

# Audit and Corporate Governance Committee

Date: **Friday, 21st December, 2007**

---

Time: **10.00 a.m.**

---

Place: **Brockington, 35 Hafod Road, Hereford.**

---

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

*For any further information please contact:*

*Paul Rogers, Democratic Services Officer. Tel  
01432 383408*

**E-mail [progers@herefordshire.gov.uk](mailto:progers@herefordshire.gov.uk)**

---

**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

In Attendance: Councillor H Bramer, Cabinet Member (Resources), and T Tobin, Audit Commission.

	Pages
1. <b>APOLOGIES FOR ABSENCE</b>	
2. <b>NAMED SUBSTITUTES(IF ANY)</b>	
To receive any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. <b>DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest by Members in respect of items on the Agenda,	
4. <b>MINUTES</b>	1 - 6
To approve and sign the Minutes of the meeting held on 30 <sup>th</sup> November 2007.	
5. <b>UPDATE ON COMMUNITY NETWORK UPGRADE AND CRITICAL RECOMMENDATIONS IN USE OF CONTRACTORS IN ICT SERVICES</b>	7 - 12
This report responds to the request made by the Committee at its meeting on 19th October 2007 for an update on the current position regarding the timetable review on 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 2007/08. This report was deferred at the last meeting of this Committee for further detailed information.	
6. <b>PROGRESS REPORT NO.3 - DIRECTOR OF RESOURCES SPECIAL REPORT</b>	
To provide the Audit and Corporate Governance Committee with a third 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 ( <i>Report to Follow</i> ).	
7. <b>REVIEW OF THE SCHEME OF DELEGATION, BUDGET AND POLICY PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES</b>	13 - 94
To seek the Audit and Corporate Governance Committee's approval to	

proposed revisions to the Constitution in line with the resolution made by Council on 2nd November 2007.

**8. UPDATED INTERIM ASSURANCE REPORT 2007/08 NO.4**

To provide the Committee with an updated interim Assurance report for 2007/08 (*Report to Follow*).

## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO:-**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of the Cabinet, of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50, for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

Please Note:

Agenda and individual reports can be made available in large print, Braille or on tape. Please contact the officer named below in advance of the meeting who will be pleased to deal with your request.

The Council Chamber where the meeting will be held is accessible for visitors in wheelchairs, for whom toilets are also available.

A public telephone is available in the reception area.

### **Public Transport links**

Public transport access can be gained to Brockington via bus route 104 shown in dark grey on the map opposite. The service runs every half hour from the hopper bus station at Tesco's in Bewell St (next to the roundabout at the junction of Blueschool Street/Victoria St/Edgar St) and the nearest bus stop to Brockington is in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this Agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning Mr Paul Rogers on 01432 260167 or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.

# **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

## **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point J which is located at the southern entrance to the car park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.





COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

**MINUTES of the meeting of Audit and Corporate Governance Committee held at Brockington, 35 Hafod Road, Hereford. on Friday, 30th November, 2007 at 10.00 a.m.**

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

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

**In attendance:** Councillors PJ Edwards, MD Lloyd-Hayes and AT Oliver

**44. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**45. NAMED SUBSTITUTES**

There were no substitutions made.

**46. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**47. MINUTES**

**RESOLVED:** That

**(i) subject to the following amendments, the Minutes of the meeting held on the 16th November 2007 including an exempt Minute be approved as a correct record and signed by the Chairman:**

- (a) the word 'conducted' being replaced with the word 'documented' in the second sentence of part ( of the resolution to Minute No. 35;**
- (b) in the final paragraph of the preamble to Minute No.36, the words 'and officers' be inserted after the word 'Members' in line 2 and after the word 'Members' in line 4;**
- (c) the words 'that have been found to be unsatisfactory' being inserted after the word 'claims' in the second line of part (iii) of the resolution to Minute No. 36; and**
- (d) the words 'and approved' being inserted after the word 'noted' in part (i) of the resolution to Minute No.43.**

(ii) in future, references to Members in these Minutes shall be by name.

**The Committee moved into closed session after Minute No. 51 to approve an exempt Minute.**

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

The Committee considered a report which responded to a request by the Committee at its meeting on 19th October 2007 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 update number two on the Interim Assurance report 2007/08.

Mr G Cole, Head of Corporate and Customer Services, reported that the workshop planned in November for Legal, Audit, Procurement and ICT Services had been delayed and would take place in December. A contractors action plan had been produced in consultation with Audit Services and was currently being considered by Directors. He made reference to the review of the Community Network Contract being undertaken by the Society of Information Technology Managers (SOCITM) and informed the Committee that the report by SOCITM should be received within the next week. Also that recommendation 1 as set out on page 2 of the report had been embedded in ICT projects.

Discussion ensued regarding Council procedures relating to contracts in excess of £50,000. Mrs S Rees, the Director of Resources, reminded Members of Contractual Standing Orders which were set out in the Council's Constitution and also of the protocols and procedures for Cabinet Key decisions.

Mr K O'Keefe, the Legal Practice Manager, explained to Members the Legal Services role in respect of contracts. He emphasised that if contracts were complex then Legal Services were likely to be involved. Legal Services did not however have the ability to be aware of all Council contracts which were being acted upon.

The Director of Resources reminded Members that the Working Group which the Committee had set up would be considering the revised Scheme of Delegation, Budget and Policy Procedural Rules and Contract Procedural Rules and would be able to review areas such as that which had been referred to by Mr O'Keefe.

Councillor R H Smith was of the view that the report should be rejected for the following reasons:

- (a) The Financial Implications paragraph in the report made no reference to the absence of budgetary provision in 2007/08 for the CNU contract.
- (b) There should not be several separate contractual procurement instructions as referred to in the report for the ICT Division. There should be one procedural instruction which covers all contracts.
- (c) The content of the report was unclear, incomplete and poorly expressed. He referred to several instances of terminology which could not be understood, the guide to procurement which was unexplained,

unspecified target dates and no justification of the outsourcing of the GNU contract.

- (d) With regard to the Review of the GNU contract as referred to in the final paragraph of the report, the cost of the review should have been reported. Also that at a meeting of this Committee on 21st September 2007 it was reported that the review had been initiated yet in the report put to this meeting it had not commenced. Can the Committee be informed which information is correct.

**RESOLVED: That**

- (i) further consideration of this report be deferred to enable the Director of Corporate and Customer Services to provide a report giving detailed responses to the points raised in (a) to (d) above by Councillor Smith; and**
- (ii) the Director of Corporate and Customer Services be instructed to attend the next meeting of this Committee to present the report.**

#### **49. UPDATE ON ACTION IN THE SPECIAL REPORT - GOVERNANCE IMPROVEMENT PLAN**

Consideration was given to a report which complemented the update provided by the Director of Resources in the special report on the Corporate Governance Improvement Plan.

