

A G E N D A

Audit and Corporate Governance Committee

Date: **Thursday, 3rd July, 2008**

Time: **9.30 a.m.**

Place: **Council Chamber, Brockington, 35
Hafod Road, Hereford HR1 1SH**

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

For any further information please contact:

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Herefordshire Council

AGENDA

for the Meeting of the Audit and Corporate Governance Committee

To: Councillor ACR Chappell (Chairman)
Councillor RH Smith (Vice-Chairman)

Councillors MJ Fishley, JHR Goodwin, B Hunt, R Mills and AM Toon

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. NAMED SUBSTITUTES(IF ANY)

To receive any named substitutes.

3. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

4. MINUTES

To approve the minutes of the meeting held on 20 June 2008. (to follow)

5. REVIEW OF CODE OF CORPORATE GOVERNANCE

Pages

1 - 18

To consider and agree the reviewed and revised Code of Corporate Governance for the Council following the issuing of the new governance framework and guidelines.

6. SCHEME OF DELEGATION

To approve the Scheme of Delegation.

19 - 80

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- 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.
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- 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.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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REVIEW OF THE CODE OF CORPORATE GOVERNANCE**Report By: Assistant Chief Executive - Legal and Democratic****Wards Affected**

None.

Purpose

1. To consider and agree a revised Code of Corporate Governance for the Council following the issuing of a new governance framework and guidelines.

Financial Implications

2. None arising as a direct result of this report.

Recommendations

3. **THAT:**
 - (a) **The Audit and Corporate Governance Committee consider and agree the revised Code of Corporate Governance for consideration by the Standard Committee for onward approval by Cabinet;**
 - (b) **The Chairman of the Audit and Corporate Governance Committee (or nominee) attends the Standards Committee on 4 July 2008.**
 - (c) **The Audit and Corporate Governance Committee receives a report formally reviewing the Code of Corporate Governance at their meeting on 20 March 2009.**

Background

4. The revised Code of Corporate Governance (attached as Appendix 1) takes into account the Framework agreed by Cabinet on 27 March 2008 and reflects the new requirements outlined within the CIPFA/SOLACE publication '*Delivering Good Governance in Local Government*'. The Cabinet requested that the Monitoring Officer carry out a review to ensure that the Code of Corporate Governance met the new regulations and guidance on the delivery of good governance in local government. Attached as Appendix 2 is the Code of Corporate Governance as considered by the Audit and Corporate Governance Committee at their meeting in September 2006.
5. The guidance within '*Delivering Good Governance in Local Government*' sets out six core principles (as outlined in paragraph 6) on which effective governance should be built, each of which have a number of key

Further information on the subject of this report is available from Alan McLaughlin,
Assistant Chief Executive Legal and Democratic Services
on tel: (01432 260200)

requirements to ensure that the principles are embedded within the Council's policies, procedures and systems (see Appendix 1).

6. The six core principles on which effective governance should be built are:
 - (i) Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area.
 - (ii) Members and Officers working together to achieve a common purpose with clearly defined functions and roles.
 - (iii) Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
 - (iv) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
 - (v) Developing the capacity and capability of members and officers to be effective.
 - (vi) Engaging with local people and other stakeholders to ensure robust public accountability.

Reasons

7. To meet the requirements of Accounts and Audit Regulations 2003 (as amended) and to ensure governance arrangements continue to meet best practice.
8. An annual review of the Code of Corporate Governance will be conducted to produce an Annual Governance Statement, in order to formally meet audit and accounting regulations.

Risk Management

9. The Code of Corporate Governance is needed to meet the requirements of the Audit and Accounts Regulations 2003 (as amended) and to ensure that governance arrangements continue to meet best practice

Background Papers

Cabinet Report – 27 March 2008: Annual Governance Statement 2008

Appendices

Appendix 1 – (Draft) Revised Code of Corporate Governance

Appendix 2 – Code of Corporate Governance as considered by Audit and Corporate Governance in September 2006.

Further information on the subject of this report is available from Alan McLaughlin,
Assistant Chief Executive Legal and Democratic Services
on tel: (01432 260200)

REVISED CODE OF CORPORATE GOVERNANCE

1. Foreword

- 1.1 Herefordshire Council is committed to the highest standards of governance. It must meet high ethical standards of conduct in everything it does; it must comply with legal requirements; and it must use public money and other resources economically, efficiently and effectively.
- 1.2 In order to discharge these responsibilities, Members and senior Officers must ensure the proper governance of the Council's affairs and the stewardship of its resources.
- 1.3 The Council's Code of Corporate Governance is consistent with the principles of and reflects the requirements within the CIPFA/SOLACE Framework, 'Delivering Good Governance in Local Government in Local Government.
- 1.4 Whilst all Councillors and Managers are responsible for the effective application of the Code, the Director of Resources for the Council is responsible for compliance of the code in matters of financial probity, performance and risk. The Assistant Chief Executive Legal and Democratic, who is also the Monitoring Officer, is responsible for the effective compliance of the Code in respect of legal obligation and ethical standards.
- 1.5 In order to strengthen standards of governance, and to comply with legislation, there will be an annual review of the effectiveness of the Code of Corporate Governance.
- 1.6 Governance is about how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner.
- 1.7 It comprises the systems, processes, culture and values by which the Council is directed and controlled, and through which it accounts to, engages with and leads the community.
- 1.8 The Council is committed to the six core principles of good governance:
 - i. Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area
 - ii. Members and Officers working together to achieve a common purpose with clearly defined functions and roles
 - iii. Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
 - iv. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - v. Developing the capacity and capability of members and officers to be effective
 - vi. Engaging with local people and other stakeholders to ensure robust public accountability.

2. The Six Core Principles of Good Governance

2.1 Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area.

2.1.1 Through carrying out our responsibilities and in our influence of the wider community, the Council will:

- i. Demonstrate strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and services users.
- ii. Ensure that users receive a high quality of services whether directly or by commissioning.
- iii. Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

2.1.2 The Council will maintain effective arrangements to:

- i. Develop and promote the authority's purpose and vision.
- ii. Review on a regular basis the authority's vision for the County and its implications for the authority's governance arrangements.
- iii. Ensure that the partnerships are underpinned by partnership agreements setting out a common vision of their work that is understood and agreed by all partners.
- iv. Publish an Annual Report on a timely basis, presenting an objective and understandable report on the authority's activities and achievements, its financial position and performance. This would include the statements that:
 - (a) Explain the Council's responsibilities for the Annual Statements of Accounts.
 - (b) Confirm that the Council complies with relevant standards and the Code of Corporate Governance.
 - (c) Explain the effectiveness of the Council's systems for managing risk and internal control.
- v. Measure the quality of service for users and make sure that the information needed to review service quality effectively and regularly is available. Cabinet has approved a data quality policy.
- vi. Put in place effective arrangements to identify and deal with failure in service delivery.
- vii. Measure value for money and make sure that the authority or partnership has the information needed to review value for money and performance effectively.
- viii. Measure the environmental impact of policies, plans and decisions.
- ix. Regularly review arrangement for how the Council's financial and operational reporting processes are independently scrutinised, including internal and external audit review of this code.

2.2 Members and Officers working together to achieve a common purpose with clearly defined functions and roles

2.2.1 The Council through its constitution and monitoring procedures will:

- i. Ensure effective leadership throughout the authority, being clear about executive and non executive functions and the roles and responsibilities of the scrutiny function.

- ii. Ensure that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard.
- iii. Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other.

2.2.2 The Council will:

- i. Set out within the Constitution a clear statement of the respective roles and responsibilities of the Executive and of the Executive Members individually and the authority's approach towards putting this into practice.
- ii. Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers within the Constitution.
- iii. Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decisions of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required. The Scheme of Delegation is contained in the Council's Constitution.
- iv. Make the Chief Executive responsible and accountable to the authority for all aspects of operational management. The Chief Executive, as the Head of Paid Service, has designated authority under the Scheme of Delegation as outlined in the Constitution.
- v. Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.
- vi. Make a senior officer (the S151 Officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control. This function is carried out by the Council's Director of Resources, and the role defined within the Council's Constitution. Regular financial reports are submitted to Audit and Corporate Governance Committee, Cabinet and Council.
- vii. Make a senior officer (the Monitoring Officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with. The function of the Monitoring Officer, is designated to the Assistant Chief Executive Legal and Democratic.
- viii. Develop and monitor protocols to ensure effective communication between members and officers in their respective roles as outlined in the Council's Code of Conduct and Scheme of Delegation.
- ix. Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel. An Independent Remuneration Panel for Members Allowances has been established by the Council which provides recommendations on the remuneration of Members and Member positions to Council. Officer remuneration is determined by national pay negotiations.
- x. Ensure that effective mechanisms exist to monitor service delivery. The Performance Improvement Cycle sets out the reporting process for monitoring the Council's targets.
- xi. Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the

local community and other key stakeholders, and that they are clearly written and communicated.

- xii. When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority.
- xiii. When working in partnership ensure that there is clarity about the legal status of the partnership and ensure that representatives of the partner organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.

2.3 Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.

2.3.1 The Council will:

- i. Ensure authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- ii. Ensure that organisational values are put into practice and are effective.

2.3.2 To support these principles, the Council will:

- i. Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect. The Council has an agreed Code of Conduct for adherence by all Members and Officers.
- ii. Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through coded of conduct and protocols. The Council has an agreed Code of Conduct for adherence by all Members and Officers.
- iii. Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.
- iv. Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners.
- v. Develop and maintain an effective Standards Committee. The Council has an established Standards Committee, which is chaired by an Independent Member.
- vi. Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority.
- vii. In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.

2.4 Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

2.4.1 The Council will:

- i. Be rigorous and transparent about how decisions are taken, listening and acting on the outcome of constructive scrutiny.

- ii. Use good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- iii. Ensure that an effective risk management system is in place.
- iv. Use our legal powers to the full benefit of the citizens and communities in their area.

2.4.2 The Council's arrangements will:

- i. Develop and maintain an effective scrutiny function that encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which the authority is responsible.
- ii. Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based. Information relating to the decision making processes are maintained under the Council's retention policy.
- iii. Put in place arrangements to safeguard members and employees against conflicts of interest and establish appropriate processes to ensure that such arrangements and processes continue to operate in practice. A register of Members Interests is maintained and updated on a regular basis.
- iv. Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee. The Audit and Corporate Governance's terms of reference are outlined in the Council's Constitution.
- v. Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints. The Council has an established comments, complaints and compliments policy for dealing with complaints expeditiously which is available to the public in several forms (including leaflet and the website).
- vi. Ensure that those making decisions whether for the authority or a partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.
- vii. Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately. Reports to meetings which support the Council's formal governance structures make reference to legal and financial implications as defined by appropriate officers.
- viii. Ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs. The Council has a combined risk management strategy, policy and toolkit as agreed by the Cabinet on 1 May 2008.
- ix. Ensure that arrangements are in place for whistle blowing to which staff and all those contracting with the authority have access. The Council's policy on whistleblowing is publicly available in several forms (including via the website and in a leaflet form. The policy is also accessible to staff via the Council's intranet.
- x. Actively recognise the limits of lawful activity placed on both Members and Officers by, for example, the *ultra vires* doctrine but also strive to utilise powers to the full benefit of the communities which the Council serves.

- xi. Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law.
- xii. Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into our procedures and decision-making processes.

2.5 Developing the capacity and capability of members and officers to be effective

2.5.1 The Council is committed to developing the capacity and capability of both Members and Officers, and will:

- i. Ensure that Members and Officer have the skills, knowledge, experience and resources they need to perform well in their roles
- ii. Develop the capability for Member and evaluate their performance, as individuals and as a group.
- iii. Encourage new talent for membership of the authority so that best use can be made of individual's skills and resources in balancing continuity and renewal.

2.5.2 In order to meet this commitment, the Council will:

- i. Provide induction programmes tailored to individual needs and opportunities for member and officer to update their knowledge on a regular basis. Newly appointed Members have access to a structured induction programme providing information on the scope of the Council's functions. A programme of seminars has been established to provide regular updates to Members on issues relating to Council activities. A review of member development support is currently underway. Officers new to the authority attend appropriate training including a Central Induction day. Newly appointed Officers are supported by their relevant line manager who establishes an appropriate structured programme of induction.
- ii. Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority, with proper management and supervision by top management.
- iii. Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.
- iv. Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- v. Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs. Defining the support required to addressing members development needs are currently being addressed.
- vi. Ensure that effective arrangements designed to encourage individuals from all section of the community to engage with, contribute to and participate in the work of the authority, and improve publicity regarding the right of the public to attend committee meetings.

- vii. Ensure that career structures are in place for member and officers to encourage participation and development.

2.6 Engaging with local people and other stakeholders to ensure robust public accountability.

2.6.1 The Council will continue to develop active engagement with residents and communities and will:

- i. Exercise leadership through a robust scrutiny function, effectively engaging local people and all local institutional stakeholders, including partnership, and developing constructive accountability relationships.
- ii. Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning
- iii. Make best use of human resources by taking an active and planned approach to meet responsibilities to staff.

2.6.2 To support these principles and to meet this commitment, the Council will:

- i. Make clear to themselves, all staff and the community to whom they are accountable and for what.
- ii. Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationship and any changes required.
- iii. Produce an annual report on the activity of the scrutiny function.
- iv. Ensure that clear channels of communication are in place with all sections of the community and other stakeholder, and put in place monitoring arrangements to ensure that they operate effectively.
- v. Hold meetings in public unless there are good reasons for confidentiality
- vi. Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands and be reviewed regularly.
- vii. Establish a clear policy of the types of issues that the Council will meaningfully consult on or engage with the public, including a feedback mechanism for those consultees to demonstrate what has changed as a result of their input.
- viii. On an annual basis, publish a performance plan, giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- ix. Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnership, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.
- x. Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision-making.

3. Monitoring and Review

3.1 The Council will monitor and review the arrangements in place with the Council to meet and demonstrate compliance with the code on an ongoing

basis, to ensure they remain effective, up to date and continue to reflect best practice.

- 3.2 A report on compliance with the Code including a review of the assurance framework in place will be considered by the Audit and Corporate Governance Committee annually, to enable them to assess the adequacy and effectiveness of the code and the extent of compliance and formally report their findings to Council.

HEREFORDSHIRE COUNCIL CODE OF CORPORATE GOVERNANCE

Introduction

1. The Herefordshire Council's Code of Corporate Governance closely follows guidance published jointly by CIPFA/SOLACE and endorsed by the Local Government Association and the Audit Commission. It has been developed in response to the recommendation that Local Authorities draw up their own 'Code of Corporate Governance', a document that describes the system by which the Council directs and controls its functions and relates to its communities. Three key principles underpin Corporate Governance:

Openness and Inclusivity

2. Openness is required to ensure that stakeholders can have confidence in the decision-making and management processes of the Council and in the approach of its members and staff. Openness also requires an inclusive approach, which seeks to ensure that all stakeholders and potential stakeholders have the opportunity to engage effectively with the decision-making processes and actions of Herefordshire Council.

Integrity

3. Integrity comprises both straightforward dealing and completeness. It is based upon honesty, selflessness, objectivity and high standards of propriety and probity in the stewardship of public funds and management of the Council's affairs. It is dependent on the effectiveness of the internal control framework and on the personal standards and professionalism of the Members and staff within Herefordshire Council.

Accountability

4. Accountability is the process whereby Herefordshire Council and the Members and staff are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance and submit themselves to appropriate external scrutiny.
5. The CIPFA/SOLACE guidance identifies five dimensions, which should be covered in a Code:
 - Community Focus;
 - Service Delivery Arrangements;
 - Structures and Processes;
 - Risk Management and Internal Control; and
 - Standards of Conduct.
6. The Council's Code takes each of these dimensions in turn and sets out the ways in which the principles of Corporate Governance will be reflected in each. The Code then identifies the measures, which are already in place within the Council to comply with the requirements set out in the guidance.

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Community Focus

7. Through carrying out our general and specific duties and responsibilities and our ability to exert wider influence, the Council will:
- work for and with their communities;
 - exercise leadership in their local communities where appropriate;
 - to promote the well being of their area through maintaining effective arrangements for explicit accountability to stakeholders for the Council's performance and its effectiveness in the delivery of services and the sustainable use of resources;
 - demonstrate integrity in the Council's dealings in building effective relationships and partnerships with other public agencies and the private/voluntary sectors;
 - demonstrate openness in all their dealings whenever appropriate; and
 - demonstrate inclusiveness by communicating and engaging with all sections of the community to encourage active participation

The Council will:

8. Publish on a timely basis an Annual Report presenting an objective, understandable report of the Council's activities and achievements, financial position and performance. The Annual Report will include statements that:
- explain the Council's responsibility for the financial statements;
 - confirm that the Council complies with relevant standards and codes of Corporate Governance; and
 - explain the effectiveness of the Council's system for risk management and internal control.
9. Publish on a timely basis a Performance Plan presenting an objective, balanced and understandable account and assessment of the Council's current performance in service delivery; and plans to maintain and improve service quality and such plan to be made widely available including access through our website.
10. Regularly review arrangements for the independent review of the financial and operational reporting processes e.g. Internal and external audit review of this code and review of performance management.
11. Regularly review arrangements designed to encourage individuals and groups from all sections of the community to engage with, contribute to and participate in the work of the Council and put in place appropriate monitoring processes to

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ensure that they continue to work in practice. The Council has a Community Strategy, "A Sustainable Future for the County". Consultations are coordinated through the Strategy bringing together the shared priorities of local communities, organisations, groups and networks. Feedback from service users will be sought. The Council's website also provides public access to information about the Council. The Council's Performance Plan is also available on the Council's website.

12. Make an explicit commitment to openness in all of its dealings, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so, and by their actions and communications deliver an account against that commitment. This is set out in the Council's publication scheme under FOI available on the Council's website. The Council has a Corporate Complaints Procedure. Complaints, concerns and compliments are reported to the Corporate Management Team.

13. Establish clear channels of communication with all sections of the community and other stakeholders and put in place proper monitoring arrangements to ensure that they operate effectively. Members contact details are made widely available and there is the facility for emailing complaints/compliments and access to services online.

14. Ensure that a vision for the local community and our strategic plans, priorities and targets are developed through robust mechanisms and in consultation with the local community and other key stakeholders and that they are clearly articulated and disseminated. Periodic Review of Community Strategy. Robust service planning and monitoring mechanisms are in place, focused on Key Performance Indicators, BVPI's and the Council's service Performance Plan.

Service Delivery Arrangements

The Council will:

15. Set standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies. These are articulated in the Performance Plan of the Council and monitored through IPG reports to Cabinet/SMC. The Council is committed to Corporate Equality Policy and has completed the third year of the Impact Equality Assessments. External audit of the Performance Plan ensures compliance with best practice standards. Targets are set with regard to diversity and performance monitored. The Council has an equality and diversity policy in place. A diversity group has been appointed and Equality Impact assessments completed.

16. Put in place sound systems and regularly review such systems for providing management information for performance management purposes. Performance management and information systems (including performance against KPI and BVPI's and local indicators) are in place, validated by internal and external audit.

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Timely management information is available to Directorates/Heads of Service with reports published on the intranet.

17. Monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans. The Performance Plan. Regular reports on performance against targets to Directorates/Cabinet/Portfolio holders/SMC

18. Put in place and regularly review arrangements to allocate resources according to priorities. MTFs, which sets priorities and establishes resource allocation according to the Performance/Business Plan, including consultation with budget holders and CMB. CMB meets regularly to discuss performance against targets, reallocate resources where possible in response to identified needs. The process is scrutinised by SMC and the Audit and Corporate Governance Committee and approved by the Council.

19. Secure Value for Money in the use of its resources. As above Performance/Service Plans. Voluntary and private sector/partnership.

20. Foster effective relationships and partnerships with other public sector agencies and the private and voluntary sectors and consider outsourcing options, where it is efficient and effective to do so in delivering services to meet the needs of the local community and put in place processes to ensure that they operate effectively in practice. Herefordshire Partnership, LAA, PACTS.

21. Respond positively to the findings and recommendations of external auditors and statutory inspectors and put in place arrangements for the effective implementation of agreed actions. Audit recommendations reported to CMB and action plan developed to address any such recommendations. Audit findings reported to Audit and Corporate Governance/Standards Committees as appropriate and Cabinet.

Structures and Processes

22. The Council has established effective political and managerial structures and processes to govern decision-making and the exercise of authority within the Council. The Council will maintain arrangements to:
 - define roles and responsibilities of Members and officers to ensure accountability;
 - ensure that there is proper scrutiny and review of all aspects of performance and effectiveness;
 - structures and processes should be clear and communicated and understood to demonstrate openness and inclusivity; and

This will be regularly reviewed to reflect changing requirements and best practice

**HEREFORDSHIRE COUNCIL
CODE OF CORPORATE GOVERNANCE**

The Council will:

23. Put in place and regularly review documented protocols governing relationships between Members and officers. The Constitution, code of conduct and Council Policies. The above are reviewed and monitored by the Standards Committee and the Council.
24. Ensure that the relative roles and responsibilities of Members and senior officers are clearly defined. Ensured by the Council's Scheme of Delegation set out in the Constitution and Code of conduct referred to above.
25. Ensure that Members meet on a formal basis regularly to set the strategic direction of the Council and to monitor service delivery. The Council does so by meeting regularly in an annual cycle and Cabinet/SMC. This structure supports the close involvement of Members in establishing the strategic direction of the Council and monitoring its progress.
26. Develop and maintain a scheme of delegated or reserved powers, which should include a formal schedule of those matters specifically reserved for the collective decision of the Council. The Council's scheme of Delegation is in place.
27. Put in place and regularly review its documented and management processes for policy development, implementation and review and decision-making, monitoring, control and reporting. In addition to formal procedural and financial regulations to govern the conduct of the Council's business. The S151 officer ensures that standing orders for the conduct of business and financial regulations are adhered to. The Monitoring Officer ensures compliance with statutory duties, code of conduct with assistance of Standards Committee in appropriate cases. Council policies regularly reviewed by SMT/Heads of service.
28. Put in place and regularly review arrangements for ensuring that Members are properly trained for their roles and have access to all relevant information, advice and resources as necessary to enable them to carry out their roles effectively. Package of support for Members led by Corporate and Customer Services, which includes: -
 - Induction Programme of training following election in May 2007;
 - Diversity Training;
 - Member visits to departments;
 - Training programme to be developed monitored by Standards Committee/SMC/Audit; and
 - Access to regular information from the Communications Service, intranet and website.

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29. Ensure that the role of the executive members are formally defined in writing to include responsibility for providing effective strategic leadership to the Council and for ensuring that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole. Set out in the Constitution of the Council.
30. Ensure that the roles and responsibilities of all Members of the Council, together with the terms of their remuneration and its review, are defined clearly in writing. Terms of remuneration are set out in Members Allowances scheme (to be reviewed by October, 2006).
31. Ensure that the Chief Executive is made responsible to the Council for all aspects of operational management. The Council has a designated Chief Executive as head of the paid service with appropriate job description and authority under the Scheme of delegation.
32. Appoint a Chief Finance Officer under Section 151 of the Local Government Act 1972 who will be responsible to the Council for ensuring that appropriate advice is given to it on all financial matters, for keeping proper financial records and accounts and for maintaining an effective system of internal financial control. The function of the Chief Finance Officer is set out in the Council's Constitution. The Council has a designated s151 Officer and is responsible for ensuring effective financial monitoring; control and reporting systems are in place. Supported by financial regulations, internal audit. Regular financial reports to Audit and Corporate Governance Committee/Cabinet/Council.
33. Appoint a Monitoring Officer who will be responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with. The function of the Monitoring Officer is set out in the Council's Constitution. The Council has a designated Monitoring Officer. Standards Committee is responsible for reviewing the operation of the Monitoring Officer role and to ensure high standards of compliance are maintained.
34. Ensure that the roles and responsibilities of all senior officers, together with the terms of their remuneration and its review, are defined clearly in writing. Job descriptions are in place for all senior officers and a scheme of SRDs for reviewing performance. Remuneration is set by the appropriate pay and conditions and maintained through national pay negotiations and reviewed by the Cabinet/Council.

**HEREFORDSHIRE COUNCIL
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35. Adopt clear protocols and codes of conduct to ensure that the implications for supporting community political leadership for the whole Council are acknowledged and resolved. The Council has a code of Conduct for members.

Risk Management and Internal Control

The Council will:

36. Develop and maintain robust systems for identifying and evaluating all significant risks which involve the proactive participation of all those associated with planning and delivering services. The Council has a risk management strategy adopted (date to be inserted). A Corporate Risk Register has been developed with SMT. Directorates maintain individual registers, which are regularly reviewed.
37. Put in place and regularly review its risk management systems, including systems of internal control and an Internal Audit function. These arrangements will ensure compliance with all applicable statutes, regulations and relevant statements of best practice and ensure that public funds are properly safeguarded and are used economically, efficiently and effectively and in accordance with the statutory and other authorities that govern their use. The Council has a Statement on Internal Control, an internal audit function and systems are assessed through audit process.
38. Ensure that services are delivered by trained and experienced people. Job descriptions recognise skills needed to deliver and SRDs set out performance and development for individuals on an annual basis these are reviewed after 6 months to identify training needs. Investors In People is currently being sought.
39. Ensure effective arrangements for an objective review of risk management and internal control, including Internal Audit. Carried out by regular reports to the Audit and Corporate Governance Committee.
40. Maintain an objective and professional relationship with our external auditors and other statutory inspectors. The Council has regular meetings with auditors to determine and facilitate communication.
41. Publish on a timely basis, within the Annual Report, an objective, balanced and understandable statement and assessment of the Council's risk management and internal control mechanisms and their effectiveness in practice.

Standards of Conduct

The Council will:

**HEREFORDSHIRE COUNCIL
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42. Develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual Members, officers and agents of the Council are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with. The Council has a Code of Conduct governing Member/Officer relations in place. These codes are monitored and reviewed by the Monitoring Officer together with the Standards Committee. The Council has a Whistleblowing Policy currently under review by the Monitoring Officer.
43. Regularly review arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice. The Monitoring Officer maintains and reviews Register of Members/Officers Interests and Hospitality. Procurement procedures are in place.
44. Regularly review arrangements to ensure that our procedures and operations are designed in conformity with appropriate ethical standards and to monitor their continuing compliance in practice. The Council has key policies (for example, Code of Conduct, Whistleblowing, Recruitment etc) are reported to Cabinet/Council. Standards Committee responsible for oversight of compliance and good practice. Complaints, grievance and appeals procedures are in place.
45. Regularly review arrangements for Whistleblowing to which staff and all those contracting with the Council have access. The Council has such a policy in place and published throughout.

Review

46. This policy will be subject to annual review.

August 2006

SCHEME OF DELEGATION

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

None.

Purpose

1. To approve the revised Scheme of Delegation to Council for adoption.

Financial Implications

2. There are no financial implications.

RECOMMENDATIONS

3. **THAT:**

- (i) **the Committee comment on and approve in principle the revised Scheme of Delegation attached as Appendix 1 which represents the Scheme as approved by Audit and Corporate Governance Committee (21 December 2007), as amended with comments made by the Constitutional Review Working Group (16 April 2008) and which take account of the new senior management team arrangements.**
- (ii) **Members note that the Scheme of Delegation attached as Appendix 1 will be considered by the Joint Management Team on 7 July 2008. As Audit and Corporate Governance Committee are meeting in advance of JMT, approval is sought that, should the comments from JMT require substantial (non technical) changes to the revised Scheme of Delegation, the Chairman and Vice-Chairman of Audit and Corporate Governance Committee be informed and their approval sought for ratification of such changes prior to formal adoption by Council on 25 July 2008.**

Reasons

4. Following the decision by Council on 2 November to refer the revised Scheme of Delegation together with the Policy Procedure Rules, Financial Procedure Rules and Contract Procedure Rules documents to Audit and Corporate Governance Committee, there have been discussions held at the meetings held on 16 November 2007, 21 December 2007 and the 29 February 2008.

Further information on the subject of this report is available from Alan McLaughlin,
Assistant Chief Executive - Legal and Democratic on Telephone Number 01432 260200

5. Whilst the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules were adopted by Council on 8 March 2008, the Scheme of Delegation required additional revision in order to reflect the evolving management structures and to provide further clarification of the respective responsibilities of Directors and Cabinet Members.
6. The Committee will recall that this work was identified by both the S151 Officer's report and Mr Crookall's report.

Considerations

6. The draft Scheme of Delegation was last considered by the Audit and Corporate Governance Committee on 21 December 2007 and, subject to slight amendments, was endorsed for further consideration by the Constitutional Review Working Group on 14 April 2008. The document attached as Appendix 1 to the report takes into account the amendments from the Audit and Corporate Governance Committee (21 December 2007), the Constitutional Review Working Group (16 April 2008), which requested the Scheme, be updated to reflect the senior management structure for the Council and its partner, the PCT. Appendix 2 attached provides a 'tracked changes' version of this document (which for ease of reference does not highlight changes of a purely technical nature, e.g Post holder titles/roles, paragraph numbering and changes to state 'Joint Management Team').
7. The Audit & Corporate Governance Committee is invited to comment upon and approve the revised Scheme of Delegation attached as Appendix 1. The Committee is advised that the Joint Management Team will be considering the Scheme of Delegation at their meeting on 7 July, and Members are requested to consider providing the Chairman and the Vice-Chairman with authority to ratify any substantial (non technical) changes to the revised Scheme of Delegation proposed by JMT, prior to formal adoption by Council on 25 July 2008
9. Members are further advised that a thorough review of the Constitution has been proposed and consideration is being given to establishing a Members task and finish working group in order that revisions can be submitted to the Council meeting on 31 October 2008 for formal adoption.

Risk Management

10. The Scheme of Delegation provides clarity on both the roles of Directors and Cabinet Members on decision making.

BACKGROUND PAPERS

- Appendix 1 – Proposed Scheme of Delegation
- Appendix 2 – Track Changes of Scheme of Delegation (incorporating the changes as approved by Audit and Corporate Governance Committee on 21 December 2007 and Constitutional Review Working Group on 16 April 2008)

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 their delegated responsibilities are outlined within their specific job descriptions. Consistent or significant failure to comply with the Scheme may 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) 'Joint Management Team' (JMT) is the overarching management team for both Herefordshire Council and the PCT and hold a corporate responsibility for managing across the Partnership. The term 'Joint Management Team', is used in this document to refer to JMT members with Council responsibilities acting in their individual capacities rather than collectively as the JMT:
 - (i) Those positions listed below as (I-VIII) are those Members of JMT who are directly employed by Herefordshire Council and are covered by this scheme.
 - I. The Chief Executive.
 - II. Deputy Chief Executive.
 - III. The Director of Children's Services.
 - IV. The Director of Resources (Council)
 - V. Director of Regeneration.
 - VI. Director of Environment and Culture.
 - VII. Assistant Chief Executive – HR.
 - VIII. Assistant Chief Executive – Legal and Democratic.
 - (ii) Those positions listed below (IX and X) are those Members of JMT who, whilst directly employed by Herefordshire PCT, have specific responsibilities outlined in this Scheme.
 - IX Director of Integrated Commissioning (DASS).
 - X Director of Public Health (PCT)
 - (iii) Those positions listed below as (XI To XIII) are Members of JMT who are directly employed by Herefordshire PCT. It is mandatory for these positions to be mindful of and adhere to this Scheme in respect of any matters of direct impact to the Council or its employees.
 - XI The Director of Resources (PCT).

- XII Managing Director of Provider Services (PCT)
- XIII Director of Clinical Leadership and Quality (PCT)

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 management and salary of employees needed to discharge those functions, and the organisation of those employees.
- II. The **Monitoring Officer (Assistant Chief Executive – Legal and Democratic)** 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 may lead to maladministration.
- III. The **Chief Finance Officer (Director of Resources (Council))** 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 **Assistant Chief Executive – 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 Reference to the Director of Resources hereafter shall be to the Director of Resources (Council).

12.1.5 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's 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 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 Assistant Chief Executive - Legal and Democratic or Heads of Profession relevant to the matter under consideration.
- d) Be mindful of and act within the appropriate Schemes of Delegation when working on matters relating to both Council and PCT.

12.3 SUB-DELEGATION

12.3.1 This Scheme authorises members of the Joint Management Team 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 Joint Management Team 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 shall be confined within the terms of the relevant Cabinet Member's area of responsibility set out in Part 6 of the Constitution and also in accordance with the General Terms of Reference for Cabinet Members set out in Part 6.6.5.4. of the Constitution.

12.4.2 Cabinet Member Decisions are those that do not fall within the definition of an Administrative or Management Decisions (see 12.5) and are not Key Decisions as defined in the Council's Constitution.

12.4.3 Each member of the Joint Management Team is responsible for identifying and advising on Cabinet Member Decisions and managing the process in line with the arrangements set out below.

Reports

12.4.4 Before asking a Cabinet Member to make a decision, the member(s) of the Joint Management Team concerned shall draft a report using (but not necessarily limited to) a pro-forma prepared by the Assistant Chief Executive – Legal and Democratic 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 and issues for those recommendations, 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.
- j) The alternative options available to the Cabinet Member with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- k) The employment/staffing implications.
- l) The legal issues.
- m) The financial implications, both strategic and operational.
- n) The risk management issues.
- o) The implications for any other areas of the Council's activities and crosscutting themes.
- p) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any other member of the Joint Management Team affected by the proposals.
- q) The appendices.
- r) The background papers and previous reporting decisions.

Consultation

12.4.5 The member(s) of Joint Management Team concerned shall then send a copy of the 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 Joint Management Team who is responsible for services that might be affected by the proposed decision.

Objections

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

Determination

12.4.7 If no objections are received, the Cabinet Member must sign the report to confirm his/her agreement to the recommendations adopting the reasons set out in the report . Once the Decision Notice is published, the member(s) of the Joint Management Team concerned will implement the decision.

12.4.8 If a consultee has objected to the proposed decision, the report will be referred to Cabinet. The member(s) of Joint Management Team concerned shall not take any action in respect of the proposed recommendations until Cabinet has determined the matter.

12.4.9 The member(s) of Joint Management Team concerned shall send a copy of the report to the Assistant Chief Executive – Legal and Democratic who will include it on the agenda for the next convenient Cabinet meeting. Cabinet shall determine the recommendations of the member(s) of Joint Management Team.

Referring to Cabinet

12.4.10 A member of the Joint Management Team may consider that an issue requires a Cabinet key decision and in discussion with their Cabinet Member, the member of Joint Management Team may report the matter to Cabinet in such circumstances.

Urgent Cabinet Member Decisions

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

12.4.12 If a member of Joint Management Team 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 Joint Management Team 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 12.4.4 is written promptly and includes the reasons for taking the decision urgently. The report must be sent to the Assistant Chief Executive – Legal and Democratic to present to the next convenient Cabinet meeting.

Recording Cabinet Member Decisions

- 12.4.13 A member of Joint Management Team drafting a Cabinet Member Decision report shall provide the Assistant Chief Executive – Legal and Democratic with the signed decision of the Cabinet Member within two working days of the date of decision.
- 12.4.14 The Assistant Chief Executive – Legal and Democratic shall publish all Cabinet Member Decisions within 5 working days of the date of the decision.
- 12.4.15 The Assistant Chief Executive – Legal and Democratic 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 and be publicly available on the Council's website. Copies can be made available and may be subject to the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
- 12.4.16 The record of Cabinet Member Decisions shall include the member of Joint Management Team's report supporting the Decision subject to any requirement for confidentiality.

Call-in Mechanism

- 12.4.17 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.
- 12.4.18 A provisional Cabinet Member Decision will be notified in accordance with the Scrutiny Committee rules.
- 12.4.19 A provisional Cabinet Member Decision may be called in under the terms of the Council's scrutiny procedure rules.
- 12.4.20 A provisional Cabinet Member Decision can be implemented if not called-in.

Accountability

- 12.4.21 Members of the Joint Management Team are accountable to the Council for every Cabinet Member Decision they advise on. They may be required to report to and attend Strategic Monitoring Committee or a 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 Joint Management Team is of the opinion it should be treated as an Executive Decision.

Consultation

12.5.3 Members of the Joint Management Team 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 Joint Management Team to take responsibility for Administrative Decisions. However, members of the Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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

Joint Management Team's Responsibilities

12.6.1 Members of the Joint Management Team 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 local Members affected by the proposals contained in the report in good time.

12.6.2 Any reports presented to the Assistant Chief Executive – Legal and Democratic 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 Joint Management Team are responsible for identifying reports that need to be incorporated into the Forward Plan setting out a timescale as to when such a report will be provided to Cabinet.

Report Format

12.6.4 All Cabinet, Committee and Sub-Committees reports and those relating to Cabinet Member decisions must be prepared using the pro-forma prescribed by the Assistant Chief Executive – Legal and Democratic. .

12.6.5 The Assistant Chief Executive – Legal and Democratic may prescribe a pro-forma specific to Council, Cabinet, each Committee, each Sub-Committee and Cabinet Member decision. The following information will be required as a minimum:

- a) The title of the report.
- b) The Cabinet Member(s) portfolio(s) concerned.
- c) The meeting at which the report is to be considered.
- d) The date of the meeting at which 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:
 - 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.
- l) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- m) The employment/staffing implications – comments must be agreed with the Head of Human Resources.
- n) The legal issues – comments must be agreed with the Assistant Chief Executive – Legal and Democratic
- o) The financial implications, both strategic and operational – comments must be agreed with the Director of Resources, or in their absence, a nominated representative.
- p) The risk management issues – comments must be agreed with the Risk & Insurance Manager.
- q) The consultations undertaken and the views expressed by the consultees.
- r) The implications for any other areas of the Council’s activities and crosscutting themes.
- s) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Joint Management Team affected by the proposals.
- t) The appendices.
- u) The background papers and previous reporting and decision making.

12.6.6 The accuracy of such report is the responsibility of the report author.

Finalising Reports

12.6.7 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 Assistant Chief Executive – Legal and Democratic have been properly consulted.

12.6.8 Members of the Joint Management Team 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

- 12.6.9 Members of the Joint Management Team must ensure that their reports are available for the Assistant Chief Executive – Legal and Democratic to despatch with respective agenda papers in order to meet the legal requirements for Council/Committee and Cabinet meetings.
- 12.6.10 Members of the Joint Management Team must 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.
- 12.6.11 Members of the Joint Management Team 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.
- 12.6.12 Members of the Joint Management Team 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 Joint Management Team 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 of this Constitution, subject to the limitations set out in 12.2.
- 12.7.2 Members of the Joint Management Team are expected to maintain a close liaison with the relevant Cabinet Members and Committee Chairmen.
- 12.7.3 Members of the Joint Management Team must consult with the local members that might be affected by the exercise of their delegated powers.
- 12.7.4 Members of the Joint Management Team will comply with the Protocol for Member / Officer Relations as set out in the Council's Constitution.
- 12.7.5 Members of the Joint Management Team must ensure the Chief Executive is consulted on key or controversial issues when appropriate and kept informed.
- 12.7.6 An authorised officer can exercise any power conferred on a member of the Joint Management Team in their absence or at other times subject to 12.3 of the constitution.
- 12.7.7 Members of the Joint Management Team 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 Joint Management Team are authorised to decide whether the Common Seal of the Council should be affixed to a document indicating the appropriate authority for such sealing. It must be affixed to all contracts with a total value in excess of the prevailing European procurement limits. Such sealing shall be carried out by the Assistant Chief Executive – Legal and Democratic on receipt of authorisation.

- 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 Joint Management Team 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 Joint Management Team are responsible for ensuring the Council's Criminal Records Bureau policies and procedures are followed.
- 12.7.11 Members of the Joint Management Team, 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Assistant Chief Executive – Legal and Democratic, has been agreed.
- 12.7.17 Members of the Joint Management Team shall ensure the proper security of all buildings and other assets under their control.
- 12.7.18 Members of the Joint Management Team 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 Joint Management Team concerned shall consult with the Director of Resources. The Director of Resources will decide if such proposals are acceptable and inform the Cabinet Member (Resources) and relevant Cabinet Member(s), of his/her decision on the proposal.
- 12.7.21 Members of the Joint Management Team shall pass title deeds to the Assistant Chief Executive – Legal and Democratic who is responsible for the custody of all the Council's title deeds.
- 12.7.22 Members of the Joint Management Team must 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 Joint Management Team must 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 Joint Management Team must 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 Joint Management Team must ensure assets are identified, their location recorded and that they are appropriately security marked and insured.
- 12.7.26 Members of the Joint Management Team must consult the Director of Resources in any case where security is thought to be defective, where it is considered that special security arrangements may be needed or where issues of health and safety are involved.
- 12.7.27 Financial management** Members of the Joint Management Team 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 following their identification and consideration of a full options appraisal process, including a financial assessment of the options identified. Members of the Joint Management Team are responsible for securing financial and legal advice from the Director of Resources and Assistant Chief Executive – Legal and Democratic respectively.
- 12.7.28
- 12.7.29 The Director of Resources in consultation with the Assistant Chief Executive – Legal and Democratic is to prepare Financial Procedure Rules and Contract Procedure Rules. These rules will be proposed for formal adoption by the Council by the Assistant Chief Executive.
- 12.7.30 Members of the Joint Management Team are responsible for ensuring that a Scheme of Financial Delegation is in place for their area of responsibility in consultation with the Director of Resources and the Assistant Chief Executive – Legal and Democratic. 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team are responsible for drawing to the attention of all officers in their areas of responsibility, 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 Joint Management Team shall ensure that these documents are readily available for reference within their Directorates and are complied with by the officers for whom they are responsible
- 12.7.35 Members of the Joint Management Team 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 Joint Management Team 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 allow for approved changes to budgets within a financial year and take account of any properly authorised urgent decisions.
- 12.7.37 Members of the Joint Management Team are responsible for identifying any income in excess of the known budget and on the availability of budget no longer required for the purpose for which its allocation was approved. Additional financial capacity shall be considered a corporate resource and allocated in line with corporate priorities.
- 12.7.38 Members of the Joint Management Team 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 Joint Management Team 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 Joint Management Team are responsible for ensuring that works, goods and services are purchased from preferred Council suppliers where such have been identified. A list of preferred Council suppliers is maintained by, and is available from, the Director of Resources.
- 12.7.41 Members of the Joint Management Team are responsible for ensuring that the Director of Resources and/or the Assistant Chief Executive - Legal and Democratic or nominated representatives, together with Internal and/or External Audit officers, have immediate access if required to any assets, documents, staff or systems.
- 12.7.42 Members of the Joint Management Team 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 every such incident in writing to the Director of Resources and Assistant Chief Executive – Legal and Democratic.

- 12.7.43 Members of the Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team are responsible for ensuring action is taken in accordance with the Council's Disciplinary Procedures in the event that an employee consistently fails to meet the agreed standards of performance in their role.
- 12.7.47 Members of the Joint Management Team 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 on taking up employment with the Council.

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 Assistant Chief Executive - Legal and Democratic) 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 Assistant Chief Executive - Legal and Democratic, 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..
- 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 INTEGRATED COMMISSIONING (DASS)

- 12.9.1 To have responsibility for the following activities:
- a) Adult Social Care Services.
 - b) Strategic planning and purchasing of adult and children's social care and health services
 - c) Section 75 agreements between the council and the primary care trust
 - d) Supporting People programme
- 12.9.2 To undertake the statutory Director of Adult Social Services (DASS) role.
- 12.9.3 To act as the Receiver for adults unable to manage their own affairs.
- 12.9.4 To represent the Council on the Supporting People Commissioning Board.
- 12.9.5 To represent the Council on the Herefordshire Community Safety and Drugs Partnership.
- 12.9.6 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'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 DEPUTY CHIEF EXECUTIVE

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.

Risk Management & Insurance

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

12.12.1 To have responsibility for the following activities:

- a) Highways & traffic management.
- b) Environmental Health & Trading Standards Services.
- c) Environmental Support Services.
- d) Cultural and Leisure 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 and Culture 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) Make agreements for the execution of highways works.
- f) 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.
- g) 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.
- h) 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.
- e) To authorise modifications or diversions to Public Rights of Way.
- f) To ensure the Council meets its statutory responsibilities in respect of housing, libraries, parks, countryside and Public Rights of Way development.

12.13 SPECIFIC DELEGATIONS TO THE DIRECTOR OF REGENERATION

12.13.1 To have responsibility for the following activities:-

- a) Planning Services.
- b) Transportation Services.
- c) Strategic housing.
- d) Conservation and archaeology.

12.13.2 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.

12.13.3 The Director of Regeneration is authorised to:

- a) Obtain information under Section 330 of the Town and Country Planning Act 1990.
- b) Obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

12.14 SPECIFIC DELEGATIONS TO THE DIRECTOR OF RESOURCES (COUNCIL)

Statutory Officer Responsibilities

- 12.14.1 The Director of Resources is delegated the statutory responsibilities of Chief Finance Officer.
- 12.14.2 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.
- 12.14.3 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.
- 12.14.4 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.
- 12.14.5 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.
- 12.14.6 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.
- 12.14.7 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.
- 12.14.8 The Chief Finance Officer shall have the right of assistance of any officer in undertaking his/her role.
- 12.14.9 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.
- 12.14.10 The Chief Finance Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.14.11 The Chief Finance Officer shall be a member of the Joint Management Team in order to ensure that financial and funding implications are factored into decisions from the outset.

12.14.12 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.

12.14.13 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.

12.14.14 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.

12.14.15 The Chief Finance Officer's statutory responsibilities will be discharged when:

- a) Officers formulating new policy proposals routinely inform and consult them.

- b) 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.
- 12.14.16 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

- 12.14.17 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.
- 12.14.18 To report on the viability of the Council's medium term financial strategy and resource plans.
- 12.14.19 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.
- 12.14.20 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.
- 12.14.21 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.

12.14.22 To authorise and approve, with the Assistant Chief Executive - Legal and Democratic' consent, the disposal of land and the granting or variation in granting of leases, licences and/or dedications of or over any land.

12.14.23 To authorise and approve the granting of smallholding tenancies.

12.14.24 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

12.14.25 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

12.14.26 Operational responsibility for internal Audit Services is delegated to the Chief Internal Auditor 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) 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.

- e) Prescribing the form of inventories.
- f) Providing an assurance report to each meeting of the Audit & Corporate Governance Committee on the improvements to key internal control arrangements.
- g) 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

12.14.27 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

12.14.28 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.

12.14.29 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.
- r) Making appropriately authorised imprest account advances and determining the arrangements for operating such accounts.

Procurement & Efficiency Review

- s) Maintaining and developing the Council's procurement policy for goods and services.
- t) Administering, in consultation with the Assistant Chief Executive - