the Terms of Reference were complex, he would approach the

AUDIT AND CORPORATE GOVERNANCE COMMITTEE FRIDAY, 19TH OCTOBER, 2007

Leader of the Council and inform him of the above mentioned view in relation to the contract referred to and if a version of the Terms of Reference could be brought into the public domain.

With reference to paragraph 13 of Appendix 2, a Member requested that as well as exceptions in respect of the identification and planning for transfer of resources to be considered by the ISS Board being reported to the Herefordshire Connects Programme Board for decision, could these be the subject of report to this Committee.

RESOLVED: That

- (i) the Director of Resources to submit a report to the next meeting updating the expected completion dates for each action;**
- (ii) the amended policy in respect of travel and subsistence be reported to this Committee for information;**
- (iii) the Director of Corporate and Customer Services submits a report to the next meeting of this Committee giving details of the current position regarding the re-assessment of the Community Network Up Grade contract she has initiated; and**
- (iv) as well as exceptions in respect of the identification and planning for transfer of resources to be considered by the ISS Board being reported to the Herefordshire Connects Programme Board for decision, these be the subject of report to this Committee.**

RECOMMENDED: That all overseas trips are authorised in advance and are cash limited and that the appropriate Cabinet Member is informed.

27. ANNUAL GOVERNANCE REPORT 2007 - DRAFT ACTION PLAN

The Committee considered a report which gave details of the draft action plan in response to the recommendations made by the Audit Commission in their Annual Governance Report 2007 for comment prior to Cabinet approval.

The Director of Resources emphasised that Appendix 1 set out each of the six recommendations contained in the Audit Commission's Report, which officers would be actioning them and the timescale of the work.

In referring to a Member's question, the Audit Services Manager informed the Committee that when an officer receives an offer of a gift or hospitality from a member of the public or contractor there is a formal register which logs the nature of the gift or hospitality and is available for inspection by Members only.

A Member made reference to the Council's Asset Management Plan and to the fact that there was reference to the utilisation of Prince 2 Project procedures but this approach was not always followed.

The Director of Resources informed the Committee that there is an Asset Management Plan in place and that there were also capital strategy and capital programme monitoring systems in place. A new scheme of Delegation and Financial Procedural Rules were being submitted to Council in November which would leave officers in no doubt of their responsibilities with respect to carrying out a full options appraisal for all new spending proposals.

RESOLVED: That the report be noted.

28. UPDATE NUMBER TWO ON IMPLEMENTATION OF RECOMMENDATIONS ARISING FROM SPECIAL INVESTIGATIONS

The Committee considered a report which provided a further update on progress with implementing the recommendations approved by the Corporate Management Board to improve the internal control environment as a result of the 'lessons learned' from special investigations carried out by Audit Services in 2005/06.

A Member was of the view that every effort should be made by the Heads of Service to comply with the follow up action referred to in part (c) of the recommendations referred to in Appendix 1 of the report. The Member also suggested that a clear signal from this Committee should be sent to all staff reminding them that this Committee expects the highest professional standards in their work should be achieved at all times.

The Chairman indicated that he would send a letter to all staff in the context referred to in the final sentence of the above paragraph.

In reply to a Members question, the Audit Services Manager informed the Committee that the officers who had not completed recommendation (c) were the Head of Planning and also the Head of Transport and Highways.

The Audit Services Manager stated that the actions should have been completed by 31st March 2007.

Members requested that the Director of Environment submit a report to the next meeting and attend the meeting to present it and explain the current position.

Members discussed the need for the attendance of the Audit Services Manager to provide further support and guidance at Senior Management Team (SMT) meetings and suggested that this was paramount and that the recommendation in part (g) of Appendix 1 to the report should be amended to include this officer.

The Head of Legal and Democratic Services stated that SMT does not meet regularly currently. There were work streams to which various Members of SMT have been tasked with and report to Corporate Management Board.

A Member suggested that a Member of this Committee could attend one of the SMT meetings to get an insight as to the nature of the meetings.

RESOLVED: That

- (i) the Head of Planning Services and the Head of Highways and Transportation Services submit a report to the next meeting of this Committee giving their reasons for their inability to carry out certain follow up action set out in the special investigations recommendations follow up action, part (c) in Appendix 1 to the report refers, and the aforementioned Heads of Services be instructed to attend the meeting to present the report;**
- (ii) the SMT be instructed to include the attendance of the Audit Services Manager at future meetings of SMT and SMT be requested to meet more regularly; and**

- (iii) **the update position be noted.;**

29. UPDATE NUMBER TWO ON THE INTERIM ASSURANCE REPORT 2007/08

The Committee considered a report which provided Members with an updated Interim Assurance report for 2007/08 which provided an update on progress with the significant internal control issues identified in the Assurance report for 2006/07 and identified the significant internal control issues identified to date in 2007/08.

In referring to ICT and Customer Services, the Audit Services Manager informed the Committee that the acting ICT and Customer Services Manager was Mr G Cole.

The Chairman expressed the view that it was always convenient that officers referred to should be specifically named and requested that with regard to Committee reports, that this should be the standard practice across the Council.

The Audit Services Manager referred to paragraph 9 of the report and that the words 'changes should be made' were to be replaced with the words 'fundamental improvements are required'. He also informed the Committee that in the final report to the Committee, the actions taken by officers in the relation to recommendations on the remaining significant control issues would be reported.

The Audit Services Manager reported that work on Best Value Performance Indicators (BVPIs) was almost complete and that the Audit Commission had requested to see certain of these reports. The Audit Commission had indicated its approval of the timetable for the completion of the BVPIs as part of the Integrated Performance reports. Members were also informed that Cabinet was notified by report on a bi-monthly basis of high risk BVPIs as part of the Integrated Performance reports. The Audit Services Manager would be reporting in future to this Committee as part of the Updated Interim Assurance reports.

A Member referred to paragraph 11 of the report and requested that the Committee should be made aware of the timetable for completion of the recommendations.

RESOLVED: That

- (i) **the Director of Corporate and Customer Services to submit a report to the Committee setting out the timescales of commencement with new protocols with regard to the Four Critical 1 Recommendations set out in paragraph 11 of the report; and**
- (ii) **the report be noted.**

30. SECTION 106 PLANNING OBLIGATIONS

The Committee considered a report which provided the Committee with a summary of audit findings on the Council's arrangements for Section 106 obligations.

Members expressed concern about the procedures adopted by the Council to ensure that developers contributions are proactively sought by officers when they become due. Members made reference to the resource implications if developer contributions were received late and the need for a protocol to determine how the funds are utilised.

A Member took the view that the Council should make sure that the detail contained

AUDIT AND CORPORATE GOVERNANCE COMMITTEE FRIDAY, 19TH OCTOBER, 2007

within Section 106 Agreements should be in the public domain and that the achievement of transparency was paramount.

RESOLVED:

- (a) **That Planning Committee be requested to inform the Audit and Corporate Governance Committee of the following with regard to Section 106 Agreements :**
- (i) **the rules that apply in Section 106 Agreements which when completed by a Developer prompt the payment of monies to the Council;**
 - (ii) **the monitoring procedures adopted by the Planning Service to ensure that Developers complete the requirements of Section 106 Agreements;**
 - (iii) **the protocols for determining how Section 106 contributions are utilised;**
- (b) **That Planning Committee be requested to consider adopting a procedure whereby all Section 106 Agreements are available for public inspection to ensure that these matters are transparent.**

31. CAR LOANS

The Committee considered a report which provided the Members with a summary of audit findings on the Council's arrangements for employee car loans.

Members were also informed that currently, 26 officers were in receipt of car loans with approximately 80 officers using the car leasing arrangements.

The Committee also noted that the Council's car loan scheme was self financing.

RESOLVED: That the report be noted.

The meeting ended at 11.35 a.m.
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CHAIRMAN

UPDATE ON COMMUNITY NETWORK UPGRADE AND CRITICAL 1 RECOMMENDATIONS IN USE OF CONTRACTORS IN ICT SERVICES

Report By: Director of Corporate and Customer Services

Wards Affected

County-wide

Purpose

This report responds to the request made by the committee at its meeting on 19th October for an update on the current position regarding the timetable on review of the Community Network contract and in relation to the four critical recommendations set out in paragraph 11 of the Update number two on the interim assurance report 07/08.

Financial Implications

None arising directly from this report although the actions referred to are designed to ensure that a sound system of financial control is in place.

RECOMMENDATION

THAT subject to any comments by the committee, the report is noted.

Reasons

To comply with the request by the committee to report on the critical recommendations contained within the Use of Contractors in ICT audit and the Community Network contract review.

Considerations

1. The four critical recommendations are contained within the Use of Contractors in ICT audit report.
2. The draft action plan relating to this audit was tested out with internal audit on 25th September prior to submission on 28th September.
3. In working through the action plan process, it was proposed that a workshop session for Legal, Audit, Procurement and ICT Services would be helpful in clarifying practical guidance on contract procurement and management which could be rolled out across the Council. This would be designed to complement the procurement strategy and revised financial standing orders. The workshop is being planned for later in November.

Further information on the subject of this report is available from Jane Jones, Director of Corporate and Customer Services on tel: (01432) 260037

4. Turning to the four critical recommendations in relation to the use of contractors in ICT, it is important to set these in the context of recommendation number one, which deals with preparation of robust business cases.

Recommendation one: The Director of Corporate and Customer Services should ensure that the management of major ICT projects exhibits robust practices. Including the preparation and approval of a detailed business case that secures value for money and assists in achieving Council objectives. Further, the governance arrangements should be adequate to ensure the effective monitoring and reporting of the project.

Recommendation two: The Director of Corporate and Customer Services should ensure that the Directorate follows the formal tender process as laid down in standing orders for contractors and procurement where the estimated contract is in excess of £50,000. In order to achieve this, a strict appraisal of all business cases must be undertaken.

5. All major ICT projects are now consolidated under a single programme of work and all current and future projects will be subject to the standard business case benefits cards process, which has been developed in consultation with colleagues from the Resources Directorate.
6. All business cases with a technology element will be required to go through a two stage Directorate Management Team (DMT) approval process. At the conceptual stage, DMT's will be required to approve work on the business case. Once the business case is complete with quotes and validation of the benefits it again needs to be signed off by the relevant DMT and put through the agreed process for challenge by the IPG. That process is designed to test out consistency with corporate priorities, robustness of business case, assurance that the whole life costs of the project have been taken into account, impact on the infrastructure.
7. Some IPG members were trained on challenge at the October meeting although not all were present and a further session is taking place on 7th November, to ensure that the right degree of robustness and challenge takes place. In order to ensure that business cases are seen as a corporate requirement and not something driven by ICT alone, The Resources Directorate have taken ownership of the combined business case and benefits card and support is provided by the Client Account Managers in ICT Services.
8. All ICT related projects and programmes are supported by a robust business case. In addition, a guide to procurement will be drafted which will include instructions on the way in which particular scenarios which might arise through the procurement process should be followed. This will include specific reference to software selection and procurement and will be a key output from the workshop described above. This completed document will be presented to Corporate Management Board (CMB) prior to rolling it out to all staff involved in any procurement activity. In addition this will be promoted through the corporate programmes team of project and programme managers will receive training on how to apply the guide by the end of December 2007.

Further information on the subject of this report is available from Jane Jones, Director of Corporate and Customer Services on tel: (01432) 260037

Additional promotion will take place through channels such as news and views and through DMT's.

9. Tender documentation and templates will be overhauled and written specifically to deal with software/service selection and applied to all projects with an ICT element, again by the end of December 2007. The proposed workshop will also deal with appropriate procurement methods identified through a series of scenarios. The intention is to provide practical support to managers as they move through the process.

Recommendation three: The Director of Corporate and Customer Services should ensure that contracts that have an estimated value in excess of the European limit are subject to appropriate protocols. In order to achieve this, a strict appraisal of all business cases must be undertaken.

10. Reference has already been made to the process for approving projects. Further work is being undertaken on EU procurement rules and OJEU process, as it relates to Catalist and other framework arrangements. This will be fully documented by December 2007. A review of the directorate register of contracts for ICT Services is nearing completion. The process is being rolled out to all other contracts in the directorate and a monthly review of the contract register will be included as part of the standing item on performance at the relevant meeting of the DMT.

Recommendation eight: The Director of Corporate and Customer Services should implement a protocol to monitor the budget and actual for major projects in line with Council Regulations and Policies.

11. All projects that originate in ICT, are managed by Corporate Programmes and are now included within the ICT Strategy. All such projects are subject to the same protocols. Project managers submit weekly reports to the support office and then to the relevant project boards convened by project sponsors. A major project report, setting out progress, risks and issues is considered every month by the IPG to allow for follow up with individual project sponsors. The Corporate Programmes Manager reviews this on a monthly basis with the Director and it is included as part of the Directorate's performance report. Again all projects are subject to the discipline outlined at the beginning of this report.

Review of Community Network Contract

12. The Director has been assisted by the Strategic Procurement and Efficiency Review Manager and Legal Services in addition to ICT Staff to commission an independent value for money review of the Community Network contract. Following advice and support from the Strategic Procurement and Efficiency Review Manager and using the Council's approved processes, the Society of Information Technology Managers (SOCITM), which provides independent, professional support to public sector ICT organisations has been selected to undertake the review in conjunction with the Council. Its main delivery partner, Siemens Communications, have been fully supportive of the process and undertaken to provide every assistance necessary.

SOCITM have been on site since the beginning of the week commencing 5th November and are scheduled to complete their work by the end of November. It will be possible to update the committee at its meeting on progress to date.

Risk Management

That if the actions are not carried through the authority is exposed to risk. The action plan is reviewed on a monthly basis by the Interim Head of ICT and the Director.

Background Papers

Further information on the subject of this report is available from Jane Jones, Director of Corporate and Customer Services on tel: (01432) 260037

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UPDATE ON ACTION IN THE SPECIAL REPORT GOVERNANCE IMPROVEMENT PLAN

Report By: Director of Corporate and Customer Services

Wards Affected

County-wide

Purpose

The purpose of this report is to complement the update provided by the Director of Resources in the Special Report on the Corporate Governance Improvement Plan.

Financial Implications

As set out in the body of the report.

RECOMMENDATION

THAT the Committee note the actions taken.

Reasons

The Committee has requested an update on the actions required of the Director of Corporate and Customer Services.

Considerations

1. Recommendation three: **Work to establish the cost of existing ICT and Customer Services operations and future investment needs to be urgently concluded to inform the Performance Improvement Cycle.**
2. In the period since April a great deal has moved forward assisted by the appointment of the accountant designated to support Corporate and Customer Services Directorate. A zero base budgeting exercise has been undertaken with colleagues from the Resources Directorate and budgets are now aligned with services streams:
 - Customer Services
 - Corporate Programmes
 - ICT
 - Information Services (the Archives and Modern Records Services has always had a self contained base budget)

Further information on the subject of this report is available from Jane Jones, Director of Corporate and Customer Services on tel: (01432) 260037

AuditandGovernanceReport30.doc

3. The budget position has been tackled in line with the establishment which has been thoroughly challenged and the budget has been brought to the point where the ICT, Corporate Programme and Corporate ICT Project budget will balance at the end of March 2008. This re-working of the budgets will also allow the purchase of much needed LANDesk software upgrade to be implemented, following a formal tendering exercise.
4. Funding for the basic ICT Service is largely derived from annual SLA's with directorates. In simple terms this is based on the number of desktops supported on the network with some chargeable elements, for example, Geographical Information Services (GIS) licences. This position has changed very little since ICT Services was relocated from the former Direct Services Organisation (DSO). A recent audit of desktops revealed that there are approximately 240 more than in 05/06. Directorates are being asked to validate these numbers. (No charge is currently made for portable devices). If charges were applied at the same rate it would generate in excess of £300,000, but that would have little impact except to push the burden onto other financially stretched directorates. However there is now a realistic basis from which to plan the ICT budget for 08/09 in compliance with the results of the corporate SLA pilot.
5. The Corporate ICT strategy which was approved by Cabinet on 7th June 2007, was drafted to reflect the requirements of any future accommodation strategy, Herefordshire Connects and closer working with the PCT.
6. It contains a number of projects and programmes which will need to be implemented over the next three to five years. The top ten projects have been prioritised. Some are already funded, for example, LANDesk and VRF Lite which allows schools to meet the requirements for remote access working required by the DCSF. Others are being considered as part of the medium term financial strategy re-refresh and capital proposals. For each of these ten critical projects, full business and benefits card has been produced. These could be subject to changes depending on directorate requirements.
7. The original Info budget has been supplemented for financial years 07/08 and 08/09 by a further £500,000 in each year in order to allow for the adequate transfer of service and complementary release of resource from contributing services. The Customer Service budget is currently predicted to overspend by approximately £100,000, but this is subject to further challenge at a workshop scheduled for 9th November which will also review staffing levels, productivity and phase two services.
8. The Corporate Programmes Service is currently funded through chargeable activity. It is dealt with at recommendation five.
9. Recommendation Four: **Permanent managerial arrangements for ICT and Customer Services need to be established.**

10. In April 2007 a Head of Service was relocated to Thorn Office Centre to take over temporary management of the division. Since that time both he and the Director have spent a considerable amount of time working with the teams that make up the division. In May the reporting line for Corporate Programmes and support team was moved to align it more closely with the Herefordshire Connects team and the majority of those staff are now co-located in Plough Lane reporting to the Director.
11. On October 12th the Director and two members of ICT staff, spent the day with the Head of ICT Services and the Performance Manager of Shropshire County Council to discuss structures, performance matters, budgets etc. The Director has circulated a paper setting out proposed future management arrangements to CMB for comment and discussed these in principle with the Interim Head of Human Resources so that the formal protocol with the PCT can be observed. They have also been forward to the new Chief Executive. They have not yet been discussed with staff within the division though this is planned for November 12th.
12. Recommendation Five: **Review approach to and arrangements for the delivery of project management services. All post implementations reviews must include a technical and financial appraisal.**
13. A separate principles paper setting out the approach to restructure and shape of the service is being circulated to CMB. A great deal of work has been done prior to the drafting of this paper in terms of staff workshops, consultation with heads of service, a visit to Waltham Forest to look at their centre of competence for project and programme management. The principle has been to establish a small core team who can provide project and programme support. At the current time this is based on the same changing model being applied and further work is ongoing to refine this model. For all ICT based projects which are approved, project management costs will be included.
14. Recommendation Eleven: **Improving financial governance in ICT and Customer Services.**
15. Action plans for FMS systems in ICT, travel and expenses and use of contractor audit review has been submitted, are reviewed on a fortnightly basis and are on track to be delivered by January 2008. Details on the Use of Contractors in ICT action plan are contained in a separate report elsewhere in this agenda.

Risk Management

Audits of the action plan have been requested at intervals of three, six and twelve months and annually thereafter. If these actions are not delivered the authority is exposed to risk. The Interim Head of ICT Services and Head of Financial Services are meeting fortnightly to review budget actions.

Background Papers

None identified.

**PROGRESS REPORT NO.2 – DIRECTOR OF RESOURCES’
SPECIAL REPORT****Report By: DIRECTOR OF RESOURCES****Wards Affected**

None.

Purpose

To provide the Audit & Corporate Governance Committee with a second 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 & Customer Services.

Financial Implications

There are no financial implications arising as a direct result of this report. Enhancements to the corporate governance framework and greater compliance with it will ensure that the Council optimises its use of resources.

RECOMMENDATION**THAT the progress made to date is noted.****Reasons**

To provide the Audit & Corporate Governance Committee with assurance that the action plan in response to the special report on financial governance issues in ICT & Customer Services is being implemented.

Considerations

1. This is a second update on progress with the recommendations and action plans agreed by Cabinet on 20th September 2007 in response to the Director of Resources’ special report on financial governance issues in ICT & Customer Services.

Travel & Subsistence Claims

2. The action plan agreed by Cabinet for improving the systems of internal control across the Council in respect of officer travel and subsistence claims is attached (Appendix 1) for ease of reference. The action plan has been updated to include a commentary on the progress against each task.
3. Three of the eleven agreed actions are complete. A fourth action is partially complete. The Head of HR has provided an update on progress and revised target dates for the outstanding items.

Further information on the subject of this report is available from
Mrs Sonia Rees, Director of Resources on tel: (01432) 383519

Governance Framework

4. The action plan agreed by Cabinet in response to the Director of Resources' special report is attached at Appendix 2 for ease of reference (Appendix 2). The action plan has been updated to include a commentary on the progress against each task and revised target dates where appropriate.
5. The Director of Resources' main focus of attention since Cabinet agreed the action plan in response to her special report has been on reviewing the technical elements of the Constitution.
6. The timetable for this task was very challenging so the Head of Legal & Democratic Services secured the Constitution Review Working Group's agreement to allowing 'technical' amendments to financial governance framework for officers to be presented to Council on 2nd November 2007 providing that the Head of Paid Service, Chief Finance Officer and Monitoring Officer were in agreement with the proposed changes.
7. The Resources Directorate Management Team reviewed the Scheme of Delegation to Officers, the Budget and Policy Framework Rules, the Financial Procedure Rules and the Contract Procedure Rules. Four councils were selected as benchmarks as follows:
 - a) Shropshire County Council.
 - b) Kent County Council.
 - c) East Riding of Yorkshire Council.
 - d) St Helens Council.
8. The constitution documents for these four councils were chosen as benchmarks on the basis that the councils had the very best Use of Resources judgements for 2006.
9. There was a surprising degree of variation in the style and approach observed in the four constitution documents that were reviewed. Key observations for each technical element of the Constitution that was reviewed are as follows:
 - a) **Scheme of Delegation to Officers** – other councils' constitutions were more explicit about the roles and responsibilities of their Statutory Officers and members of the most senior management team of officers within the council.
 - b) **Budget and Policy Framework Rules** – other councils' constitutions were easier to follow.
 - c) **Financial Procedure Rules** – Herefordshire's financial standing orders and regulations were reviewed in July 2006 and compared favourably with the other councils' constitutions.
 - d) **Contract Procedure Rules** – other councils' constitutions were more explicit about the roles and responsibilities of the Statutory Officers on contracting procedures and the roles and responsibilities of officers involved in making purchases or procurement decisions.
10. The Statutory Officers, members of Corporate Management Board and key members of Cabinet were consulted on the revised documents and their comments were included in the draft documents presented to Council on 2nd November 2007 for consideration. The Audit Commission and the independent reviewer were provided with copies of the proposed revisions as the documents were sent for despatch with the Council papers.

11. The desire to demonstrate a firm commitment to delivering the action plan agreed in response to the Director of Resources' special report on schedule meant that Council would be receiving the revised documents before the independent review had been received. Whilst recommending that Council adopted the revised documents as an interim measure, it was acknowledged that further revisions of the documents were likely, and that this would also provide the opportunity for any further improvements in clarity, style etc.
12. On 2nd November 2007, Council accepted the principle of improving controls and resolved to:
 - a) Formally refer the recommendation to adopt the revised Scheme of Delegation, Budget and Policy Framework Rules, Financial Procedure Rules and Contract Procedure Rules to the Constitution Review Working Group, the Audit & Corporate Governance Committee and the Standards Committee.
 - b) Carry out a further review of the revised documents to take into account any recommendations arising from the independent review.
 - c) Hold a seminar for all Members prior to the proposals being returned to Council for adoption.
13. A further report elsewhere on this agenda presents the revised Scheme of Delegation, Budget and Policy Framework Rules, Financial Procedure Rules and Contract Procedure Rules as drafted for Council on 2nd November 2007 for the Audit & Corporate Governance Committee to determine how it wishes to take the Council's resolution on this matter forward.
14. Further detail on progress made against the action plan is provided in Appendix 2 to this report. The Director of Corporate & Customer Services will be reporting separately on progress with the urgent review of the Siemens contract and actions numbered 3, 4, 5 and 11.

Risk Management

The action plan is designed to enhance the Council's existing corporate governance framework in the light of the issues identified in the Director of Resources' special report (September 2007). The Corporate Management Board, Cabinet and Audit & Corporate Governance Committee are closely monitoring implementation of the action plan. Support from these bodies for the successful implementation of the action plan is essential if the Council is to demonstrate to the Audit Commission its commitment to resolving the serious issues that have been identified.

Background Papers

The Director of Resources' special report on the financial governance issues in ICT & Customer Services considered by Cabinet on 20th September 2007 and Audit & Corporate Governance Committee on 21st September 2007 refers.

ACTION PLAN FOR TRAVEL & SUBSISTENCE ARRANGEMENTS					APPENDIX 1
Agreed action	Responsible officer(s)	Agreed target date	Progress	Revised target date	
1 Review the Code of Conduct for Employees to ensure the Council's expectations on the required standard of conduct on giving hospitality are clear.	Head of HR	Sept 2007	Code of Conduct has been reviewed and revisions made. The revised Code will be taken to CMB on 20th November for approval prior to being presented to the Constitution Review Working Group. The revised Code of Conduct will then be ready for adoption by the full Council at its next scheduled meeting.	February 2008	
2 Review the Code of Conduct for Employees to ensure the Council's expectations on the required standard of behaviour in relation to consumption of alcohol during office hours and whilst representing the Council after office hours is clear.	Head of HR	Sept 2007	Code of Conduct has been reviewed and revisions made. The revised Code will be taken to CMB on 20th November for approval prior to being presented to the Constitution Review Working Group. The revised Code of Conduct will then be ready for adoption by the full Council at its next scheduled meeting.	February 2008	
3 Review the Code of Conduct for Employees to ensure the Council's expectations on the standard of behaviour regarding working under the influence of alcohol is clear.	Head of HR	Sept 2007	Code of Conduct has been reviewed and revisions made. The revised Code will be taken to CMB on 20th November for approval prior to being presented to the Constitution Review Working Group. The revised Code of Conduct will then be ready for adoption by the full Council at its next scheduled meeting.	February 2008	
4 Revise guidance on travelling claims to require separate confirmation by attaching a signed memorandum that the line manager certifies overnight stays within the Council's area. Payroll to reject all claims for overnight stays in the Council's areas that are not accompanied by separate written authorisation by Head of Service and Director.	Head of HR	Sept 2007	Travelling and subsistence guidance has been revised to include the requirement for overnight stays within Herefordshire to be approved by the line manager. Revised guidance to be taken to CMB on 20th November for final approval.	20th November 2007 subject to CMB agreement.	
5 Payroll to reject all claims that do not have the correct supporting documentation.	Payroll Manager	Immediate	The Payroll Manager issues an e-mail to all staff as a reminder on the need to ensure all travel and subsistence claims are supported by VAT receipts, that they need to be submitted in a timely fashion and that exceptional items need to be approved by the Head of Service and the Director.	Completed	

6	<p>Revise guidance on travelling claims to require monthly submission of travel and expenses claims within a month of the period they relate to.</p> <p>Payroll to reject claims that are received after the deadline indicated in the Councils' Travel & Subsistence Policy.</p>	Head of HR	Sept 2007	<p>Travelling and subsistence guidance has been revised to include the requirement for claims to be submitted within one calendar month of the period to which they relate. Revised guidance to be taken to CMB on 20th November for final approval.</p>	20th November 2007 subject to CMB agreement.
7	<p>Payroll to reject claims that are incomplete and in contravention of the Council's policies unless all exceptions are individually certified by the relevant Head of Service and Director in writing.</p> <p>Travel & Subsistence Claim Form to be reviewed to ensure the disclaimer the claimant and authorising officer make on signing the form is clear that failure to comply with the Council's policies on travel & subsistence could lead to disciplinary action.</p>	<p>Head of HR</p> <p>Head of Benefit & Exchequer Services</p>	Sept 2007	<p>Head of HR to incorporate into revised guidance on the Council's Travel & Subsistence Policy.</p> <p>The Head of Benefit & Exchequer Services has reviewed the declaration both claimant and authorising officer are required to make on the travel and subsistence claim form. No changes were deemed necessary.</p>	<p>20th November 2007 subject to CMB approval.</p> <p>Completed.</p>

8	Reminders from the Head of Legal & Democratic Services to all Key Managers to be issued biannually. Head of Legal & Democratic Services to confirm 100% return rate to include nil returns. Biannual assurance statements to be extended to all Key Managers and to include confirmation that systems are in place to promote compliance with the Council's policies on the declaration of gifts and hospitality offered whether accepted or not.	Head of Legal & Democratic Services	Sept 2007	The Head of Legal & Democratic Services has arrange to remind officers twice a year for the future on the need to comply with the Council's rules on declaring gifts and hospitality. He will report to Corporate Management Board if officers fail to make a return.	Completed.
9	Audit Services Manager to ensure test checks are carried out as part of planned audit work on travel & subsistence.	Audit Services Manager	Sept 2007	The Audit Services Manager has arranged for the assurance statements to be completed on a quarterly basis for the future, and for them to be completed by members of the Corporate Management Board, Heads of Service and all other Key Managers. The quarterly assurance statements for the period July 2007 – September 2007 were sent to all Key Managers and this will now happen as a matter of routine. The Audit Services Manager will report to the Corporate Management Board if officers fail to make a return.	Completed.
10	Travel & Subsistence policy to be revised to so that all overseas trips are authorised at Director level.	Head of HR.	Sept 2007	The Audit Services Manager has arranged for the travel and subsistence audit programme to include a crosscheck of claims paid to the register of gifts and hospitality. Council agreed on 2 nd November 2007 to adopt the Audit & Corporate Governance Committee's recommendation that 'all overseas trips be authorised in advance and are cash limited and that the appropriate Cabinet Member be informed'. Travelling and subsistence guidance has been revised to include the above recommendation agreed by Council on 2nd November 2007. Revised guidance to be taken to CMB on 20th November for final approval.	Completed. 20th November 2007 subject to CMB agreement
11	Contractors should support charges for travel and subsistence included in their invoices with a completed travel and subsistence claim form where the contract allows for reimbursement of costs as incurred.	Head of HR advice to Key Managers.	Sept 2007	Head of HR will liaise with the Strategic Procurement Manager to ensure that contractors will itemise in detail all travel and subsistence claims incurred where these form part of the contract, as part of their invoicing. Head of HR and the Strategic Procurement Manager will ensure that key managers are aware that this is required. Payment requests that do not comply with this approach will be rejected.	End of November 2007.

CORPORATE GOVERNANCE IMPROVEMENT PLAN						APPENDIX 2
Issue to address	Agreed corporate response	Responsible officer(s)	Agreed date	Progress	Revised date	
1.	Regular review on the progress implementing this corporate response.	CMB to monitor on a monthly basis and report to Cabinet. Report to each Audit & Corporate Governance Committee meeting.	CMB DoR	Ongoing.	Review of progress with the action plan is now a standing item on the Corporate Management Board's agenda. The Audit & Corporate Governance Committee is receiving an update at each meeting. Cabinet will receive its first formal report at the end of November. See Appendix 1.	Ongoing.
2.	Ensure the corporate response to the travel and expenses audit review is implemented effectively and to timescale.	CMB to consolidate the corporate responses to the travel and subsistence review and the corporate response to this report into one action plan.	DoR MO	See Appendix 1.	Continuing to manage separately for the time being to ensure the integrity of the audit trail.	See Appendix 1.
3.	Establish the cost of existing ICT and Customer Services operations and future investment needs to be urgently concluded to inform the Performance Improvement Cycle.	Director of C&CS to lead with support from Financial Services.	DC&CS HoFS	30.09.07	See the DC&CS' report.	See the DC&CS' report.
4.	Establish permanent managerial arrangements for ICT and Customer Services.	CMB to discuss and agree proposals from DC&CS.	DC&CS CMB	October 2007	See the DC&CS' report.	See the DC&CS' report.

5.	Review approach to and arrangements for the delivery of project management services. All post implementation reviews must include a technical and financial appraisal.	CMB to discuss and agree proposals from DC&CS.	DC&CS CMB	October 2007	See the DC&CS' report.	See the DC&CS' report.
6.	Review of the financial and legal elements of the Council's constitution to ensure clarity and consistency.	Working group to carry out a review and make recommendations in the first instance to CMB. Need to report to Audit and Corporate Governance Committee and other appropriate decision-making and scrutiny functions prior to being agreed at Council.	DoR HoLDS HoFS CIA HoBES HoHT	Council in November 2007	See paragraphs 5 to 13 inclusive of the main body of the report which describe the process that was agreed subsequent to Cabinet agreeing the action plan on 20 th September 2007. Further review to be carried out by the Audit & Corporate Governance Committee and the Standards Committee.	February 2008.
7.	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.	CMB to insist on the highest standard in all aspects of report writing, including financial and legal implications. CMB to ensure there are no exceptions to the policy of all formal reports being cleared by the Head of Paid Services, the Monitoring Officer and the Section 151 Officer.	All report authors	Council in November 2007	See paragraphs 5 to 13 inclusive of the main body of the report. The revised elements of the Constitution presented to Council on 2 nd November 2007 make officers' responsibilities for securing the advice of the three Statutory Officers explicit.	February 2008.

8.	Audit Services and the Monitoring Officer need to be granted access to staff, records and feeder systems if required to fulfil their statutory obligations.	Incorporate into the review of the Constitution. Re-affirm current provision in the Council's Constitution on audit access.	DoR HoLDS HoFS CIA HoBES HoHT	Council in November 2007	The revised elements of the Constitution presented to Council on 2 nd November 2007 make officers' responsibilities for granting access to external and internal audit explicit.	February 2008.
9.	Improve the quality of working papers/files recording business activity.	Guidance on the standards of record keeping needs to be devised.	Information Manager CIA	December 2007	The Information Manager and Chief Internal Auditor shall prepare guidance for staff to meet the agreed date.	December 2007
10.	Improve standards of internal control for fundamental systems.	Minimum acceptable standard is satisfactory – this is a non-negotiable.	CMB HoHR CIA	Allow 3 months' notice January 2008	Effective date is 1 st January 2008. All members of CMB know the required standard for fundamental systems. See the DC&CS' report.	January 2008
11.	Improving financial governance in ICT and Customer Services.	DC&CS to implement agreed action plans for the FMS system in ICT, travel and expenses and use of contractors audit reviews.	DC&CS DoR	January 2008	See the DC&CS' report.	See the DC&CS' report.
12.	Complete work in progress on internal recharging mechanisms to the agreed timetable.	Actions identified and agreed in a report to CMB on 16th August from the SMT SLA working group.	Anne Heath, Chair of SMT SLA Working Group, reporting to CMB.	March 2008	The Head of Financial Services is a member of the Senior Management Team Service Level Agreement (SLA) Working Group. His progress report on behalf of the SLA Working Group is that agreement was reached on 18 th October to operate a pilot project within the Environment Directorate. The outcome of the pilot will inform a new model for SLAs for the whole Council to be implemented from 1 st April 2008.	March 2008.

<p>13. All financial administration and financial management resources transfer to the Resources Directorate as soon as practical.</p>	<p>Identification and planning for transfer of resources to be considered by the ISS Board with exceptions reported to the Herefordshire Connects Programme Board for decision.</p>	<p>HoFS HoBES</p>	<p>March 2008</p>	<p>All currently identified financial administration and financial management support has now been transferred to the Resources Directorate.</p> <p>Further transfers may be appropriate as the Herefordshire Connects programme rolls out. The Integrated Support Services (ISS) Board will consider these in the first instance, reporting to the Herefordshire Connects Programme Board as appropriate in line with the governance arrangements established for the transformation programme. The Head of Financial Services and the Head of Benefit & Exchequer Services are both members of the ISS Board.</p> <p>The Audit & Corporate Governance Committee has asked to be kept informed of any transfers of financial administration or financial management resources within the Council.</p>	<p>Completed November 2007</p>
<p>14. Ensuring members receive complete advice from the Monitoring Officer and S.151 Officer on the legal implications and financial implications of all policy proposals.</p>	<p>Liaison meetings with the Leader to include the Monitoring Officer and S.151 Officer to be diarised at no more than quarterly intervals.</p>	<p>Chief Executive DoR MO / HoLDS</p>	<p>Immediate effect</p>	<p>See paragraphs 5 to 13 inclusive of the main body of the report.</p> <p>The revised elements of the Constitution presented to Council on 2nd November 2007 make officers' responsibilities for securing the advice of the three Statutory Officers explicit.</p> <p>The requirement for report authors to consult with the Statutory Officers in good time is being enforced with reports being delayed if appropriate.</p>	<p>Ongoing.</p>

15.	Promote compliance with corporate financial governance arrangements by reviewing management practices and accountabilities.	Make compliance with corporate financial arrangements a non-negotiable. CMB to carry out immediate checks on contracting arrangements and authorised signatory lists.	CMB HoHR	Immediate effect	Members of the Corporate Management Board have been advised and reminded to review their arrangements to ensure compliance with agreed policies and procedures in advance of planned internal audit review.	Ongoing.
16.	Enhance Key Manager's financial skills and knowledge of the Council's approved corporate governance framework, ensuring the message is constantly reinforced through effective training.	Make attendance on training courses a pre-requisite to getting a "licence to practise" as a manager. Attendance at refresher training courses will also be mandatory.	HoHR HoFS MO CIA	Immediate effect	Financial Services delivers a corporate training programme consisting of two courses. The first course held following the Director of Resources' special report took place on 30 th October 2007 and it covered the key concerns identified in that report. The training programme is being revised to contain an additional level. ICT & Customer Services have requested a specially tailored training event that is planned for December 2007.	
17.	Ensure all capital and revenue budget proposals are identified through agreed service and financial planning processes.	Ensure in-year budget proposals are only brought forward in exceptional circumstances.	CMB	Immediate effect	All revenue budget proposals for 2008/09 and beyond have been identified through the Performance Improvement Cycle. All capital budget proposals for 2008/09 and beyond are to be identified through the agreed capital planning process. All revenue and capital proposals that arise outside these planning processes are to be prepared and agreed in line with the Council's financial procedures.	Ongoing.

18.	Enhance Audit Services' capacity.	CMB to agree restructure proposals identified during the PIC process costing £45k. This can be met from the existing base budget for the Resources Directorate.	CMB DoR	Immediate effect	Employees and employee representatives have been consulted on the restructuring proposals. No significant issues have been raised. Job Descriptions / Person Specifications are being redrafted with a view to completing the change management process and recruiting staff by February 2008. The restructuring is being managed in line with the Council's HR policies and procedures for management change at work.	February 2008
19.	Enhance strategic procurement capacity to ensure compliance with the Council's contracting policies and procedures.	CMB to agree additional resources to centralise monitoring of contract procedures within Resources. This can be met from the existing base budget for the Resources Directorate.	CMB DoR	Immediate effect	Procurement posts across the authority have been identified with a view to bringing their line management arrangements within the remit of the Resources Directorate. Proposals are being developed for the Corporate Management Board to consider in December that will involve better use of existing employee resources with some additional investment in contract procedures monitoring. Consultation is underway with the Supporting People Team about a new structure that will include a procurement post. This post will report to the Strategic Procurement Manager who in turn reports to the Head of Financial Services.	December 2007
20.	Check that issues highlighted in ICT and Customer Services are not repeated elsewhere.	CMB needs to be prepared to respond quickly to Audit Services.	CMB	Immediate effect	A report elsewhere on this agenda highlights the significant level of ongoing unplanned internal audit activity on the financial governance issues in ICT & Customer Services. As soon as this work is complete, Audit Services will turn its attention to test checking financial governance arrangements in other parts of the Council. Anecdotally, officers do appear to be asking for more advice.	Ongoing.

21.	Ensure budget is in place before committing expenditure.	CMB to reinforce the message that Key Managers need to work closely with Financial Services colleagues to ensure all appropriate permissions to spend are in place before letting a contract.	All	Immediate effect	There is some evidence that managers are more aware of the need to work closely with Financial Services before they enter into commitments. Once approved, the revisions to the financial governance elements of the Council's Constitution will reinforce this message, as will the extended financial management training provision.	Ongoing.
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C/A = Chief Internal Auditor
 DoR = Director of Resources
 HoLDS = Head of Legal and Democratic Services
 HoHR = Head of Human Resources
 HoPS = Head of Paid Services
 MO = Monitoring Officer
 DC&CS = Director of Corporate & Customer Services
 HoFS = Head of Financial Services
 HoBES = Head of Benefit and Exchequer Services
 HoHT = Head of Highways & Transportation

IMPLEMENTATION OF RECOMMENDATIONS ARISING FROM SPECIAL INVESTIGATION

Report By: Head of Planning Services and Head of Highways and Transportation

Wards Affected

None

Purpose

1. To provide the information requested by the Committee

Financial Implications

2. None directly arising from this report.

Report Details

3. At the meeting on 19th October, 2007 details were requested on the completion or otherwise of the implementation of the recommendations in Planning Services and Highways and Transportation.

- 3.1 The information is as follows:

- 3.2 Planning Services

- 3.3 Development Control – Approximate annual income £1.2m.

Full arrangements are in place to check that income banked appears on the relevant Cedar code. These checks have been backdated to 1 April, 2006. Cheques are banked three times per week.

- 3.4 Building Control – Approximate annual income £0.75m.

Full arrangements are in place as above. Cheques are banked daily.

- 3.5 Planning Policy/Conservation – Approximate annual income £25,000.

Full arrangements are in place as above. Cheques are banked on average once a week.

- 3.6 The delay in providing this information centres around the recent transfer of the Planning Services front office to the Customer Services Teams/Info in Herefordshire. This process has been successful in meeting the strategic aims and objectives of the Council. Detailed procedures have now been put in place to ensure, in particular that,

(a) all payments for applications are made directly to the Hereford Centre;

Further information on the subject of this report is available from Andrew Ashcroft, Head of Planning Services, on (01432) 383098 or Pele Bhamber, Head of Highways and Transportation on (01432) 260780

- (b) appropriate and speedy measures have been put in place to deliver planning applications (and the associated cheque) to the Planning Services back office; and
- (c) appropriate training has been given to Customer Services Officers in Info in Herefordshire to identify planning applications, and the importance of maintaining the connection between the application and the cheque at the first handling stage.

3.7 Highways and Transportation

Full arrangements are in place to check that income banked appears on the relevant Cedar code. These checks have been backdated to 1 April 2006. Cheques are banked three times per week.

3.8 Transportation

Searches – Approximate annual income £5k.

Sale of Publications – Approximate annual income £1k.

Courses – Approximate annual income £20k.

3.9 Streetscene

Skip/Scaffold Licences/H bars – Approximate annual income £20k.

3.10 Parking

Parking Income – Approximate annual income £2m.

- 3.11 The delay in providing this information centres around, in part, changes in personnel and the previous lack of robust procedures and clear responsibility for reconciling this information. The change in management roles implemented earlier this year has sought to rectify this position. The Service Development Manager is in the process of reviewing financial monitoring and recording procedures and rectifying any shortcomings in existing procedures to make them more robust.

Risk Management

The special investigations in 2005/06 identified a risk that Council monies were not being accounted for in line with Financial Regulations.

RECOMMENDATION

It is recommended that the report be noted.

REVIEW OF THE SCHEME OF DELEGATION, BUDGET AND POLICY PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES

Report By: Director of Resources

Wards Affected

None.

Purpose

To formally refer proposed revisions to the Constitution to the Audit & Corporate Governance Committee for consideration in line with the resolution made by Council on 2nd November 2007.

Financial Implications

There are no financial implications arising as a direct result of this report. Enhancements to the corporate governance framework and greater compliance with it will ensure that the Council optimises its use of resources.

RECOMMENDATION

THAT: the Audit & Corporate Governance Committee considers how it wishes to review the proposed amendments to the Constitution presented to Council on 2nd November 2007.

Reasons

To advise the Constitution Review Working Group of any further amendments to the revised Scheme of Delegation, Budget and Policy Framework Rules, Financial Procedure Rules and Contract Procedure Rules the Audit & Corporate Governance Committee considers appropriate.

Considerations

1. Council received revised Constitution documents on 2nd November in line with the agreed timetable for implementing the action plan that accompanied the Director of Resources' special report on financial governance issues in ICT & Customer Services. Council resolved to refer them formally to the Audit & Corporate Governance Committee and the Standards Committee prior to consideration by the Constitution Review Working Group. The Council further resolved to hold a member seminar on the proposed changes prior to the next scheduled Council meeting when the documents (as revised) would be considered.

Further information on the subject of this report is available from
Mrs Sonia Rees, Director of Resources on tel: (01432) 383519

2. As overall guardian of the Council's Constitution, the Monitoring Officer shall shortly establish the timetable for implementing the Council's resolution on revising these four elements of the Constitution. This information was not available at the time of drafting this report. A verbal update may be available at the meeting.
3. The four documents run to some 80 pages in total and cover a wide range of procedural issues so review by the Audit & Corporate Governance Committee is likely to be a time consuming task. Starting work on this task at the earliest opportunity is therefore highly desirable to ensure that the Committee's input is ready by the date the Monitoring Officer requests it.
4. The Committee is next scheduled to meet on 17th December 2007. It is suggested that the Committee finalises its feedback on the proposed documents at this meeting. The independent review of the financial governance issues in ICT & Customer Services is expected by the end of November so this timetable allows the Committee to consider any observations Mr Crookall may have to make on the documents presented to Council on 2nd November 2007.
5. Other comments and suggestions have already been invited and received on the documents presented to Council on 2nd November. A member of the Committee has provided the Director of Resources with detailed comments that will undoubtedly improve the clarity and style of the documents if agreed by the Committee. The Audit Commission considers the documents to be 'fine' following a very high level assessment of them and has provided some initial comments that the Committee might like to take on board. The Audit Commission has stated its willingness to assist further if required.
6. It is suggested that the Committee considers having an informal meeting to review the documents presented to Council on 2nd November 2007 to take place by the end of November. The Director of Resources can facilitate this and prepare a further report for the Audit & Corporate Governance Committee meeting scheduled for the 17th December.

Risk Management

The proposed revisions to the financial governance elements of the Council's Constitution are designed to:

- a) Mitigate the risk of non-compliance with financial policies and procedures.
- b) Optimise the use of resources.

Background Papers

Attached are the revised Scheme of Delegation, Budget and Policy Procedure Rules, Financial Procedure Rules and Contract Procedure Rules as presented to Council on 2nd November 2007.

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:

- 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.

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.

REVISED AUDIT PLAN 2007/08**Report By: Audit Services Manager****Wards Affected**

County-wide.

Purpose

To submit a revised Audit Plan for 2007/08 to the Audit and Corporate Governance Committee.

Financial Implications

None identified.

RECOMMENDATION

THAT Subject to any comments from the Audit and Corporate Governance Committee, the revised Audit Plan for 2007/08 be approved.

Reasons

Preparation of an Audit Plan represents best practice as required by the CIPFA Code of Practice for Internal Audit. Under the Code of Practice, the Audit Services Manager is required to report to the Audit & Corporate Governance Committee significant matters that might jeopardise the delivery of the original Audit Plan or require changes to it.

Considerations

1. Audit Services has a significant role to play in ensuring that the Council meets its obligations under the Accounts and Audit Regulations and in the compilation of the Council's annual Statement on Internal Control. Audit Services work also makes an important contribution to the Council's Use of Resources assessment. Limiting the Council's vulnerability to fraud and corruption and adhering to financial controls are key lines of enquiry in this assessment. The first call on audit resources will always be from the corporate governance and internal control perspective although the skills inherent within the team can and do positively contribute to other corporate initiatives.
2. The Accounts and Audit Regulations 2003 (as amended) established that a relevant body must *maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper practice in relation to internal control*. The guidance accompanying the legislation states that, for principal local authorities, proper practice in relation to internal control is as set out in the CIPFA Code of Practice for Internal Audit.

Further information on the subject of this report is available from
Tony Ford (Audit Services Manager) on 01432 260425

3. The Code of Practice for Internal Audit in Local Government in the United Kingdom (2006) states that *“the Head of Internal Audit should prepare a risk-based audit plan designed to implement the audit strategy. In preparing the plan, the Head of Internal Audit should take account of the adequacy and outcomes of the organisation’s risk management, performance management and other assurance processes”*.
4. The Code also states that *“the plan should be fixed for a period of no longer than one year. The plan should outline the assignments to be carried out, their respective priorities and the estimated resources needed.”*
5. The original Audit Plan for 2007/08 was approved by the Audit & Corporate Governance Committee on 13th April 2007.
6. The original Audit Plan for 2007/08 was prepared following an assessment of the audit risk in the following areas:
 - a) Fundamental systems.
 - b) Non - fundamental systems.
 - c) Corporate governance arrangements (including anti-fraud policies).
 - d) Performance management / Best Value Performance Indicators.
 - e) Risk management arrangements.
 - f) ICT protocols and controls.
 - g) Establishment visits.
 - h) Verification and probity reviews.
7. Each area was assessed for potential risks and classified as having a high, medium, or low audit risk. Within each risk area, consideration is also given to the residual risk for specific functions or establishments based upon previous audit opinions and current knowledge including a review of risk registers at corporate and Directorate levels.
8. A key part of the audit risk methodology is that fundamental systems are always considered a high risk, no matter what their previous audit opinion, as these are critical systems whose failure could cause major disruption or loss of financial control to the Council. Fundamental systems are identified by an analysis of the Council’s last published accounts. Schools that operate their own bank accounts are always considered a high risk due to their level of independence from the Council’s control systems.

9. Compliance with the Council's Standing Orders, Financial Regulations and Scheme of Delegation will be evidenced by planned audit work in the following ways:
- a) Establishment audits review inventories, budget monitoring and control arrangements, procurement and contracts, purchasing and stock control, income, insurance arrangements, voluntary funds and imprest accounts.
 - b) Reviews at Directorate level cover compliance with Standing Orders for the Regulation of Contracts.
 - c) Bi-annual review of the Gifts and Hospitality Register including receipt of written assurances from Corporate Management Board members and all Heads of Service and other Key Managers.
 - d) Fundamental reviews such as those covering Debtors, Asset Register, ICT FMS and procurement, Treasury Management, Creditors and Payroll.
 - e) Reviews of delegation arrangements at Directorate level.
10. With regards to fundamental systems, the Audit Commission's requirements for 2007/08 are currently being ascertained and will be reported to Members when known. The Audit Services Manager will liaise with Directors and Heads of Service to ensure that the Audit Commission's requirements are met in full.
11. The revised Audit Plan for 2007/08 continues to reflect Audit Services' involvement in supporting key corporate priorities such as the Performance Management Framework, Risk Management, Local Public Service Agreements (LPSA), Local Area Agreements (LAA), Herefordshire Connects and the Public Service Trust.
12. Appendix 1 shows the detailed revised Audit Plan for 2007/08. The key changes are outlined below:
- a) **Corporate** – the increase in time spent supporting the Audit & Corporate Governance Committee reflects the additional meetings being held to monitor progress with the Director of Resources' special report. Local Area Agreement work has been reduced to the actual days taken to audit and sign off the grant claim.
 - b) **Non Fundamental Systems** - there has been a reduction in overall hours in this area. Systems not audited this year will be given priority in 2008/09.
 - c) **Follow up Work** – the number of audit days allocated to this area have been increased to take account of a revised audit risk assessment.

- d) **Project Management** - work within this area has been deferred to 2008/09 bearing in mind the work already carried out and planned in response to the financial governance issues identified in ICT & Customer Services.
 - e) **Risk Management** - the review of the Council's overall approach to risk management is in progress. Planned audit work on Business Continuity has been deferred as it is felt that the Risk Management review will cover the key aspects.
 - f) **Anti Fraud** – Regeneration Development and Housing Renovation Grants audit work has been deferred to 2008/09.
 - g) **Contracts** - work within this area has been increased from the planned 42 days to 207 days, with 150 of these days being attributed to the audit work related to the ICT Use of Contractors review and a subsequent review of the Customer Relationship Management contract. Unplanned work was carried out in relation to the Jarvis contract, the results of which will be reported following agreed protocols once the audit report has been finalised.
 - h) **Delegations** - the emphasis of the review has been changed to look at Directors' responsibilities.
 - i) **ICT** - audit work will be linked to the ISO 27001 accreditation. Audit Services will be working with IT staff on follow up work within the areas of team compliance, physical security and 3rd party management.
 - j) **Schools** - planned audit time has been increased to take account of the Department for Children, Schools, and Families Toolkit requirements. It allows for the introduction of a completely new audit programme, new checklists, training for primary schools, and further development of the Toolkit in a small primary school as a pilot for other small primary schools.
 - k) **Verification and Probity** - the time added relate to unplanned work so far this year. Twenty days have been added to cover the review of Schools Sports Co-Ordinator grant claims for two Secondary Schools. Twenty four days were added for Drug Forum related work. A further 40 days have also been added to cover additional work related to ICT.
13. In summary some 258.50 days of planned work have been deleted from the Audit Plan for 2007/08. It is anticipated that this will not have an adverse impact on the audit work required for the Audit Services Manager to give an audit opinion on the Council's system of internal control as additional work has been done to compensate.
14. Of the 425 days added to the Audit Plan, 170 days relate to additional work linked to the ICT Service area and can be summarised as follows:

Audit	Additional Days
Use of Contractors	100
Customer Relationship Management Contract	30
ICT Petty Cash	5
ICT Expenses no.1	25
ICT Expenses no.2	10
Total	170

15. Subject to budget considerations, the total additional 166.5 days (425 days – 258.5) will have to be covered by additional temporary staff.

Audit Planning for 2008/09

16. The Director of Resources and Audit Services Manager have been working with colleagues in the Herefordshire Primary Care Trust to develop a joint approach to audit planning (both external and internal) and delivery of internal audit services. A joint internal Audit Plan will be developed for 2008/09. The intention is to provide the internal audit teams with the opportunity to carry out audits across both organisations.

Risk Management

There is the risk that the Audit Plan is not completed. The key control measure will be monthly progress reports to the Director of Resources and progress on the Audit plan will form part of the Interim Assurance Report to the Audit and Corporate Governance Committee. If required temporary resources will be brought in as cover.

BACKGROUND PAPERS

The Code of Practice for Internal Audit in Local Government in the United Kingdom (2006).

AUDIT AREA	ORIGINAL	DEFER	ADD	REVISED
Administration & Management				
Bench Marking	5.00			5.00
General	57.00	22.00		35.00
Customer Liaison	20.00			20.00
Audit Manual	15.00			15.00
Management	45.00	5.00		40.00
Health and Safety	5.00			5.00
Directorate Management Team	17.00			17.00
Hereford & Worcester Audit Group	4.00			4.00
Tardis	10.00			10.00
Team Briefings	52.00	5.00		47.00
IT Problems and Delays	10.00			10.00
	240.00	32.00		208.00
Staff Review and Development				
SRDs	20.00			20.00
Training	75.00			75.00
	95.00			95.00
Leave				
Special	10.00			10.00
Bank Holiday	80.00			80.00
Annual Leave	274.00			274.00
Sick	70.00			70.00
	434.00			434.00
Corporate				
Audit & Corporate Governance Committee	65.00		10.00	75.00
Public Service Trust	60.00			60.00
Statement on Internal Control	20.00			20.00
Herefordshire Connects	50.00			50.00
Use of Resources	20.00			20.00
LPSA/LAA	25.00	15.00		10.00
Diversity	10.00			10.00
GEM	10.00			10.00
Contingency	32.00			32.00
	292.00	15.00	10.00	287.00
Non-Fundamental Systems				
Recruitment & Selection	17.00	17.00		0.00
Sure Start	22.00	22.00		0.00
Income from Trade Waste	12.00	12.00		0.00
Penalty Charge Income	20.00			20.00
Planning Fees & Charges	12.00	12.00		0.00
Section 31 Agreements	20.00			20.00
Members' Expenses etc	15.00			15.00
Payments to Independent Providers	17.00			17.00
Managing Attendance	12.00	12.00		0.00
Lifelong Learning	0.00		11.00	11.00
Agency Payments -Adult Services	0.00		10.00	10.00
Management of Property	0.00		20.00	20.00
	147.00	75.00	41.00	113.00

AUDIT AREA	ORIGINAL	DEFER	ADD	REVISED
Recommendation Follow up				
Section 106	6.00			6.00
Anti Money Laundering	6.00		4.00	10.00
ICT FMS & Procurement	10.00			10.00
Planning Fees & Charges	0.00		5.00	5.00
Markets Fees and Charges	5.00		5.00	10.00
Homecare Payroll	5.00	5.00		0.00
Car Loans	0.00		2.00	2.00
Control of ID Cards	0.00		12.00	12.00
	32.00	5.00	28.00	55.00
Project Management				
Project Management	20.00	20.00		0.00
	20.00	20.00		0.00
Risk Management				
Risk Management	20.00			20.00
Business Continuity	10.00	10.00		0.00
	30.00	10.00		20.00
Performance Management				
Performance Management	20.00			20.00
Best Value Performance Indicators	50.00			50.00
	70.00			70.00
Anti Fraud				
Travel & Subsistence	20.00			20.00
Employee Register of Gifts & Hospitality	10.00			10.00
Regeneration & Development Grants	15.00	15.00		0.00
Housing Renovation Grants	20.00	20.00		0.00
National Fraud Initiative	15.00			15.00
	80.00	35.00		45.00
Contracts				
Waste Contract	12.00			12.00
Contract Letting-Environment	10.00		15.00	25.00
Adult and Community	10.00	10.00		0.00
Chief Executives	10.00	10.00		0.00
Customer Relationship Management - Contract			30.00	30.00
Use of Contractors ICT			120.00	120.00
Jarvis Contact			20.00	20.00
	42.00	20.00	185.00	207.00
Delegations				
Delegations - Environment	10.00			10.00
Delegations - Corporate & Customer Services	10.00	10.00		10.00
Delegations - Directors' Responsibilities	0.00		10.00	10.00
	20.00	10.00	10.00	20.00
ICT				
Physical Security - Remote Sites	10.50	10.50		0.00

AUDIT AREA	ORIGINAL	DEFER	ADD	REVISED
ISO 27001 - Team Compliance Checks	0.00		22.00	22.00
ISO 27001 - Physical Security	0.00		15.00	15.00
ISO 27001 - 3rd Party Management	0.00		10.00	10.00
Business Continuity	10.50	10.50		0.00
Telephone - Audit Recommendations follow up	5.50			5.50
CAPS Audit Recommendations follow up	4.50			4.50
E-POP Cedar E-Purchasing	10.50			10.50
TALIS - Audit Recommendations follow up	5.50			5.50
MVM & Planning 20/20 - Audit Recommendations follow up	5.50			5.50
Adult Services - CLIX System Controls	5.50			5.50
Adult Services - Homepoint System Audit Recommendations follow up	5.50			5.50
Payroll System - Access Control	8.50			8.50
Creditor System Access Control	8.50			8.50
CT/HB/NDR - Access Controls	10.50			10.50
ICT Gap Analysis and Backup and Recovery	15.50	15.50		0.00
General Ledger - Interfaces	10.50			10.50
	117.00	36.50	47.00	127.50
Schools				
Schools High (14)	280.00			280.00
Schools Primary (16)	208.00		32.00	240.00
Primary School Toolkit Project	0.00		15.00	15.00
School Meals - Bodenham	0.00		7.00	7.00
Toolkit Audit Programme/training	0.00		50.00	50.00
	488.00		104.00	592.00
Fundamentals				
FMS System	28.00			28.00
Bank Reconciliation	28.00			28.00
Treasury Management	23.00			23.00
Asset Register	23.00			23.00
Salaries	33.00			33.00
FMS - Schools	28.00			28.00
Salaries- Schools	33.00			33.00
Sundry Debtors	23.00			23.00
Non Domestic Rates	33.00			33.00
Council Tax	33.00			33.00
Housing Benefit	38.00			38.00
Cash and Deposits	28.00			28.00
Creditors	28.00			28.00
Supporting People	28.00			28.00
FMS -ICT	28.00			28.00
Early Years	23.00			23.00
School Transport	23.00			23.00
	481.00			481.00
Verification and Probity				
Schools Sports Co-Ordinator - Whitecross School	0.00		10.00	10.00
Schools Sports Co-Ordinator - Minster College	0.00		10.00	10.00
ICT Petty Cash	0.00		5.00	5.00
Drugs Forum - Partnership Management	0.00		12.00	12.00

AUDIT AREA		ORIGINAL	DEFER	ADD	REVISED
Drugs Forum Management		0.00		12.00	12.00
ICT Expenses Investigation no 1		0.00		25.00	25.00
ICT Expenses Investigation no 2		0.00		10.00	10.00
Children's' Grant		0.00		5.00	5.00
		0.00		89.00	89.00
TOTAL		2588.00	258.50	425.00	2754.50

INDEPENDENT REVIEW OF ICT AND THE COUNCIL'S FINANCIAL AND CONTRACTUAL ARRANGEMENTS

REPORT BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

AUDIT AND CORPORATE GOVERNANCE COMMITTEE

16TH NOVEMBER 2007

Wards Affected

County-wide

Purpose

The purpose of this report is to outline to Audit and Corporate Governance the content and to consider the outcomes and recommendations of the Independent Review into ICT Services carried out by Mr Ian Crookall, who was nominated by the Chief Executive of the Local Government Association.

Financial Considerations

The full cost of the independent review is likely to be in the region of £10,000.00

There will be ongoing costs in respect of the recommendations from the report in commissioning further work from other providers and additional reports from officers as set out in the action plan at Appendix 2.

Recommendations

- THAT (a) the Independent Review report is noted and the recommendations endorsed; and**
- (b) the action plan in response to the Independent Review report be endorsed as set out in Appendix 2;**

Reasons

The Cabinet at its meeting of the 20th September 2007 received the Special Investigation Report dated 20th September 2007 from the Director of Resources in respect of the Financial Governance in ICT and Customer Services. The Cabinet resolved to commission an independent review to be carried out by a person nominated by the Local Government Association and for the Head of Legal and Democratic Services to agree the Terms of Reference together with the Leader of the Council.

Considerations

1. Mr Ian Crookall, previously Chief Executive of Buckinghamshire County Council, was nominated by the Local Government Association and he agreed his Terms of Reference with the Head of Legal and Democratic Services which were finalised on the 15th October 2007 with the Leader of the Council and the Chair of Audit and

Corporate Governance Committee

2. The Terms of Reference allowed for Mr Crookall to review and request any additional support to carry out the independent review. Mr Crookall was supported during part of the review by a former Section 151 Officer in relation to some aspects of the review as well as officers of the Council
3. The Report is attached at Appendix 1.

Risk Management

There are legal and probity risks for the Council in not endorsing the recommendations of the review report. If the Council does not have robust and workable processes in place to support officers and members then future contractual arrangements will be called into doubt and may be subject to legal challenge.

Appendices

Appendix 1 Independent review report of Mr Ian Crookall dated 9th November 2007.

Appendix 2 Action Plan responding to the recommendations set out in the review report.

Background Papers

None identified

**INDEPENDENT REVIEW OF
HEREFORDSHIRE COUNCIL'S ICT FINANCIAL AND
CONTRACTUAL GOVERNANCE ARRANGEMENTS**

Ian Crookall

9th November 2007

Preface

This report attempts to give an overview of events which have taken place from 2003 to date as the Council has updated its Information and Communication Technology (ICT). The areas I have been asked to cover are extensive;

1. The events cover a period of some 4 years.
2. Specialist areas such as technological procurement and the financing of major projects have been considered.
3. This report gives a broad overview describing and placing important events in context focussing on key issues but not neglecting important detail.
4. Where appropriate individual behaviour and conduct has been assessed and evaluated.

I have been working to a tight timescale to deliver an early report.

In particular, I have acted both as an external reviewer and through the eyes of someone with considerable experience in and knowledge of local government management and culture. I have attempted to ignore the benefits of hindsight and concentrated on viewing events as they were at the time through the experience of those involved.

I have not attempted to re-write or repeat previous reports. I have drawn on them and the notes which have been taken of my interviews with those closely involved. I have presented events and data in a slightly different way to try to make events clearer for those who read this report and undertaken some further research and analysis to understand some complex issues

My report is in four parts. The first part sets the scene and describes the events which have taken place. The second section addresses directly and specifically each of the issues which I have been asked to consider. The third section contains some suggestions as to the way forward for the Council, and the final section is an executive summary with a schedule which summarises my conclusions.

This report addresses disciplinary and personnel issues which are exempt business. I have addressed these issues, but I have included them in a supplementary report to preserve confidentiality in view of the Council's duty of care to past and present employees, and to protect the Council's legal position.

I am indebted to all those whom I have interviewed for their co-operation in what for them has been a very difficult time. I am also grateful and wish to place on record my appreciation to many officers of the Council who have sought out papers for me and who have assisted me to understand the issues.

I hope that the report will provide the means whereby Herefordshire Council can resolve issues of accountability and responsibility and be able to move the Council forward in the knowledge that the recommendations I make will provide a realistic foundation on which to avoid future difficulties of this nature.

I have been greatly assisted by the advice of Mr Martin Shefferd, a former Section 151 Officer, in respect of financial best practice. Needless to say the responsibility for the analysis and opinions set out in this report are mine.

Part 1 - Introduction, Context and History of Events

1. The issues which I have been asked to consider relate to a period of nearly four years. They relate to contractual, managerial and financial matters so I think it is helpful to give a brief overview of events.
2. In 2002/3 the Council recognised that its Information and Communications (ICT) infrastructure required significant improvement. There was a wide range of issues which caused concern and they can be summarised as follows:
 - a) Poor service delivery to the departments of the Council
 - b) Separate IT networks and sections within the Council
 - c) Poor security and back up arrangements with a high level of risk
 - d) A period of interim management and temporary contracts
 - e) Skills shortages amongst ICT staff
 - f) Low morale amongst staff
 - g) A lack of vision as to future role of ICT in delivering improved services
 - h) High cost of service when benchmarked with a view to making financial savings
3. In August 2003, following a recruitment process involving external consultants, a Head of ICT (later designated Head of Information, Technology and Customer Services) was appointed, accountable managerially to the Director of Policy & Community (now Director of Corporate & Customer services). The new appointee's experience had been with ICT companies and she had no previous experience in Local Government.
4. The Head of ICT embarked on a programme of change. The ICT management team was revamped, clients were more effectively engaged, programmes of training and staff development focussed on the ICT business needs were introduced, and disaster recovery and security of data were improved.
5. As part of this process, the ICT unit entered into eleven major contracts with external ICT suppliers and many individual contractors, some on a long-term

basis, were employed to implement new systems. The issues with which this report is concerned relate primarily to two major contracts which are:

- a) The contract for a back office system (BOP) for the ICT department at an approved cost of £464k
- b) A Council wide contract for a voice and data network system at an evaluated cost of £5.94 million known as the Community Network Upgrade (CNU).

FINANCIAL AND CONTRACTUAL ARRANGEMENTS

6. It may be helpful to set out briefly the main rules which the Council has adopted when entering into contractual commitments with financial consequences. It is the responsibility of Directors to operate within the approved budget and inform the Director of Resources if there are likely to be significant changes impacting on the Council's finances. In particular, any report for a capital project shall contain specific details about its cost and impact. All projects in excess of £250K must be reported to and approved by the relevant Cabinet Member and projects in excess of £500K must be approved by Cabinet.
7. The process for awarding contracts has two objectives, namely:
 - (a) to secure the best possible value for money; and
 - (b) to show that the procurement is demonstrably free from impropriety.
8. Each Director is authorised and required to manage their Directorate's contracting arrangements. The approved Contracting Code of Practice envisages a Tender Invitation Panel to conduct the tendering exercise; a Tender Opening Panel whose purpose is self-explanatory; and a Tender Evaluation Panel to bring appropriate expertise and experience to bear in deciding which tender to accept. The Code deals with such matters as not accepting the lowest tenderer and the need to maintain records, which is the responsibility of the Contracts Monitoring Officer in each Directorate. The Council aims to use a specific methodology (PRINCE 2) for managing projects.

9. The Code of Practice also provides for the appointment of a corporate Contracts Panel, on which each Directorate is represented and which is expected to report annually to the Directors on the operation of the Code of Practice and maintain a procedures exception register in which variations from the Code are reported. These requirements, supplemented by any further guidance, provide the framework for letting contracts.

THE BACK OFFICE PROJECT (BOP)

10. The Head of ICT proposed the acquisition of a system which would improve the management of the division. The project was designed to focus on better performance information such as the speed of response to Help Desk queries, improved knowledge of ICT assets like desktops, better procurement of goods, managing employee issues such as training, and being the Division's financial information system. This is known as the Back Office Project (BOP).
11. The project started in summer 2004. An external evaluator was appointed; a project definition and business case was prepared which envisaged expenditure of £500K to be funded by ICT Service efficiencies; an invitation to tender and statutory advertisements were issued; the Information Policy Group, (responsible for assessing and evaluating ICT proposals), was informed and agreed the proposal, although with some concerns; two compliant tenders were received; the Head of ICT registered previous employment with both potential contractors; and a process of assessment scoring and evaluation took place.
12. On 23rd December 2004, in a memorandum to the Cabinet Member for Human Resources and Corporate Support Services (now Cabinet Member, Corporate & Customer Services and Human Resources), the Chief Executive and the Director of Policy & Community recommended that a contract be awarded at a cost of £464K over five years. The Head of ICT referred to the fact that the system could displace existing Council-wide systems over time. She also repeated her earlier statement that she had been previously employed by the preferred contractor.

13. The Cabinet Member, following a discussion with the Director, approved the proposal and the contract was signed immediately. The system was due to begin implementation in 2005 and it appeared from contemporaneous reports that the project in ICT was likely to be used as a pilot with a view to assessing whether the extended use of the system could be applied more widely within the Council.
14. The system was reported as being successfully implemented in August 2005 with specific examples of improved performance being identified. A project report in December 2005 set out the areas of achievement and issues still to be addressed, identifying the cost at £860K plus hardware costs.
15. The BOP system managed the ICT Division's financial information and it was a critical requirement that there should be successful integration with the Council's main financial system managed by the then County Treasurer. The Audit Services Manager assessed the interface between the two systems in July 2005 and advised that the specifications and procedures were available to transfer data and recommended a number of steps to make sure that this was done.
16. There have been ongoing problems in seeking to ensure the compatibility of the two financial systems. These have been the issues:
 - a) In October 2006 the Audit Services Manager reported that the BOP system was considered unsatisfactory because no budgets had been set, payment control was inadequate and the reconciliation between the central system and the BOP was poor.
 - b) Considerable resources, both in terms of external consultancy advice and from the accountancy staff within the Resources Directorate have been focused on achieving compatibility and accuracy for the two systems.
 - c) There is no accurate information of the exact cost involved in implementation but it is substantially more than the initial reported cost of the system (£464k).

17. However in August 2007 the interface is considered to be generally satisfactory, although a fresh assessment is planned.

THE AWARD OF THE CONTRACT FOR THE COMMUNITY NETWORK UPGRADE (CNU)

18. The Council recognised in 2003 that significant investment in its ICT infrastructure was needed. The aim was to upgrade the corporate electronic voice and data network, reduce risk by providing better business continuity and disaster recovery and improve corporate document management. These steps were designed to underpin better access to services by users, leading to improved customer satisfaction. A total cost of £7.65M over four years was identified and the Council made initial provisions in its budget for 2004/5.

19. The contracting process was commenced in the summer/autumn 2004 with a project team being established, led by Head of ICT. Legal and audit representatives were involved. A specialist ICT external evaluator was appointed to provide advice on procurement. Statutory notices were issued; expressions of interest were invited; a shortlist from which tenders were invited was created and an evaluation took place. Following discussions with the external evaluator and internal audit, three tenderers went forward for final evaluation. There was a detailed evaluation exercise scoring all three tenders and a contractor was recommended as the preferred contractor for further negotiation by both the internal evaluation team and by the external evaluator at an evaluated cost of £5.94M. The external evaluator expressed concerns about the clarity of the Council's intentions and this is referred to in more detail in the next section of this report.

20. A report was made to the then Chief Executive's Management Team on the 1st March 2005, with a schedule of funding requirements, a presentation was made to the Leader's Briefing on 3rd March 2005 and further financial data was presented to the County Treasurer on the 13th March 2005 by the Head of ICT. Two reports were approved at the Cabinet Meeting on the 24th March 2005, one seeking approval to the proposed direction for the new network and

the second by the County Treasurer seeking approval to a further £500K being provided for the ICT network. The contract was signed on 31st March 2005.

21. The project was started and a report in August 2005 reported that there had been:

- a) Significant planning.
- b) A challenging programme of change with clearly defined targets.
- c) Implementation was supported by the experience of the contractor.
- d) The system was substantially implemented.

22. However, one of the features of both the BOP and CNU projects is that there have been substantial costs incurred for consultancy advice and assistance. In some cases this has been by engaging individual contractors on long-term placements into the ICT division. They have been regarded as the equivalent to employees but are not on the payroll of the Council; they are remunerated as contractors. Some of the costs have been substantial and there are personnel issues arising from this form of engagement. Many of the costs of these contractors have not been allocated specifically to the implementation of either of the two main contracts so it has proved difficult to assess the cost of implementation of each contract. There is a current audit report in preparation on the use of contractors in these circumstances and the process by which they are engaged.

THE SCRUTINY OF ICT SERVICES

23. The Strategic Monitoring Committee commissioned a scrutiny review of ICT services. A wide range of staff, service users and external representatives were interviewed to contribute to this review. The Committee reported in November 2006. The Committee reported favourably on the network strategy and progress that had been made in reducing security incidents. The Council was pursuing ISO standards, disaster recovery had improved, staff were knowledgeable and competent and improvement in performance was occurring. In particular, benchmark data commissioned from independent consultants suggested value for money was being obtained. There were

however causes of concern about services to schools, the clarity of the costs and the level of service which ICT provided to other Directorates.

24. The financial data supporting the review demonstrated the considerable investment which had been made in ICT. Between 2004/5 and 2005/6 capital expenditure had increased from £10.79M to £13.45M and the expenditure on the ICT trading account had increased from £4.85M to £6.75M. This latter increase in expenditure may have been a contributory factor to the £849K deficit on the trading account.

THE HEAD OF INFORMATION, TECHNOLOGY & CUSTOMER SERVICES (ITCS)

25. The Head of ITCS was employed from the 26th August 2003 until the 31st July 2007. She was appointed following a recruitment exercise undertaken by an external recruitment consultant. The Head of ICT had considerable private sector experience in implementing ICT systems. She reported to the Director of Policy & Community.

26. The Head of ITCS led the process of addressing the Council's ICT weaknesses. She led the contracting processes in relation to both the BOP and CNU projects.

27. In June 2006, the Chief Executive decided to second the Head of ITCS into the role of Change Manager in relation to the Herefordshire Connects Programme. The Chief Executive set out the purpose of this secondment in a letter to the Head of ITCS in which he highlighted the purpose of and approach to be taken to developing the change management initiative. He copied that letter to the Director of Corporate & Customer Services indicating that the latter would continue to have managerial responsibility, although some aspects of the reporting lines were acknowledged to be ambiguous.

28. Shortly after the start of the secondment, as a result of external advice, the Chief Executive decided to remove her from the role of Change Manager,

reverting to her former role of Head of ITCS. I set out more details of this in the confidential section of my report.

THE SPECIAL REPORT BY THE DIRECTOR OF RESOURCES (SECTION 151 OFFICER)

29. The Cabinet received a special report by the Director of Resources in her capacity as Section 151 Officer on the 20th September 2007 in relation to financial governance issues in ICT and Customer Services which had given cause for concern for some time. The Section 151 Officer has specific responsibility to provide for the proper financial administration of the Council and has been given extensive powers by the Council to obtain documents and to investigate issues of concern.

30. The concerns can be summarised as follows:

- (a) the difficulty encountered in transferring a service based accountant within the ICT Division to the Resources Directorate in line with a senior management decision
- (b) an overspend on the ICT trading account for the year 2005/6 of £849K
- (c) the difficulty in establishing a correct financial position for the ICT Division for the year 2005/6
- (d) payments which had been treated as capital items which were revenue expenditure, necessitating adjustments to the Council's accounts before they could be approved by the external auditor
- (e) concerns about the BOP system and the use being made of external contractors where documentary evidence of compliance with Council procedures was missing or proving difficult to obtain
- (f) concerns about how the advice from the external evaluator had been applied in the CN contract evaluation.

31. The Director of Resources drew attention to the implications for the Council; it was likely to affect the Audit Commission's view about the Council's use of resources and had implications for the reputation of the Council. An Action

Plan attached to the report has been agreed by both the Corporate Management Board and the Cabinet.

32. The brief which has been given to me is set out in the Terms of Reference at Appendix A which were finalised by the Council's Monitoring Officer in consultation with me. I have taken the advice of the Monitoring Officer on the manner in which this report is presented, to take account of legal issues which may affect the council or individuals. In normal circumstances the Chief Executive would report on these matters directly to the Council. However, in view of the fact that these matters relate to the Corporate & Customer Services Directorate, of which his wife is the Director, the Chief Executive and the Leader considered that it was appropriate for an externally appointed person to provide advice to the Council. I was requested by the Chief Executive of the Local Government Association to undertake that role and the next section of my report sets out my findings and advice in relation to the matters which I have been asked to consider.

Part 2 Response to each Term of Reference of the Review

33. In this section of the report, I propose to address each of the Terms of Reference. Before doing so, it may be helpful to understand what happened if I describe some features of how the Council appears to work and which are significant in the events which have occurred. These features are:

- a) **Culture and Values** – Members and officers placed trust in each other and had confidence in what was being done – it led to a consensual style of working which limits the degree of challenge.
- b) **Procedures and Protocols** – The Council has an impressive range of procedures which are not followed by everyone, partly because they are not easily accessible or understandable. There appears to be little or no sanction for those who do not comply. This is reflected by the approach to performance management.
- c) **Organisation** – A high level of freedom and responsibility is given to Directors and this is reflected in central/corporate services being devolved and reactive rather than influential and pro-active, especially when issues which presented risks to the Council are concerned.
- d) **Communication** – These events have demonstrated that robust and open debate about important issues has not occurred leading to inappropriate channels of communication being adopted.

34. These factors can lead to a situation where poor performance in not following accepted standards was permitted because individual officers who may have had reservations did not challenge colleagues. These observations may help to create an understanding of some of the events which have occurred.

35. I propose to deal with each Term of Reference in turn.

36.(i) To examine the evidential base on which the conclusions set out in the Section 151 Officer's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports

themselves, which steps have been endorsed by the Corporate Management Board and set out any additional remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.

37. I have examined the evidence on which the Section 151 Officer's report was based and there is clear and sufficient evidence to indicate significant problems in the financial and contractual management within ICT. Some of these related to organisational and managerial issues such as the transfer of the service based accountant, which had already been effected. At the time of the Section 151 report, significant steps had been taken to address these issues and the Director of Corporate & Customer Services had already facilitated the necessary changes. The most significant concern relates to contract management and budgeting, where there were serious shortcomings.

38. A special report from the Section 151 Officer is reserved for the most serious breaches of financial governance where the Section 151 Officer considers that remedial action will not be forthcoming without this step. In my discussions with the Section 151 Officer, she clearly believes that, in her professional opinion, the seriousness of the issues and the response she believed would be forthcoming from within the Council were such that it was the necessary and only step which she decided upon after the most careful consideration. There were significant risks relating to the confidential nature of a compromise agreement, and implications for the reputation of the Council.

39. I discussed with the Leader and the Chief Executive their response to the concerns which the Section 151 Officer had expressed. Both indicated to me that they were always open to addressing these issues without the need for the issue of a Section 151 special report. The Chief Executive reminded me that he had previously reorganised the senior management structure to raise the status and profile of the Section 151 Officer because of his desire and support for a more corporate approach to financial management

40. It was clear to me that there was a breakdown of communication in that the Section 151 Officer was not sufficiently assured that the necessary steps would be taken. If there had been a better working relationship between senior officers and members, an alternative approach could have achieved real progress in addressing concerns. The officers whom I have interviewed have stated that there are significant signs of improvement since early April 2007. This was a time when it was clearly possible to direct resources at addressing the financial issues in ICT by both the Director of Resources and the Director of Corporate & Customer Services.

41. I make these comments to set out the context in which a Section 151 Officer special report is issued.

42. The report contains an action plan including twenty-one recommendations. If they are fully implemented and bought into effect by the Council as a whole and acted on, then they will address and provide a robust platform for the future. In particular they will provide assurance to members for the future.

43. However I have identified a number of further steps which the Council may wish to consider. The Section 151 Officer's report has focussed on financial and contractual/procurement issues. However there are other important corporate resources, principally people, property and information, where in the past the focus has been on Directorate management of this resource. My view is that, like financial resources, these resources should be managed more corporately within a council wide strategy and to professional standards, whilst retaining service flexibility to meet local circumstances. These are my additional recommendations for you to consider:

Actions for Consideration	Rationale
1. Consider bringing all corporate resources, including ICT and HR, together within a single Directorate.	Enable the key resources of people, property, finance and information to be managed in a more integrated and consistent manner.
2. Establish a consistent strategic approach to the management and	Facilitate a more corporate approach to the use of these resources; also potential

Actions for Consideration	Rationale
deployment of corporate resources so that common standards are applied throughout the Council.	for efficiencies provided prompt access to advice for front line staff from dedicated staff aware of service needs.
3. Strengthen the role and improve the performance of the Information Policy Group by revitalising its membership with pro-active participants. (Consider making the chair a Director not the line manager of ICT).	IPG should act as the key forum for all ICT investment to ensure it is consistent with the Council's policies and rigorously appraised.
4. Enhance the Audit ICT capacity.	Given the Council's ICT programme, demands on specialist ICT audit skills could stretch existing resources.
5. Develop the role of the Audit and Corporate Governance Committee by further training for members and officers.	It is important that the members of this committee have the skills to appreciate and discharge their important responsibilities. This Committee is an essential part of the checks and balances on the member and officer functions; important markers and trends need to be picked up, especially when repeated concerns are reported.
6. Ensure that all corporate rules, standards and processes are embedded, owned and followed by members and officers throughout the organisation, having first made sure that they are workable.	They need to be widely communicated, accessible and regularly refreshed. Senior managers need to address non-compliance immediately.
7. Develop senior management team-building with the new Chief Executive giving priority to rebuilding the senior management teams.	To develop further open, trusting and corporate working and leadership.
8. Create a better resourced and more pro-active procurement function which might both anticipate important developments and encourage better compliance with the revised contract regulations.	The Council spends a significant proportion of its budget on external contracts and arrangements and these require specialist input from users and technical staff, and as a minimum to include finance and legal staff.

<p>9. To review whether the Service Level mechanisms are the appropriate way for managing corporate resources.</p>	<p>The ICT experience suggests that SLA's did not improve services or control cost. Having different mechanisms for ICT spending meant that there was lack of clarity and transparency in budgeting and in using resources.</p>
<p>10. The Council to revive and refresh the performance management process so that it is effective in highlighting issues to be addressed.</p>	<p>The financial/contracting problems in ICT were not highlighted in normal performance management processes</p>

44. Many of these proposals will require to be viewed in the light of the management approach which the new Chief Executive will bring to the Council

45. (ii) To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which could provide a basis for disciplinary action, to set that out in the report for the Council to consider

46. The management of the Contractual Process need not be too complex. The existing Contract and Financial Standing Orders whilst complex, if implemented and developed, form a framework for Directors to use. There is a requirement to appoint a Contract Monitoring Officer for each Directorate, and they should report to the Director regularly on the contracts which are being let. Directors are also able to specify in what circumstances matters need to be referred to them for approval – for example a Director might wish to approve any contract above a certain figure. Directors can further manage the contracting process by their responsibility to appoint the Tender Invitation Panels and Tender Evaluation Panels.

47. The Contract Standing Orders also provide that there should be a Corporate Contracts Panel which maintains registers of contracts and details when exceptions are permitted e.g. when a tender is accepted other than the lowest or a contract is let without quotations or tenders in the special circumstances permitted. The duty of the Contracts Panel to report annually to the Corporate

Management Board is a means whereby the Board can obtain performance information on which it can act.

48. The evidence suggests that the Contracts Panel has not met for a long time, does not maintain its registers and it is unclear who are the Contract Monitoring Officers. If these arrangements had been in place and operative, they provide a vetting process involving others so that appropriate checks and balances are incorporated into the contracting process. However there is now an opportunity to refresh the system. The recently appointed Strategic Procurement and Efficiency Review Manager and the Head of Legal and Democratic Services, with the support of the Audit Services Manager, might implement a means of recording and monitoring all contractual arrangements, including those about to be entered into. This would enable the Council to identify those areas where high levels of risk are involved so that a project team of appropriate disciplines could be involved. It will also enable patterns of spending and opportunities for better value for money to be identified.

49. My terms of reference ask me to comment on whether there is historic evidence which could provide a basis for disciplinary action. I have considered these matters in the confidential part of my report as they refer to specific individuals. I do consider that there are issues where senior managers of the Council could have acted to exercise a greater degree of control over events. I suggest a course of action which might lead to a disciplinary investigation.

50.(iii) To examine the corporate support, advice and direction offered to Directors, in particular financial and audit support, and legal and contractual support received. To examine in particular the support offered in relation to those matters identified in terms (iv) and (v) below

51. The process for approving ICT projects required:

- a) A business case for a particular project to be presented to the IPG panel for approval. This is a corporate officer group with representatives from Directorates led by the Director of Corporate & Community Services.
- b) Budget approval being obtained by provision being agreed to that item by the Budget panels and then in the Council budget. Any Capital provision was approved by the Cabinet following an officer report about the annual capital programme
- c) Specific approval for projects by the Cabinet member, the Cabinet or a Director depending on the level of cost

52. Financial, legal and audit advice and support were always available to Directors on request. Legal staff issued statutory notices and assisted with contractual provisions; audit staff were consulted on who to include in the final list of tenderers; and audit and legal staff are recorded as being members of the project board for the CNU contract. However corporate support appeared to be dependant on being invited to give it and on being informed.

53. There are circumstances in which officers representing corporate/central services such as finance, personnel and legal have to make it clear to service colleagues that actions need to be undertaken in a particular way or not taken at all. For example, I would expect legal staff to require that the drafting and vetting of major contracts with high levels of expenditure should be undertaken by them; I would expect the County Treasurer's representative at evaluation meetings to state that when a critical financial information system is being installed, there was a requirement that accountancy and audit staff should be involved in its purchase and implementation. The adequacy of the financial content of reports is a subject on which the County Treasurer might insist on certain specific information being set out in order to satisfy himself that the Council's regulations had been complied with so that both he and members have a clear understanding of the spending profile.

54. In the case of both the County Treasurer and the County Secretary & Solicitor, they were not Directors, but were members of the CXMT; perhaps they and their staff did not consider that they had the status, influence or capacity to

express sufficiently and robustly some of the concerns which they clearly had at the time.

55. However there is clear evidence that in a number of matters key corporate areas, staff were excluded or prevented from exercising their role, in some cases by officers who did not feel empowered to respond to their legitimate requests.

56.(iv) To examine the strength the external moderation of contracts and in particular the contracts highlighted in the S151 Officers Special Investigation Report

57. For both contracts, the Head of ITCS employed experienced external moderators whose task was to provide validation of the procurement process and assist in the process of evaluating tenders. This was most important for an ICT acquisition where technical and performance evaluation was critical. I have focussed my assessment on the CNU contract where a specialist firm from Manchester was appointed in November 2004. They made a formal offer setting out their terms and what they would do.

58. The nominated external moderator assisted in setting up the process of evaluation and the method of scoring each proposal. The Council accepted many of his suggestions. As the list of suitable potential tenderers was refined the external moderator drew attention to four key features which he believed needed to figure in the negotiations which were to take place with the final three preferred tenderers. They related to preparing a financial model to test the proposed contract, a detailed implementation plan, a service level agreement about ongoing management and a careful check on the terms of the contract, especially in relation to exit strategies if the contract were to be ended for whatever reason.

59. By late February 2005, it was clear who the Council regarded as the preferred tenderer. The external moderator compared the services which each of the three final tenderers offered and agreed that further negotiations should be

entered into with the Council's preferred supplier. The moderator stated that the Council could take the preferred supplier forward under an accelerated negotiated procurement but re-emphasised the essential need for the negotiations to secure an agreement about the issues previously highlighted. The Council was recommended to be clear with the successful tenderer about its requirements for a managed service, the scope and boundaries of the service, (i.e. who does what), the services to be supplied, and how a managed service might operate. The main reason for these recommendations was to enable the Council to negotiate and clarify these issues whilst there was still a competitive environment i.e. the preferred tenderer did not know whether it would be successful.

60. A particular issue arose with the external moderator following a meeting on the 7th March 2005. He wrote a letter suggesting the postponement of the procurement exercise and that a meeting, including legal advisers, should take place to clarify precisely the Council's intentions and pointing out that the level of risk would not usually be considered acceptable. Some notes setting out concerns were attached to the letter.

61. This elicited a reply signed by an officer reporting to the Head of ITCS dealing specifically with the issues raised on a point by point basis, but containing a statement to the effect that the payment of invoices was being withheld pending the clarification of the matters which had been raised. A meeting held on 18th March 2005 led to the external moderator retracting the letter in full, although repeating his belief that key contractual clarifications were required.

62. I have reviewed the correspondence and the comments made by the auditor. My conclusion is that the external moderator made a professional contribution to the procurement process. This is evidenced in his advice. The fact that he expressed reservations in a manner which led to a critical and challenging response suggests that the firm was prepared to express its view clearly and robustly. The retraction of the letter related to client issues about budgetary and legal matters; but the external moderator repeated his view about the essential need to address the issues which he had previously raised and this remained

on the record for future reference. In my view it is unlikely that a professional firm would risk its reputation, even if the withholding of fees was raised. The issue which is most regrettable is that the concerns set out in the letter appear not to have been raised with or referred to either legal or financial staff within the Council. This would appear to be the obvious course of action, rather than a response which dismissed the concerns.

63. (v) To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.

64. There is concern that the reports which authorised the two acquisitions were inadequate. The Council requires reports about capital projects to contain:

- a) The estimated cost of the proposal.
- b) The phasing of capital expenditure.
- c) The proposed method of financing.
- d) The effect on the revenue estimates in subsequent years.
- e) Any additional staffing requirements.
- f) An assessment of the need for the scheme and its benefits.
- g) Alternative approaches to meeting the need.

65. The BOP was approved by the relevant Cabinet Member following a meeting with the Director of Policy & Community at which the proposal was described as having “greater functionality of more corporate value”. The meeting was informed by the memorandum, rather than a formal report, to the Cabinet Member, Chief Executive and Director outlining the benefits in terms of support for ICT services. The cost was stated to be £464k over a 5 year period based on use for ICT services only. The price was described as competitive since discounts were offered.

66. However, it was also clear from the tender that further potential implementation costs of up to £900k, or maybe less, was envisaged and as later events proved, the cost of implementation and reconciliation was substantial, and substantially exceeded the stated cost.

67. Because the cost of the project was substantial, in my view there is a greater onus on officers to provide justification for their proposals. I would expect a full report with a clear statement identifying how the project was to be financed, the potential cost in later years and the alternatives which might be available. This was missing. In my view the manner of obtaining approval was deficient.

68. The CNU was a substantial commitment involving expenditure in excess of £6m over a period of years. It is not clear from the documents exactly what the cost was. Initial provision had been made in the capital programme for 2004/5 and details of commitments for future years were outlined. By February 2005 the preferred supplier had been identified. A briefing of the Cabinet Member took place on 23rd February 2005, a Leader's Briefing note set out the issues for the 3rd March 2005, but without costings. Internal correspondence at the time identifies a revenue shortfall in 2005/6 and 2006/7 with a need for additional capital funds in later years. The Head of ITCS on 13th March 2005 gave a detailed breakdown of projected costs to the County Treasurer and on the 24th March 2005, two reports were presented to the Cabinet. One was a four page report and schedule from the Director of Policy & Community seeking approval as follows: "investment highlighted in the ongoing budget deliberations be considered for approval". This was, in practice, a commitment to entering into a contract for substantial expenditure. The second report was from the County Treasurer, seeking approval to allocate a further £500k in 2005/6 to the ongoing revenue costs required to support the investment in ICT.

69. I have reviewed the report to assess the adequacy of the information available to the Cabinet. The report itself contains no costings although there is a schedule attached to the report, setting out "Funding Requirements". I have endeavoured to place this schedule in context with the Council's previous allocations for ICT upgrades. I have not been able to reconcile the figures.

70. In summary, important information is omitted; at the very least, I would expect to see the overall contract price specified and alternative approaches more clearly spelt out, especially as there was a substantially lower tender. The reasons for

accepting a higher tender might have been spelt out, although they are recorded elsewhere. The nature of the recommendation could be much clearer in stating precisely that a contract for expenditure amounting to over £6million over several years was being authorised.

71. However it is clear that the number of discussions which had taken place, together with the accompanying report of the County Treasurer, would have reassured members that, even though the report was unclear, adequate financial provision had been made. Whilst the main responsibility for providing appropriate information falls upon professional officers, there is an onus on members to challenge officers about reports that do not provide all the necessary information to support the decision they are being asked to make. Key decisions are a matter public record and accountability. Members should be able to demonstrate that they have made a reasonable decision based on adequate information. I make some further recommendations about this later in my report; however members are not experts in technical fields such as this and I am satisfied that they relied on officer advice.

72. Therefore the report on which this commitment was entered into was not satisfactory.

73. (vi) To examine the wider support to the formal decision-making processes offered through Corporate Management Board (previously Chief Executive's Management Team) and the Information Policy Group (IPG).

74. I will deal firstly with the IPG. The group was chaired by the Director of Policy and Community and had representatives of Directorates on it. Its terms of reference were revised from time to time and its task was to assess projects and decide whether they should be undertaken, to identify risks and opportunities and to provide an oversight of proposed ICT developments, subject to the responsibility of the Head of ITCS for professional management of the service. The Chief Executive informed me that he relied on the IPG to assess and approve projects because of their specialist and technical nature.

75. The discussion on the BOP contract highlighted some of the problems faced by the group, namely late notification and inadequate information. There were clearly reservations about the project and the possible conflict with other Council wide systems, a concern which was justified by later events. However the group authorised the project to proceed.
76. The IPG was also a forum where information could be considered on ICT proposals. Members of the IPG group could report to their Directors on areas of concern, which they may have, about any developments. Given the critical nature of ICT systems which handled financial and personnel information, the representatives might have been able to alert their senior officers to concerns which they had about activity which could adversely affect corporate systems. Whether any members of the IPG did this is not clear but there is no evidence of any impact.
77. A group of this nature is important, provided it operates effectively. There is no problem about the need for such a group; the issue is how it operates and in particular how it evaluates and decides on proposals.
78. I have read the minutes and deliberations of the CXMT (now the CMB). It appears that the meetings addressed the usual range of corporate issues such as the revenue and capital budgets, the Corporate Assessment process, Performance Management systems and service impact as well as corporate issues such as ICT, property and Human Resource issues. The agenda and actions are about coordinating and informing. As a result of discussions, the Chief Executive or Board Members would work with elected members to raise matters for decision.
79. As a result of my interviews, it does appear that the CMB worked reasonably well from its formation in September 2005. It has recently changed its membership and a further change is soon to take place with the appointment of a new Chief Executive. At some point about six to eight months ago, it seems that CMB ceased to be effective and it has been described by some of its

members and observers as “fractured” or “dysfunctional”. There have been disagreements about “Herefordshire Connects” and it seems that some of these have not been resolved. It is clear to me that elected members have not been receiving consistent advice. This has led to the trust and confidence of some board members in their colleagues breaking down and inappropriate conversations taking place outside proper channels.

80. At present it would appear that Directors are concentrating on delivering the agenda in their own service area. This means that the broader implications for the council as a whole are not always recognised. That is not likely to lead to the consistent corporate leadership which is required of a Council in the 21st century. There is a pressing need for the Corporate Management Board to support the Cabinet and Council, to model the behaviour which sets the style and values for the Council and to lead the Paid Service. I make some specific suggestions about how the new Chief Executive might re-build the Corporate Management Board so that it can set the vision and priorities for the Council.

81. (vii) To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved

82. I will deal with each of the contracts in turn. The BOP system is well respected and used by many Councils on an authority wide basis. It undoubtedly significantly improved the management information for the ICT division in a number of areas, such as procurement and the management of ICT staff.

83. However the BOP system duplicates other Council systems and required a great deal of effort to reconcile the differences. Its cost (probably around £1.4 million) is high for a small division. I do consider that the acquisition of this system was not a cost effective use of resources, mainly because it duplicated existing systems. It seems likely that there was a long term intention to utilise this system Council-wide, but this was never realized nor was the concept subjected to corporate analysis and agreement.

84. The CNU system is different. The benefits have been substantial and are well documented. Whilst there may have been some deficiencies in the process of acquisition, there appears to have been extensive evaluation utilising external moderation. It was neither the cheapest nor the most expensive option of the tenders which were evaluated. The supplier is a major and respected provider of ICT services in the public sector and during the scrutiny review of ICT in October 2006, an external evaluation by HEDRA made favourable comments about the progress which ICT has made, although there were still some challenges to be addressed.

85. However, the question that arises in relation to value for money focuses on the following issues:

- a) It is not clear whether the invitation to tender (and later the contract) was sufficiently explicit about the respective responsibilities of the Council and the contractor in view of the external moderator's comments – and thus were substantial extra costs levied?
- b) The level of external consultancy costs commissioned by ICT to assist in implementation.
- c) Unexpected events which have delayed implementation and caused delay and cost.
- d) The impact of changes in the financial profile as the contract is implemented.
- e) The fact that one tender was significantly lower than the successful tender.

86. It is not possible to say with any clarity whether the current provision represents value for money. However, there is a clear need to establish whether it is. The way forward for the Council is to carry out a benchmark exercise and to reference test the current provision. Such an exercise will specify what the Council is paying for and how much it costs compared to others. If this demonstrates poor performance or excessive cost, then the Council has the option to negotiate with the present contractor with a view to making changes in the contract, or if necessary, negotiating an exit strategy. This is an area where a fruitful dialogue with the Audit Commission, working with the Council to

support an exercise of this nature, would provide a basis for future negotiation and reassurance about the level of cost.

Part 3 – Next Steps

87. My terms of reference invite me to make any further recommendations. I have outlined earlier in this report features which I believe have contributed to the current situation. I would like in this section to draw the threads of this report together into a sensible set of actions for you to take.

88. I have already set out some important features of the way the Council has worked, namely:

- a) A high level of freedom given to directors in such matters as the use of support services and managing contracts.
- b) Trust and confidence by members and amongst senior colleagues that officers will perform to a high level.
- c) A culture of consensus to achieve results with which all can agree.
- d) A reactive approach and style amongst corporate services such as Finance, Legal and Personnel.
- e) A strong policy and procedural base but one which is not fully followed or understood.
- f) A performance management system which is not universally applied or insisted upon.
- g) A lack of discipline in respecting and abiding by the Council's values.

89. Some of these features have served you well in the past, but others have not assisted when a different style of working has been brought to the Council. For example, because performance management is not fully embedded and Directorates operate with considerable freedom, there is not always the full awareness that is desirable when important decisions are being taken which affect the Council as a whole. This was compounded by a willingness at both member and officer level to trust a senior manager to perform to the standards which they would follow themselves.

90. However, these events provide an opportunity for the Council to address and change its approach for the future. Firstly, it is imperative for the Council to deal

with any issues of poor performance and to change any procedures to eliminate weaknesses as quickly as possible. Ongoing investigations and slowness to resolve outstanding concerns will be debilitating and unhelpful to the vast majority of staff whose sole purpose is to provide efficient services to their users. There is little value in constantly raking over the coals with no sense of where it is leading to.

91. If the Council proceeds with a piecemeal approach to tackle the issues arising from this experience, the Council will not have learnt or benefited to the fullest extent. The Council has made considerable progress since its formation 10 years ago. That progress was being maintained until the setback caused by recent events; the people of Herefordshire and the staff of the Council deserve to have strong leadership in order to meet the needs of the community into the future.

92. Members of the Council will need to provide strong leadership, especially from the executive and group leaders. The newly appointed Chief Executive and the members of the Corporate Management Board will need time to re-form and set the direction and priorities for the Council in the future. There are a number of ways in which the Council can regain the momentum at both member and officer level; I have set them out in the body of the report and would summarise them as follows, namely:

- (a) To take the steps set out in the Section 151 Officer's report and the additional recommendations contained in this report within 6 months to address any deficiencies and to conclude any outstanding matters.
- (b) To give clear and unequivocal support to the new Chief Executive at member and senior officer level so that he can assess what needs to be done now and for the future and put in hand a coordinated programme to do it.
- (c) To rebuild the corporate management board so that it can reflect on how it came to be fractured and dysfunctional and decide how best to become an integrated team which provides the leadership for and earns the

respect of the officers of Herefordshire Council so that the values to which Herefordshire aspires are reflected in its actions.

- (d) To re-establish the trust and confidence between members and officers and officers and officers based on a different approach which encourages appropriate challenge, resolves issues with a way forward which is supported by all and creates the discipline to follow through and abide by decisions which are taken.
- (e) To review and change if appropriate, the Council's procedures and protocols with a 12 month programme so that they are realistic and understood by all officers of the Council and then embed them. If some procedures are no longer relevant then they can be abandoned.
- (f) To create a robust performance management culture, underpinned by agreed procedures of what staff are expected to do and if they do not do them there is a discipline which holds them to account.
- (g) To request the new Chief Executive to review the role of the corporate resource provision, namely, finance, people, property, ICT and Legal & Democratic Services to decide how professional requirements and standards should be met, how standards should be maintained throughout the Council and how flexibility and immediate access by Directorates and front line staff can be available so that early decisions can be made for the benefit of service delivery.

93. However there is one further proposal which I would make. You are also a newly elected Council with a recent change in political control. Because of the political nature of the Council, you have a past history of good cross-party co-operation. These are new and different times for councillors; new members have taken Cabinet office; opposition members have a new role in challenging the Executive; the role in policy formulation and performance management for members is more significant; members are expected to provide strong leadership and to know how well the Council is performing.

94. There is a need for members to reflect on whether they have the support and skills which they need for the new agenda; it may be appropriate to commission further work on member support and development from one of the Local Government Association bodies.
95. Finally, it is important for the Council to bear in mind that these difficulties represent a problem in one part of the Council. It is important to maintain a sense of proportion and not to allow events in one division of one Directorate, however serious, to be reflective of a situation throughout the Council. My perception is that the Council is performing well in most of its activities, although this is not consistent. A measured co-coordinated and thoughtful response, without over-reaction, is the appropriate way forward e.g. changing the rules without any buy in will merely replicate the situation of three years ago.
96. The work which was undertaken in modernising the voice and data networks was essential and recognised as such by the Council if it was to achieve its aspiration of being an efficient and responsive modern authority. That drive to modernise, to become more efficient and to change working practices to align with best practice nationally, is not an agenda which you should avoid. When problems arise such as those you have encountered, it is easy to back away from actions which carry inherent risk. The Council would be wise not to become overly cautious by setting up stifling procedures which will inhibit innovation, or reduce the flexibility of Heads of Service, middle managers or front line staff from being able to make quick and effective decisions in line with approved policy. The task is to be risk aware, not risk averse. That is about people skills, not manuals of procedures which gather dust on shelves.
97. I hope this report will provide a foundation on which you are able to build. It is easy to forget in the concerns and reverberations which have led to this report that the task is to make sure that users of services receive an excellent quality response at an economic cost. For that to happen it will be important to re-establish the respect and reputation for your leading managers by demonstrating that you are able to move out of these difficulties strengthened by the way you have addressed them.

Ian Crookall

9 November 2007

Part 4 Executive Summary

I was commissioned to review the financial/contractual governance arrangements within the ICT division, particularly in relation to the entering into of contracts for a major Council wide computer system and system for supporting ICT management.

The report deals with a specific area of service and I saw no evidence that some of the problems described were generic to the Council.

These are my principal findings:-

- There was poor financial governance in ICT
- There were major deficiencies in the contracting process
- There was poor management of both organisational and individual performance
- There was a lack of challenge in relation to major proposals
- There was extensive delegation to Directorates when tighter controls in some corporate areas were needed
- The Council's procedures and policies are not embedded

The result was that there were inadequate checks and balance in place when a different style and approach was introduced into the Council. This led to a breakdown in communications and strained personal relationships.

My recommendations are:-

- Procedures and practices should be developed, and most importantly, embedded throughout the Council
- The Council should consider organisational changes in relation to corporate services and the way they are delivered
- An exercise should be undertaken to establish whether the community network contract represents value for money
- Support for Members' roles should be developed by an external facilitator
- There is an urgent need for the CMB to become more effective and fit for purpose.
- The new Chief Executive should be supported and given time to re-build the management teams, re-establish trust and confidence and deliver on these recommendations.

In addition, in the confidential report I have made a recommendation that a disciplinary investigation should be instigated in relation to the performance issues raised within the confidential report.

For ease of reference I attach a schedule which deals with each term of reference summarises the key findings and contains actions for consideration.

The most important consideration is for the Council to address promptly the immediate issues arising from this report. Slowness in resolving outstanding concerns will be

debilitating and unhelpful. A piecemeal approach without a sense of direction to where it is leading will not be productive. Then as quickly as possible all the Council should work with the new Chief Executive to make the Council at Senior Management level fit for purpose in order to re-establish the momentum to maintain and improve services for the people of Herefordshire

Ian Crookall

9 November 2007

	Term of Reference	Summary Key Findings	Actions for Consideration
i.	<p>To examine the evidential base on which the conclusions set out in the Section 151 Officer's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports themselves, which steps have been endorsed by the Corporate Management Board and set out any remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.</p>	<ul style="list-style-type: none"> • There were serious shortcomings in the financial and contractual management that then existed within ICT. • There are signs of significant improvements being made in respect of these shortcomings since actions to address them began in April 2007. • There was a breakdown in communication resulting in the Section 151 Officer not feeling sufficiently assured that the necessary steps would be taken. • Important corporate resources need to be corporately managed within a council wide strategy, and to professional standards, whilst retaining service flexibility to meet local circumstances. 	<ul style="list-style-type: none"> a) Consider bringing together the key resources of people, property, finance and information into a single directorate. b) Enhance the Audit specialist ICT capacity. c) Develop the role of Audit & Corporate Governance Committee through further member training. d) Commission a report (from one of the local government bodies) on how elected members' support and development needs can be more adequately met. e) Ensure all corporate rules, standards and processes are embedded, owned and followed by members and officers throughout the organisation, having first made sure they are workable. f) Create a better resourced and more proactive procurement function which might both anticipate important developments and encourage better compliance with the revised contract regulations. g) Review whether the service level mechanisms are the appropriate way for managing corporate resources. h) Revive and refresh the performance management process so that it is effective in highlighting issues to be

	Term of Reference	Summary Key Findings	Actions for Consideration
ii.	To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which could provide a basis for disciplinary action, to set that out in the report for the Council to consider.	<ul style="list-style-type: none"> • The existing contract standing orders, if implemented after amendment, provide a framework for Directors to use. • There is evidence to suggest that the corporate checks and balances are not operational. • There is evidence to suggest some errors (of omission rather than commission) took place. 	<p>addressed.</p> <p>a) The Head of Legal & Democratic Services and the Strategic Procurement and Efficiency Review Manager review and refresh the system to ensure it is understood and adhered to, and a framework is in place to ensure appropriate disciplines are involved.</p> <p>b) The Head of Legal & Democratic Services, with the Interim Head of Human Resources institute a disciplinary investigation to address the performance issues to which reference is made in the confidential section of this report.</p>
iii.	To examine the corporate support, advice and direction offered to the Directors, in particular financial and audit support, and legal and contractual support received. To examine in particular the support offered in relation to those matters identified in paragraphs (iv) and (v) below.	<ul style="list-style-type: none"> • Corporate support appeared to be dependent on being invited to give it, and on being informed. • Concerns were not always expressed sufficiently and robustly. 	<p>a) Request the new Chief Executive to review the role of corporate resource provision to decide how professional standards and requirements should be met, how standards should be maintained throughout the Council, and how flexibility and immediate access by directorates and front line staff can be available so that early decisions can be made for the benefit of service delivery.</p> <p>b) Review and change, if appropriate, the Council's procedures and protocols</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
iv.	To examine the strength and independence of the external moderation of contracts and in particular the contracts highlighted in the S151 Officer's Special Investigation Report.	<p>CNU</p> <ul style="list-style-type: none"> • The external moderator for the CNU project made a professional contribution to the procurement process. • Advice in respect of the concerns raised by the external moderator did not appear to be sought from the relevant corporate support staff within the council. 	<p>within a 12 month programme so that they are realistic and understood by all officers of the Council, and then embed them. If some procedures are no longer relevant they can be abandoned.</p> <p>The value of external moderation is recognised and appropriate advice should be sought at all times.</p>
v.	To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.	<p>BOP</p> <ul style="list-style-type: none"> • The manner of obtaining approval was deficient. • Insufficient financial information was provided – in particular in respect of future financing and costs. • Insufficient assessment of alternative options was provided. 	See recommendation (ii) b above.

Term of Reference	Summary Key Findings	Actions for Consideration
	<p>CNU</p> <ul style="list-style-type: none"> • The report on which this commitment was entered into was not satisfactory. • Insufficient information was provided about costs and funding requirements. • Insufficient information on tender options appraisals was provided in the report, although the reasons for rejecting the lowest tender are recorded elsewhere. • Members would have been reassured by the number of discussions that had taken place and the accompanying report by the County Treasurer that adequate financial provision had been made. 	<p>Key decisions are a matter of public record and accountability. Members should be able to demonstrate that they have made a reasonable decision based on adequate information and if this is not forthcoming, to be empowered to ask for it, even if this means delay.</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
vi.	To examine the wider support to the formal decision-making processes offered through the Corporate Management Board -previously Chief Executive's Management Team (CMB) and the Information Policy Group (IPG).	<p>CMB</p> <ul style="list-style-type: none"> • Worked reasonably well from formation in September 2005. • During the past year it has ceased to be effective. • Members have not been receiving consistent advice. • Trust and confidence between some CMB members has broken down. • Inappropriate conversations are taking place outside proper channels. • Directors are concentrating on delivering the agenda in their own service areas. 	<ul style="list-style-type: none"> a) Give clear and unequivocal support to the new Chief Executive at elected member and senior officer level, so that he can assess what needs to be done now and for the future, and put in hand a co-ordinated programme to do it. b) Develop senior management team-building with the new Chief Executive giving priority to rebuilding the senior management teams. c) Rebuild the CMB following reflection on how it came to be fractured and dysfunctional, and decide how best to become an integrated team which provides the leadership for and earns the respect of the officers of Herefordshire Council. d) Re-establish the trust and confidence between members and officers, and between officers and officers, based on a different approach which encourages appropriate challenge, resolves issues with a way forward that is supported by all, and creates the discipline to follow through and abide by decisions taken. e) Create a robust performance management culture underpinned by agreed procedures of what staff are expected to do; and if they do not do them there is a discipline which holds them to account. f) Ensure there is no over-reaction; that a sense of proportion is maintained and the Council becomes risk aware rather than risk averse.

	Term of Reference	Summary Key Findings	Actions for Consideration
		<p>IPG</p> <ul style="list-style-type: none"> • The role of the group is necessary. • There is an issue about how it operates and in particular how it evaluates and decides on proposals. 	<ul style="list-style-type: none"> a) Ensure IPG is chaired by a service Director. b) Review the membership of the IPG. c) Have clear guidelines for the evaluation and decision-making processes within the group.
vii.	<p>To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved.</p>	<p>Back Office Project</p> <ul style="list-style-type: none"> • Duplication with other council systems • Degree of effort required to reconcile with other key systems • High cost for size of service area covered • Inadequate degree of corporate analysis re extension of utilisation across the Council • The BOP was not a cost effective use of resources. 	<p>To note the findings.</p>

	Term of Reference	Summary Key Findings	Actions for Consideration
		<p>Community Network Upgrade</p> <ul style="list-style-type: none"> • Substantial and well documented benefits. • External evaluation acknowledges progress made. • Some questions arise in relation to value for money namely: the clarity of the ITT and contract regarding respective responsibilities, the selection of a tender other than the lowest, external consultancy costs incurred for implementation, unexpected events and changes to requirements and the impact of changes in the financial profile. 	<p>The Council should establish whether current provision represents value for money. This should be achieved, in liaison with the Audit Commission, through the completion of a further benchmarking exercise and reference testing current provision.</p>

FINANCIAL GOVERNANCE REPORT TERMS OF REFERENCE FOR REVIEW REPORT AND ADVICE

These Terms of Reference are drawn up by the Monitoring Officer of Herefordshire Council to enable the Council to secure independent advice in relation to matters raised in a report issued by the Director of Resources as Section 151 Officer dated 13th September, 2007 and a Special Investigation Report dated 3rd September, 2007 (copies of both documents enclosed herewith).

The Council seeks advice on the following matters to enable the Council to move forward and to identify any potential areas of concern:

- (i) To examine the evidential base (report enclosed) on which the conclusions set out in the Section 151 Officer 's report are based to enable the Council to reach a conclusion as to what, if any, further action needs to be taken in relation to the report beyond the remedial steps contained in the reports themselves, which steps have been endorsed by the Corporate Management Board and set out any additional remedial action, if any, or additional recommendations for consideration by the Corporate Management Board and/or the Cabinet.
- (ii) To examine both historically and currently the management capacity to exercise the necessary supervision of contracting processes and, if there is historic evidence which would provide a basis for potential disciplinary action to set that out in the report for the Council to consider.
- (iii) To examine the corporate support, advice and direction offered to Directors, in particular financial and audit support, and legal and contractual support received. To examine In particular the support offered in relation to those matters identified in paragraphs (iv) and (v) below.
- (iv) To examine the strength and independence of the external moderation of contracts and in particular the contracts highlighted in the S151 Officers Special Investigation Report.
- (v) To examine the formal decision making in relation to those contracts and the extent of the information made available to the relevant Cabinet Member.
- (vi) To examine the wider support to the formal decision-making processes offered through Corporate Management Board (previously Chief Executive's Management Team) and the Information Policy Group (IPG).

- (vii) To advise on the merits of seeking to establish whether value for money has been obtained in respect of the contracts referred to and how this might best be achieved.

To that end you are asked within the scope of these Terms of Reference

- (a) To examine relevant documentary evidence held by the Council.
- (b) To interview relevant members of staff and Members of the Council.
- (c) To contact outside parties who advised on the processes as may be appropriate.

- (d) In consultation with the Head of Legal and Democratic Services and within financial limits to be agreed by the Head of Legal and Democratic Services to engage specialist finance or ICT expertise if that is required.

To review and keep under review the terms of reference and if any amendments or additions are required to refer to Head of Legal and Democratic Services and the Leader of the Council

Alan McLaughlin,
Head of Legal and Democratic Services