Mr G Cole, the Head of Corporate and Customer Services, emphasised that his service was working closely with financial services to achieve break even targets in ICT at the end of March 2008. He reported that recent staff survey results had highlighted a good improvement between ICT and other Council services.

Discussion ensued regarding the proposed ICT links with Primary Care Trust (PCT) and the Committee noted that although the PCT had endorsed the links with the Council as helping the PCT, Members took the view that there were ICT areas which were not compatible with this Council's ICT.

Councillor A M Toon referred to several areas of risk with regard to the PCTs involvement in the proposed Public Service Trust (PST) which needed to be addressed.

Mr T. Ford, the Audit Services Manager, informed the Committee that there were risk registers associated with the link up with the PCT and that PST work does appear on the Council's Corporate Risk Register. The Committee noted that there were Risk registers connected to the numerous working groups which were used and updated.

Councillor GF M Dawe expressed the view that in all reports to Committees the information regarding Risk Management should contain who manages the risk and in which service it relates.

With regard to Service Level Agreements (SLAs), Mrs S Rees, the Director of Resources informed the Committee that a new model of SLA was being considered by a group of Heads of Service and is being tested. It is hoped that the new SLA will be in service by 1st April 2008.

Councillor A M Toon expressed concern about asset management and the procurement process particularly in ICT and that officers should adhere to the regulations and procedures in this area.

The Chairman informed the Committee that a report would be submitted to this Committee at its next meeting regarding ICT procurement.

**RESOLVED: That**

- (i) The Head of Corporate and Customer Services to submit a report to this Committee which gives assurances with regard to the interface of software between PCT and Council computer systems;**
- (ii) all future reports to this Committee to give details of Risks, the service they relate to and the name of the officer who manages the Risk;**
- (iii) the Strategic Monitoring Committee be requested to review the control of asset management processes and procedures and actions which are taken against officers who do not adhere to these rules.**

**At this point, the meeting adjourned for 10 minutes.**

**50. IMPLEMENTATION OF RECOMMENDATIONS ARISING FROM SPECIAL INVESTIGATION**

The Committee considered a follow up report arising from the implementation of recommendations arising from special investigation.

Mr A Ashcroft, Head of Planning Services, referred to paragraph 3.5 of the report and stated that he was investigating procedures to ensure that trigger points in respect of the payment of Section 106 funds are put in place. Also that such funds are spent on those areas that had been agreed by Committee.

Mr K O'Keefe, the Deputy Head of Legal and Democratic Services, reported that Section 106 agreements are drawn as tightly as possible.

**RESOLVED: That the report be noted.**

**51. UPDATED INTERIM ASSURANCE REPORT 2007/08**

The Committee considered a report which updated Members with regard to Interim Assurance for 2007/08.

Mr T Ford, Audit Services Manager, reminded the Committee that Cabinet had approved the fundamental systems referred to in paragraph 3(b) of the report and that all critical areas referred to in paragraph 3(c) had been closed down. With regard to performance Management, paragraph 8 refers, a report would be

submitted to the next meeting highlighting data quality.

The Chairman congratulated Mr Ford and his staff for their efforts in the work which has been undertaken recently and requested that these congratulations be passed on to his staff.

Councillor R H Smith referred to paragraph 15(a) and suggested that Financial Standing Orders should ensure that projects cannot be divided to make sure that contract sums cannot be reduced below £50,000. He also suggested that with regard to imprest of accounts, these should be formally closed at the end of each financial year so that a nil balance is commenced at the beginning of each financial year. He suggested that under no circumstances should ratepayers money be used for the entertainment of Members and officers.

Mrs S Rees, Director of Resources, would look into the practicalities of the suggestions put forward by Councillor Smith.

With regard to Councillor P J Edward's reference to the Drug Forum Partnership and that it should be renamed Drugs and Alcohol Partnership, the Committee was of the view that this issue should be reviewed.

Councillor Toon referred to monies due from Parish Councils following Elections and that there should be procedures in place to ensure that these monies are paid on time.

The Audit Services Manager reported that he would investigate this issue and create an Action Plan for the future.

**RESOLVED: That**

- (i) a form of wording to be incorporated in the Financial Standing Orders to ensure that contract sums cannot be divided to be reduced below £50,000;**
- (ii) an Action Plan be formulated regarding monies payable by Parish Councils when Local Elections take place;**
- (iii) Human Resources to investigate and report to this Committee on formulating a policy to restrict the use of Council funds for the entertainment of Members and officers;and**
- (iv) The Head of the Economic and Community Service be instructed to review the Terms of Reference of the Drugs Forum Partnership in relation to its involvement in alcohol issues and report back to this Committee accordingly.**

The meeting ended at 1.45 p.m.  
<LAYOUT\_SECTION>

**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**

To provide an update on progress made in the review of the community network contract, the four critical recommendations arising from the use of contractors audit report. The report also takes account of the recently received Crookall report.

### **Financial Implications**

The Integrated Performance Report for the end of September set out the current position in relation to the Community Network Contract. In the 05/06 budget and as part of the then County Treasurer's report which was considered at the same time as the Community Network Contract (24<sup>th</sup> March 2005) provision was made for increasing the base revenue budget for ICT Services, the first call on which would be to support capital borrowing for the community network in future years.

Payment continues to be made in support of the capital. In June of this year a technical accountancy issue was raised by the Audit Commission as part of the final accounts audit which identified that the ongoing costs of the contract should be classified as revenue costs. This was because the costs that had been coded to capital budgets were for maintenance and are therefore a revenue cost. This is not covered in the current budget and there is an annual revenue cost of £1.6 million of which £500,000 is covered by the Standards Fund within Children and Young People Services. The remainder is unfunded. This resulted in part from the significant level of change the council has made in the course of the contract which increased costs and in part by the lack of ability to drive out the cost of the existing network as migration takes place to the new network. These costs currently sit within directorates' budgets and as they are no longer required, will need to be taken out to support the new corporate provision. That work is ongoing and the support of the Audit and Corporate Governance Committee in ensuring that transfer is effected would be welcomed.

It is clear that some of the assumptions around savings in the old network to offset the cost have yet to be realised because of delays in decommissioning some buildings and connecting to the network. The cost of the Community Network Upgrade is built into the Medium Term Financial Management Strategy from 2008/09

onwards. A sum of £600,000 capital was reported in the end of September capital report and was returned to the corporate pot.

## RECOMMENDATION

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

### Reasons

To inform and advise the committee of actions being taken to improve financial governance within the ICT Service.

### Considerations

1. Use of Contractors in ICT  
The four critical recommendations are contained within the Use of Contractors in ICT audit report.
2. The advice of internal audit was sought on the draft action plan relating to this audit prior to submission on 28<sup>th</sup> September.
3. In developing the action plan, 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 held on 17<sup>th</sup> December. This is later than originally planned, primarily because of pressure on diary dates within the supporting directorates.
4. Turning to the four critical recommendations in relation to the use of contractors in ICT, it is important to emphasise in particular recommendation one. The process for preparing and considering robust business cases is the foundation on which the remaining recommendations, important although they are in their own right, must be built.
5. 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.**
6. 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.**
7. All major ICT projects are now consolidated within 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. This sets out the level of benefits to be realised, whether this is cashable or non cashable, and the timeframe for realisation.

8. All business cases with an ICT element will be required to go through a two stage Directorate Management Team (DMT) approval process. At the initial stage, DMTs will be required to approve development of the business case. Once the business case is in its advanced stage i.e. that costings are as firm as possible pre contract, the benefits are validated, and the risks assessed, then it will again need to be signed off by the relevant DMT, assessed by Herefordshire Connects, and put through a challenge process conducted by the Information Policy Group (IPG) . That process is designed to test out alignment with corporate priorities, interdependency with Herefordshire Connects, robustness of business case, assurance that the whole life costs of the project have been taken into account, and impact on technology infrastructure and business continuity considerations are addressed.
9. The Information Policy Group has been in existence in its current format since January 2007, with membership drawn from managers across the Council. It works to a set of terms of reference agreed by the Corporate Management Board (CMB) and is currently chaired by the Director of Corporate and Customer Services, although this was not envisaged as a long term position and indeed the Crookall report makes recommendations in relation to this.
10. The role of IPG in relation to this area is to approve business cases. In order to ensure that the right skills are in place within the Information Policy Group and the expectations placed on the members of IPG are understood i.e. this is a corporate and not an ICT or service specific responsibility, members have been trained on consideration of business cases at recent meetings. In order to ensure that business cases are seen as a corporate requirement and not something driven by ICT alone, the Resources Directorate has taken ownership of the combined business case and benefits card and support is provided by the Client Account Managers in ICT Services. These officers work with directorates to advise on and support their requests relating to ICT matters.
11. All ICT related projects and programmes must be supported by a robust business case. In addition, a guide to procurement is being drafted, with support from the Council's Strategic Procurement and Efficiency Review Manager, which will include instructions on the way in which particular scenarios which might arise through the procurement process should be followed. It is important that this guide is seen as supplementary guidance to the overall procurement requirements of the council. It will seek to alert staff to the particular demands of ICT procurement. It will pick up some of the observations of the Crookall review about the need to ensure that policies and procedures are accessible, easily understood and translated into practice.
12. The guide will include specific reference to software selection and procurement and will be a key output from the workshop described above. The guide will be presented to Corporate Management Board (CMB) prior to

---

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

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 who will receive training on how to apply the guide by the end of December 2007. Additional promotion, with support from the communications unit, will take place through channels such as news and views and through DMTs.

13. Tender documentation and templates will be overhauled and amended to deal with any specific requirements of software/service selection and applied to all projects with an ICT element, again by the end of December 2007. The 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. This work is being undertaken with the support of the Strategic Procurement and Efficiency Review Manager.
14. 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.**
15. Reference has already been made to the process for approving projects. The Strategic and Efficiency Review Manager, in liaison with Legal Services, is reviewing EU procurement rules and OJEU process, as they relate to Catalist and other framework arrangements, and will be incorporated into the revised Financial and Contracting Regulations within the constitution. A review of the directorate register of contracts for ICT Services has been completed. 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 Directorate Management Team.
16. 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.**
17. The Corporate Programmes Team provides support for projects and programmes within the council. The team includes a number of Prince2 qualified project managers and a quality assurance officer who work with the lead officer or project executive to ensure projects are being delivered to the project plan or project initiation document (PID). Since June the Corporate Programmes Team has reported to the Director to support its establishment as a corporate resource. It allocates project managers to a number of projects and programmes throughout the council including the Crematorium, Cattle Market, Herefordshire Connects.
18. In addition to the individual leads for projects receiving weekly reports a monthly project report setting out progress, risks and issues is considered by the Information Policy Group to allow for follow up with individual project

leads. In addition the Director of Corporate and Customer Services and the Corporate Programmes Manager review this on a monthly basis.

19. Review of Community Network Contract

At the meeting of the committee on 21<sup>st</sup> September it was reported that the review of the Community Network Upgrade contract had been initiated. Within the terms of the contract there is provision for such a review and the Director of Corporate and Customer Services had commenced discussions with the contractor prior to the publication of the Section 151 Officer's special report in September. That reinforced the need for a value for money study. This was emphasised by the Crookall review, which recommended that a benchmarking exercise should be undertaken in respect of the current provision. Mr Crookall considered that such an exercise would assist in identifying what the Council was paying for and how much it cost compared to others. He went on to further state that the review demonstrated poor performance or excessive cost, that would provide a platform for further negotiation. Although part of a separate recommendation in the Crookall report, it is logical to bring both reviews together because they represent different aspects of the same issue.

20. 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 was selected to undertake the review. The Council's main delivery partner, Siemens Communications, have been fully supportive of the process and undertaken to provide every assistance necessary.

21. SOCITM have been on site since the beginning of the week commencing 5<sup>th</sup> November. Although SOCITM were scheduled to complete their work by the end of November, the specific benchmarking information to allow direct comparison of costs was not available in the timeframe and the report is now due to be received on 17<sup>th</sup> December. An oral update will be provided to the Committee.

## **Risk Management**

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 Information, Technology and Customer Services and the Director and report by exception to the Cabinet Member.

### **Background Papers**

ICT – Use of Contractors Audit Report (ITSV2974)



**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**

County-wide.

**Purpose**

To seek the Audit & Corporate Governance Committee's approval to proposed revisions to the Constitution 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: Subject to any further views the Audit & Corporate Governance Committee has, the proposed amendments to the Constitution attached to this report be approved for further consideration as part of the Constitution review process.**

**Reasons**

To advise the Constitution Review Working Group of amendments to the revised Scheme of Delegation, Budget and Policy Procedure 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, 2007 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

---

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

the proposed changes prior the next scheduled Council meeting when the documents (as revised) would be considered.

2. The Audit & Corporate Governance Committee decided on 16th November, 2007 to set up a Working Group to review the draft revisions to the Constitution as presented to Council on 2nd November, 2007. Councillors A.C.R. Chappell, M.J. Fishley, R.H. Smith and A.M. Toon volunteered to be members of the Working Group.
3. The Working Group met on 22nd November, 2007, but Councillor A.M. Toon was unable to attend as planned due to illness. The Working Group had the benefit of comments from the former Chief Executive and took these into account in making amendments to the documents.
4. The documents have been further updated since that meeting to incorporate comments made by the Audit & Corporate Governance Committee on 30th November, 2007 with regard to contract procedures (explicitly precluding subdivision of a contract for works, goods or services in any way to avoid formal tendering procedures) and the arrangements for third party work.
5. The Audit & Corporate Governance Committee is now invited to approve the revised Constitution documents attached to this report in fulfilment of its obligation to offer advice on the adequacy of internal control arrangements. Once approved by the Committee, these documents will be the subject of further consideration by the new Chief Executive, the Monitoring Officer, the Standards Board, the Constitution Review Working Group, Cabinet and full Council.
6. As overall guardian of the Council's Constitution, the Monitoring Officer shall be establishing the remainder of the timetable for implementing the Council's resolution on revising these four elements of the Constitution plus any other elements of the Constitution they impinge on.

## **Risk Management**

The proposed revisions to the financial governance elements of the Council's Constitution are designed to mitigate the risk of non-compliance with financial policies and procedures and 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 amended by the Working Group referred to in paragraphs 2 and 3 of this report. The originating documents were considered by full Council on 2nd November, 2007. Once approved by this Committee, these documents will be further considered as described in paragraph 5 of this report.

## 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 Town and 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 unless the Leader indicates that the Cabinet is in agreement with the proposal.
- 2.6 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 be reconsidered.
- 2.7 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.
- 2.8 If the Chairman of the Council considers it is unlikely that the Council may 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.
- 2.9 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 or approves the Cabinet's revised draft budget, plan or strategy .



- 2.10 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.
- 2.11 The Cabinet has responsibility for managing the Council's financial affairs within the framework of the agreed Contract Procedure Rules and Financial Procedure Rules. Advice and guidance is provided by the Statutory Officers.
- 2.12 Cabinet is responsible for monitoring, reviewing and formulating the Council's budget with advice and guidance provided by the Director of Resources.
- 2.13 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 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.
- 3.2 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 should 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 Authority is delegated to the Head of Financial Services to act on behalf of the Director of Resources in all respects in his/her 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 shall 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 his/her behalf.
- 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 shall 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, shall be separated from the duty of collecting or dispersing such money.

- b) The duty of examining and checking the accounts of each transaction shall 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 shall not tolerate fraud or corruption of any form or degree 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 shall 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, shall act towards the Council with integrity and without thought or actions involving fraud or 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 shall act with integrity.
  - (d) Managers with employee management responsibilities are required to deal swiftly and firmly with those who defraud the Council or seek to do so 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 and Monitoring Officer 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 shall be dealt with in accordance with the Council's Anti-Fraud and Anti-Corruption policy.
- (h) Appointing senior officers to be the Council's Money Laundering Reporting Officer and deputy to the Council's Money Laundering Reporting 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 Money Laundering Reporting Officer**

- 2.8 The Director of Resources shall appoint a Money Laundering Reporting Officer (MLRO). This officer 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 Serious Organised Crime Agency.

**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 shall 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 Land and property requirements are to be appropriately identified and appraised and all acquisitions are to have the necessary prior 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 shall 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 (including the 'do nothing' option) for meeting service delivery requirements (developed as appropriate with support from the Corporate Asset Strategy Group) for all proposals likely to cost more than the prevailing European procurement limit for supplies and services (currently £144,000).
  - (c) An evaluation of the potential (if any) for joint use.

- 3.8 The Cabinet Member for Resources shall be consulted on all proposed acquisitions and kept informed of their progress.
- 3.9 Property acquisitions shall 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 shall, in the case of all highway acquisitions, seek local Member views as part of the consultation process for highways and traffic schemes.
- 3.12 The Cabinet Member for Highways & Transportation and the Director for Environment (or officer authorised by him/her) shall approve highway scheme designs and budgets (including land acquisition costs) after considering the views of the Corporate Asset Strategy Group (CASG).
- 3.13 The Director of Resources may make highways acquisitions in consultation with the Cabinet Member for Resources provided the scheme is in an approved programme or falls within blight policies.
- 3.14 The Director of Resources shall refer all other highways acquisitions (that is, land not incorporated in the highway) to the Cabinet Member for Resources, who shall determine if he/she or an officer shall give approval for the acquisition. Once the principle of acquisition of land is agreed, any decision whether or not to use compulsory powers shall 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 It is imperative that property is to be used efficiently, effectively and economically with due regard to legislative requirements. When any property is no longer required for operational purposes it is to be formally declared surplus, at which point its management reverts to the Director of Resources. The budgetary implications of this are to be 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 (schemes likely to cost in excess of the prevailing European procurement limit for supplies and services which is currently £144,000) should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes.



**Health & Safety**

- 3.19 Employees 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 met.

**Disposals**

- 3.20 Land and property which is surplus to operational need is either to be reallocated to meet alternative needs or disposed of in line with statutory requirements and/or Herefordshire Council policy.

- 3.21 Directorates shall 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 shall 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 shall determine whether s/he or an officer shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 relative risks of the activities involved. He/ she shall 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 to investigate promptly any apparent, suspected or reported irregularity or fraud he/she becomes aware of. He/she shall report his/her findings to the Head of Paid Service to discuss and agree appropriate legal proceedings and disciplinary action, consulting with the relevant member(s) 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 at reasonable times to any employee or employees.
  - c) Access to all assets, records, documents, correspondence and control systems relating to any matter or business of the Council.

- d) 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 Finance Officer prior to implementation.
- 4.14 Officers are responsible for notifying the Director of Resources or Chief Internal Auditor immediately in writing/electronic medium of any suspected or alleged 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.
- 4.15 Officers are responsible for ensuring that all paperwork and systems are up to date, kept securely and are made available for inspection by internal or external audit.
- 4.16 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 when required.

**Responsibilities of the Head of Financial Services**

- 4.17 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 including vouchers and any other supporting documentation.
  - (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.
  - (h) Ensure that the only payments into the account are the reimbursement payments and any notes/coinage relating to purchases made by a cash advance from the imprest account.
  - (i) 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.
  - (j) 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.
  - (k) Do not allow any bank imprest account to become overdrawn.
- 5.7 To ensure that payments are limited to minor items of permitted 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 shall 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 shall not be cashed out of money held on behalf of the Council.
- (g) All income received shall be receipted immediately.
- (h) Officers shall bank all cash received immediately; its use for either personal or official purposes is strictly forbidden.
- (i) All paying in records shall be retained securely in line with the Council's policies on the retention of documents.

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 shall seek agreement from the relevant Cabinet Member and Cabinet Member (Resources).

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

6.7 Write off of amounts relating to 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall 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 shall be responsible for budgetary control of the estimates relevant to their Directorate and, after consultation with the Director of Resources, shall 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 shall then report on the matter to the Cabinet.

11.8 The Council may permit Directorates to carry forward managed under spends into the following financial year provided that all other budget targets have been met. The first call on any underspendings shall be to offset any Directorate overspends.

11.9 Managed underspends carried forward shall 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 and any unbudgeted income shall be ring-fenced and 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 potential 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. Compliance with the mandatory +1% tolerance on in-year financial management (Part 12, section 12.7.36) will be dependent upon the earliest possible implementation of such action plans and rigorous supervision to achieve the required outcome.

- 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 shall 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 are required to put in place recovery plans for any overspend in excess of 1% of their net budget.
- 11.17 A budget shall normally be the planned income and expenditure for a service area or 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 shall 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 shall 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 shall be reported in the budget monitoring report provided to Cabinet.

11.25 The Director of Resources shall 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 shall 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 shall 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 & CORPORATE CREDIT CARDS**

- 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 shall be made by, or under arrangements approved by, the Director of Resources. The Director of Resources shall be authorised to open and operate such banking accounts, as he or she may consider necessary. This authority shall include the power to give the necessary directions to the bank as to signatures for withdrawals. The Director of Resources shall 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 shall be ordered only on the authority of the Director of Resources who shall 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 shall be that of the Director of Resources.
- 15.4 The Director of Resources shall be responsible for authorising the issue of corporate credit cards and determining spending limits. Cardholders are required to comply with the guidance issued by the Director of Resources regulating the use of corporate credit cards. This guidance will include the requirement for cardholders to provide the Payments Manager with a receipt and coding slip for each item purchased using a credit card within 14 days of the monthly card statement being received.

**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 shall benefit from reduced costs of providing insurance cover and shall 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 shall effect all insurance cover and negotiate all claims in consultation with the relevant Director and Head of Legal & Democratic Services where appropriate.
- 16.7 Directors shall 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 shall 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 shall 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 shall 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 shall be made in the name of the Council or the appropriate trust when the Council is acting as trustee and the security shall 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 shall not enter into financial leasing arrangements except with the consent of the Director of Resources.
- 17.5 The Director of Resources shall 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 shall 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 shall be investigated for suitability.
- 17.8 Each loan facility shall be supported by a written policy developed by the Head of Financial Services and agreed by Corporate Management Board. Variations to the facilities shall 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 shall:
- (a) Arrange for all trust funds to be held wherever possible in the name 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 shall:

- (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 shall:

- (a) Maintain inventories in a form approved by the Director of Resources to adequately record and describe all 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 are 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, custody and recording 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 shall 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 shall 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 shall be responsible for official orders issued from his or her Directorate. Orders given verbally shall be confirmed by written or electronic order as appropriate as soon as possible.
- 20.4 All works, goods or services supplied to the Council are to be subject to formal prior authorisation, in writing and/or electronic medium, as to need and budget cover. Written or electronic orders are to be issued for all work, goods or services to be supplied to the Council unless a written contract is required. An order or contract is not required for 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. All orders and contracts are to be managed in compliance with the Council's Contract Procedure Rules and Financial Procedure Rules.
- 20.5 Each order shall 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 shall be marked with invoice details when relevant accounts are passed for payment. When an electronic procurement system is in use an appropriate entry shall be made in that system when a 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.

## 21. WORKING FOR THIRD PARTIES

21.1.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services and Head of Legal & Democratic Services.

### General

21.1.2 Current legislation enables the Council to provide a range of services to certain other bodies. Such work may enable the unit to maintain economies of scale and existing expertise. Arrangements must be in place to ensure that any risk associated with this work is minimised.

21.1.3 All proposals to work for a third party shall be properly costed in accordance with guidance provided by the Director of Resources.

21.1.4 All decisions to work for a third party shall be made in accordance with the Council's formal decision making processes as set out in the Scheme of Delegation.

21.1.5 All contracts for providing work for a third party shall be drawn up using guidance provided by the Head of Legal & Democratic Services.

### Responsibilities of Directors, Heads of Service and Officers

21.1.6 Officers shall ensure that:

- a) Legal advice is obtained from the Head of Legal & Democratic Services on the implications of providing the proposed service to the proposed third party.
- b) Financial advice is obtained from the Head of Financial Services on the cost of providing the service.
- c) Formal approval in line with section 12.4 of the Council's Scheme of Delegation is obtained before any negotiations to work for third parties are concluded.
- d) A register of all contracts entered into with third parties is maintained in accordance with procedures specified by the Head of Legal & Democratic Services.
- e) Appropriate insurance arrangements are in place for the third party work.
- f) The Council is not put at any risk of bad debts as a result of any third party work (see 21.1.2 above).
- g) The Council is not subsidising any contracts for the provision of third party work.
- h) Wherever possible, payment is received in advance of the delivery of the service under a third party contract.
- i) The Directorate has the appropriate expertise to undertake the contract.
- j) The contract does not adversely impact on the services provided for the Council.
- k) All contracts are properly documented.
- l) The Director of Resources is provided with the information he / she needs to make an appropriate note to the annual statement of accounts in respect of the Council's work for third parties.



## 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. Responsibility is delegated to the Head of Financial Services 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 refers). A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.7 Contract Monitoring Officers are responsible for emailing copies of their Suspended and Removed Contractors Lists to the central Suspended and Removed Contractors List sub-folder of the Procurement / Contract Management public folder on the Council's Intranet. A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.8 Contract Monitoring Officers are responsible for maintaining records of the:
- a) Contractors included in their Approved Contractor Registers.
  - b) Contracts awarded including the nature and value of contracts and the names of successful tenderers.
  - c) Total value of contracts awarded to each successful tenderer during each financial year.
  - d) Names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price.
  - e) Details of any failure by a tenderer to comply with instructions to tenderers.
  - f) Details of the reasons for any tenders being withdrawn.
  - g) Details of failures by contractors to submit tenders after having requested and been invited to do so.
  - h) Contractors' performance.
  - i) Reasons for opening late tenders (see section 5 of the Council's Contract Procedure Rules).



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

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

### **3.5 Strategic Procurement Manager's Responsibilities**

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

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

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

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

### **3.6 Responsibilities of all Officers**

3.6.1 All officers are responsible for:

## APPENDIX 5

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

### 4. APPROVED CONTRACTOR REGISTERS

#### 4.1 Introduction

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

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

## **4.2 Managing an Approved Contractor Register**

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

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

### **4.3 Suspending or Removing a Supplier from an Approved Contractor Register**

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

## **5. FORMAL QUOTATION AND TENDERING PROCEDURES**

### **5.1 Introduction**

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

- 5.1.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction.
- 5.1.5 Officers must also use Council approved strategic service delivery partners (such as Amey Wye Valley Limited and Owen Williams) where appropriate to do so.
- 5.1.6 Procurement of ICT equipment must be achieved using the Council's online procurement system.
- 5.1.7 The following procedures must be followed for all other types of procurement:
- a) **Purchases in total valued less than £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
  - b) **Purchases in total valued between £1,001 and £10,000** – two formal quotations must be obtained (see 5.2 below).
  - c) **Purchases in total valued between £10,001 and £50,000** – three formal quotations must be obtained (see 5.2 below).
  - d) **Purchases in total valued between £50,001 and up to relevant EU limit** – formal tendering arrangements must be followed (see 5.3 below).
  - e) **Purchases in total valued in excess of relevant EU limit** – European procurement rules must be followed (see section 6 of the Council's Contract Procedure Rules).
- 5.1.8 Officers must consider all aspects of the contract that will eventually be entered into with a supplier (for example equipment acquisition costs **and** associated maintenance costs) over the entire life of the contract (often in excess of one year) in estimating the total value of a purchase and hence determining which of the procurement routes identified in 5.1.7 applies. Officers are strictly prohibited from circumventing the Council's Contract Procedure Rules by letting short term contracts and / or separating related items in order to avoid using the correct procurement route.
- 5.1.9 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.
- 5.1.10 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 5.1.7).
- 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 other 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.



## APPENDIX 5

- 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:

	<b>Supplies</b>	<b>Services</b>	<b>Works</b>
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 1<sup>st</sup> 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 Within the limitations specified below, discharge of the Council's executive functions is delegated to the Chief Executive, Directors and specific officers.
- 12.1.2 This Scheme of Delegation ("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 mandatory and standardised in relevant officers' Job Descriptions. Consistent or significant failure to comply with the Scheme would therefore be 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) The term 'Corporate Management Board' is used in this document to refer to the following postholders acting in their individual capacities rather than collectively as the Board:
    - I. The Chief Executive.
    - II. The Director of Adult & Community Services.
    - III. The Director of Children's Services.
    - IV. The Director of Corporate & Customer Services.
    - V. The Director of Environment.
    - VI. The Director of Resources.
    - VII. The Head of Human Resources.
  - e) There are three 'Statutory Officers', as follows:
    - I. The **Head of Paid Service (Chief Executive)** who reports 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.
    - II. The **Monitoring Officer (Head of Legal & Democratic Services)** who is responsible for advising on any proposal, decision or omission actually or potentially giving rise to a breach of law or of any statutory code of practice or maladministration.

- III. The **Chief Finance Officer (Director of Resources)** who is responsible for the proper administration of the Council's financial affairs.
- f) There are four 'Heads of Profession', with specific delegations, as follows:
  - I. The **Head of Human Resources**: all human resources and employee health & safety issues.
  - II. The **Head of Financial Services**: all contracting and procurement issues relating to works, goods and services, also the deputy Chief Finance Officer role.
  - III. The **Head of Asset Management & Property Services**: all land and property issues.
  - IV. The **Head of ICT** in respect of all information and communications technology hardware, software, systems and support services.

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 may be 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 authorises members of the Corporate Management Board 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 to be made to individuals rather than posts.
- 12.3.2 Every sub-delegation shall be in writing, setting out the confines and accountability for the function and the terms and conditions for the performance of it.
- 12.3.3 Each member of the Corporate Management Board shall record all sub-delegations in a register maintained for the purpose by them. These registers are to be kept in line with the Council's policies for the retention of documents.

## **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 Each member of the Corporate Management Board is responsible for identifying and advising on Cabinet Member Decisions and managing the process in line with the arrangements set out below.

### **Reports**

- 12.4.3 Before asking a Cabinet Member to take a decision, the member(s) of the Corporate Management Board concerned 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(s) concerned.
  - 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:
    - I. the facts of the matter;

- II. any legislative requirements;
  - III. any Council policies relating to the issue; and
  - IV. 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 comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Corporate Management Board affected by the proposals.
  - r) The appendices.
  - s) The background papers and reporting 'route map'.

**Consultation**

12.4.4 The member(s) of Corporate Management Board concerned shall then send a copy of the draft Cabinet Member Decision report to:

- a) The Cabinet Member(s) whose portfolio(s) 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 local Member whose ward might be affected.
- c) All Statutory Officers.
- d) All relevant Heads of Profession.
- e) Any other member of the Corporate Management Board who is responsible for services that might be affected by the proposed decision.

**Objections**

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 his/her agreement to the recommendations. The member(s) of Corporate Management Board concerned 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 member(s) of Corporate Management Board concerned shall not take

any action in respect of the proposed recommendations until Cabinet has determined the matter.

- 12.4.8 The member(s) of Corporate Management Board concerned 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 recommendations of the member(s) of Corporate Management Board.

#### **Referring to Cabinet**

- 12.4.9 A member of Corporate Management Board may consider that an issue is too important to be decided by a Cabinet Member. In discussion with their Cabinet Member, the member of Corporate Management Board 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 a member of Corporate Management Board 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 member of the Corporate Management Board shall:

- a) Use his/her 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 A member of Corporate Management Board 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 member of Corporate Management Board'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 Council has previously approved the specific expenditure or reduction.

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

- 12.4.18 A provisional Cabinet Member Decision may be called in under the terms of the Council's scrutiny procedure rules.
- 12.4.19 A provisional Cabinet Member Decision can be implemented if not called-in.

### **Accountability**

- 12.4.20 Members of the Corporate Management Board 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 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:
  - I. changing employees' employment contracts or TUPE transfer employees;
  - II. acquiring or disposing of land or property outside of the specific designations to the Head of Asset Management & Property Services;
  - III. viring capital or revenue budget of more than the prevailing European procurement limit for supplies and services (currently £144,000);
  - IV. accepting a tender for a capital or revenue contract in excess of the European procurement limits for supplies or services (currently £144,000); or
  - V. 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 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) A member of the Corporate Management Board is of the opinion it should be treated as an Executive Decision.

### **Consultation**

- 12.5.3 Members of the Corporate Management Board do not have to prepare or publish a formal written report in respect of an Administrative Decision. However, they are responsible for ensuring that appropriate written records of the advice sought from the Statutory Officers and Heads of Profession are kept.
- 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 members of the Corporate Management Board to take responsibility for Administrative Decisions. However, members of the Corporate Management Board can decide to treat an Administrative Decision as a Cabinet Member Decision in which case the arrangements set out in Section 12.4 apply.

### **Recording and Reporting Administrative Decisions**

- 12.5.6 There is no requirement to report Administrative Decisions to Council, Cabinet, Committees or Sub-Committees.
- 12.5.7 Members of the Corporate Management Board are responsible for ensuring that all those who need to know about Administrative Decisions are informed promptly.

### **Retaining Records**

- 12.5.8 Members of the Corporate Management Board 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).
- 12.5.9 Members of the Corporate Management Board 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**

### **Corporate Management Board's Responsibilities**

- 12.6.1 Members of the Corporate Management Board 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 this Scheme and do not contain confirmation that these

consultations have taken place are to be deferred by him/her until the process outlined in section 12.6 has been followed.

**Forward Plan**

- 12.6.3 Members of the Corporate Management Board 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(s) portfolio(s) concerned.
- 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:
  - I. the facts of the matter;
  - II. any legislative requirements;
  - III. any Council policies relating to the issue; and
  - IV. 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 comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Corporate Management Board affected by the proposals.
- u) The appendices.
- v) The background papers and reporting 'route map'.

#### **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 and the Head of Human Resources 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 Members of the Corporate Management Board are responsible for ensuring that their reports are available for the Head of Legal & Democratic Services to despatch with respective agenda papers.
- 12.6.9 Members of the Corporate Management Board shall make every endeavour to ensure that a report subsequent to release of the agenda only happens in exceptional circumstances in the interest of efficiency and to aid effective decision-making.
- 12.6.10 Directors and the Head of Human Resources are to 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 and the Head of Human Resources are to 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 Members of the Corporate Management Board 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 Members of the Corporate Management Board are expected to maintain a close liaison with the relevant Cabinet Members and Committee Chairmen.
- 12.7.3 Members of the Corporate Management Board 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 Members of the Corporate Management Board will comply with the Protocol for Member / Officer Relations as set out in the Council's Constitution.
- 12.7.5 Directors and the Head of Human Resources 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 a member of the Corporate Management Board in their absence or at other times subject to 12.3.
- 12.7.7 Members of the Corporate Management Board and the Monitoring Officer 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 roles and responsibilities of the Statutory Officers are set out in 12.8, 12.13 and 12.18.
- 12.7.8 Members of the Corporate Management Board 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 and the Head of Human Resources are authorised, having consulted with the Chief Executive, to give notice of their intention to make a written report to the full Council on a proposed decision they consider to be contrary to or not in compliance with the Council's Constitution, policies or government advice. Members of the Corporate Management Board 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. A special Council meeting may have to be arranged in order that the matter can be considered promptly.
- 12.7.10 Members of the Corporate Management Board are responsible for ensuring the Council's Criminal Records Bureau policies and procedures are followed.
- 12.7.11 Members of the Corporate Management Board, whether acting individually or corporately, are responsible for:
- 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.
- Asset Management & Property Services**
- 12.7.12 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services declare Council land or property surplus to requirements.
- 12.7.13 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services arrange for sessional lettings of Council premises for periods of less than 24 hours.

- 12.7.14 Members of the Corporate Management Board 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 Members of the Corporate Management Board 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 Members of the Corporate Management Board and Heads of Service shall 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 Members of the Corporate Management Board shall ensure the proper security of all buildings and other assets under their control.
- 12.7.18 Members of the Corporate Management Board shall periodically review the Council's land and property in order to identify any that are surplus to requirements.
- 12.7.19 Where Council-owned 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 Council land or property is subject to a proposal for a change of use, the member(s) of the Corporate Management Board concerned shall consult with the Director of Resources. The Director of Resources will refer such proposals to the Cabinet Member (Resources) and relevant Cabinet Member(s) for approval, having provided advice on the alternative options to that proposed.
- 12.7.21 Members of the Corporate Management Board shall pass title deeds to the Head of Legal & Democratic Services. The Head of Legal & Democratic Services is responsible for custody of all title deeds.
- 12.7.22 Members of the Corporate Management Board ensure that no Council asset is subject to third party or personal use by an employee or Member without proper authority.
- 12.7.23 Members of the Corporate Management Board shall ensure the safe custody and proper recording and use of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- 12.7.24 Members of the Corporate Management Board shall ensure that a register of moveable assets is kept in compliance with arrangements defined by the Director of Resources.
- 12.7.25 Members of the Corporate Management Board shall ensure assets are identified, their location recorded and that they are appropriately security marked and insured.
- 12.7.26 Members of the Corporate Management Board shall 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 Members of the Corporate Management Board 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. Members of the Corporate Management Board are

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

- 12.7.28 Members of the Corporate Management Board 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 his/her nominated representative.
- 12.7.29 The Director of Resources is to prepare Financial Procedure Rules and Contract Procedure Rules for formal adoption by the Council. Members of the Corporate Management Board are responsible for promoting these formal requirements and ensuring compliance with them in their areas of responsibility.
- 12.7.30 Members of the Corporate Management Board are responsible for ensuring that a Scheme of Financial Delegation is in place for their area of responsibility. The Scheme of Financial Delegation is to set out the arrangements for the discharge of their responsibilities contained in the Council's Contract Procedure Rules and Financial Procedure Rules and is to be kept up to date.
- 12.7.31 Members of the Corporate Management Board are responsible for ensuring that budget estimates reflecting agreed service plans are prepared in line with guidance issued by the Director of Resources.
- 12.7.32 Members of the Corporate Management Board are authorised to sign contracts with third parties on behalf of the Council provided the expenditure to be incurred is necessary, the appropriate budget approval is in place and the action complies in all other respects with the Council's Financial Procedure Rules and Contract Procedure Rules.
- 12.7.33 Before any commitments are incurred, members of the Corporate Management Board are responsible for consulting with the Director of Resources and seeking his/her 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).
- 12.7.34 Members of the Corporate Management Board are to draw to the attention of their employees the existence and content of the Council's Contract Procedure Rules and Financial Procedure Rules and related guidance prepared by the Director of Resources. Members of the Corporate Management Board shall ensure that these documents are readily available for reference within their Directorates.
- 12.7.35 Members of the Corporate Management Board are responsible for ensuring that officers they propose to include in their Schemes of Financial Delegation have attended the mandatory in-house financial management training appropriate to their level of financial responsibility before being authorised to exercise those responsibilities.
- 12.7.36 Members of the Corporate Management Board are responsible for managing service delivery within the agreed revenue and capital budgets for their area of responsibility. For revenue budgets, the permitted tolerance is +1% of the in year budget. For capital budgets, the tolerance is +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.
- 12.7.37 Members of the Corporate Management Board are responsible for identifying budget 'windfalls' (for example income from fees and charges in excess of budget) or budget

no longer required for the purpose for which it was approved (for example a capital project that is no longer to proceed). Additional financial capacity shall be considered a corporate resource and allocated in line with corporate priorities.

- 12.7.38 Members of the Corporate Management Board are responsible for providing performance information that contributes to effective financial modelling for budget setting and outturn forecasting purposes.
- 12.7.39 Members of the Corporate Management Board 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 Members of the Corporate Management Board are responsible for ensuring that works, goods and services are purchased from preferred Council suppliers where such have been identified.
- 12.7.41 Members of the Corporate Management Board 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 staff or systems.
- 12.7.42 Members of the Corporate Management Board are responsible for taking immediate remedial action if the financial governance arrangements in their area of responsibility do not achieve the required standard, conducting recorded investigation(s) and instigating disciplinary proceedings if appropriate. They shall report the incident in writing to the Director of Resources.
- 12.7.43 Members of the Corporate Management Board are required to work together to ensure that all fundamental systems achieve as a minimum a 'satisfactory' internal audit opinion.
- 12.7.44 Members of the Corporate Management Board are responsible for ensuring that all fundamental systems and financial systems are reconciled on a monthly basis.

#### **Human Resources**

- 12.7.45 Members of the Corporate Management Board 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.
- 12.7.46 Members of the Corporate Management Board are responsible for ensuring action is taken in the event that an employee consistently fails to meet the agreed standards of performance in their role.
- 12.7.47 Members of the Corporate Management Board and all other officers will comply with the Code of Conduct for Employees and will be required to formally acknowledge receipt and understanding of the Code.

### **12.8 SPECIFIC DELEGATIONS TO THE CHIEF EXECUTIVE**

#### **Statutory Officer Responsibilities**

- 12.8.1 The Chief Executive as Head of Paid Service will discharge the statutory responsibilities of the Head of Paid Service and 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 and any Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political group.

**Other Responsibilities**

12.8.3 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.

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

12.8.5 The Chief Executive is responsible for the provision of professional advice to all officers and Members on the decision making process.

12.8.6 The Chief Executive (or in his absence 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.

12.8.7 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 if no other authorised person is available to do so.

12.8.8 The Chief Executive is responsible for reviewing and enforcing the Council's Anti-Fraud and Corruption policy except for matters 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:

- a) Economic and Community Services.
- b) Strategic Housing Services.
- c) Adult Social Care Services.

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

12.9.3 To authorise modifications or 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 Health Service body under Section 75 of the National Service Health Act 2006.
- 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 allocated to the Lead Member for Children's Services comprising:
- 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:
- a) Policy and Performance.
  - b) Legal and Democratic Services (except with reference to the Monitoring Officer).
  - c) Information and Communications Technology and Customer Services.
  - d) Communication.
  - e) Herefordshire Partnership.
  - f) Emergency Planning.
  - g) 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:

- a) Planning Services.
- b) Highways & Transportation Services.
- c) Environmental & Trading Standards Services.
- d) 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 the statutory responsibilities of Chief Finance Officer.

- 12.13.2 Save as provided for in 12.13.28 below, the Chief Finance Officer has statutory responsibility for the financial administration and stewardship of the Council. The statutory duties, which may neither be abrogated nor further delegated, 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 providing 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 his/her statutory responsibilities. This does not extend to any documents or information held by or on behalf of any political group.
- 12.13.8 The Chief Finance Officer shall have the right of assistance of any officer in undertaking his/her role.
- 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 and any Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political group.
- 12.13.10 The Chief Finance Officer shall have the right to add 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 from the outset.
- 12.13.12 The Chief Finance Officer shall have line management responsibility for the internal audit function and the authority to direct the work programme of internal audit in support

of his/her statutory duties. The Council will make available the appropriate quantity and quality of staff to undertake the necessary 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 Council's financial management arrangements.

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:

a) **Maintaining strong financial management underpinned by effective financial controls:**

- Advising on corporate risk profiling, and management, including safeguarding assets, risk avoidance and insurance.
- Advising on effective systems of internal control.
- Ensuring there are effective systems 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** including:

- 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:**

- Advising on protocols setting out the respective roles and responsibilities for financial management of Members and officers.

- 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:**

- 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:**

- 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 statutory 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.

- c) 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 necessary to allow him/her to perform his/her 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:

- a) Result from pay awards or price increases not taken into account in approved revenue budgets.
- b) 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 and/or 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 Responsibilities 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) As Corporate Property Officer, managing the Council's land and property portfolio, including the maintenance of a property data base for all properties. Any use of a property by a Directorate or establishment other than for directorate service delivery should be supported by documentation identifying terms, responsibilities and duration of the use.
- 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, including the valuation of assets for accounting purposes to meet the requirements of relevant codes of accounting practice.

**Audit Services**

12.13.26 Operational responsibility for internal Audit Services is delegated to the Audit Services Manager 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 or alleged financial irregularity, consulting and/or involving the Chief Finance Officer and Monitoring Officer as appropriate.
- f) Making appropriately authorised imprest account advances and determining the arrangements for operating such accounts.



- g) Prescribing the form of inventories.
- h) Providing an assurance report to each meeting of the Audit & Corporate Governance Committee on the improvements to key internal control arrangements.
- i) Reporting annually to the Audit & Corporate Governance Committee on:
  - I. The proposed audit activity for the coming year and actual audit activity and findings in the previous year.
  - II. The effectiveness of the Council's internal control arrangements.

**Benefit & Exchequer Services**

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

12.13.28 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.

12.13.29 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 optimise 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 LEGAL & DEMOCRATIC SERVICES**

**Statutory Officer Responsibilities**

- 12.14.1 The Head of Legal & Democratic Services is delegated statutory responsibility for the Monitoring Officer role.
- 12.14.2 The Monitoring Officer shall report to the Council and Cabinet in any case where he/she is of the opinion that a proposed action or decision could 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'.
- 12.14.3 The Monitoring Officer shall investigate any matters relating to possible reportable incidents or matters referred to them by an Ethical Standards Officer.
- 12.14.4 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.
- 12.14.5 The Monitoring Officer shall maintain the register of Members' Interests.
- 12.14.6 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.

- 12.14.7 The Monitoring Officer shall deal with Ombudsman complaints.
- 12.14.8 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.
- 12.14.9 The Monitoring Officer shall be responsible for all Monitoring Officer functions in respect of Town and Parish Councils within the Council's area.
- 12.14.10 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.
- 12.14.11 The Council shall provide the Monitoring Officer with such officers, accommodation and other resources as may be necessary to allow him/her to perform his/her duties.
- 12.14.12 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 group.
- 12.14.13 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 group.
- 12.14.14 The Monitoring Officer shall have the right of assistance of any officer in undertaking the role of the Monitoring Officer.
- 12.14.15 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.
- 12.14.16 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.
- 12.14.17 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.
- 12.14.18 The Monitoring Officer shall have the right to obtain at the Council's expense external legal advice.
- 12.14.19 The Monitoring Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.14.20 The Monitoring Officer's statutory 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**

- 12.14.21 The Head of Legal & Democratic Services is authorised to serve statutory notices to ascertain the legal interests of any person in land.
- 12.14.22 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.
- 12.14.23 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.
- 12.14.24 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.
- 12.14.25 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.
- 12.14.26 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.
- 12.14.27 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.
- 12.14.28 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.
- 12.14.29 The Head of Legal & Democratic Services shall keep the Common Seal of the Council under lock and key and shall be responsible for the key.
- 12.14.30 The Head of Legal & Democratic Services is responsible for ensuring that the Common Seal of the Council is affixed to appropriately authorised documents only.

- 12.14.31 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.
- 12.14.32 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.

## **12.15 ARRANGEMENTS FOR REVIEWING THE SCHEME OF DELEGATION**

- 12.15.1 The Chief Executive will be responsible for arranging at least an annual review of the Scheme of Delegation, the results of which will be reported to each November meeting of Council. The Director of Resources and the Head of Legal & Democratic Services shall agree the proposed changes and the Audit & Corporate Governance Committee shall be invited to review them, reporting to Council as appropriate.
- 12.15.2 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.
- 12.15.3 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.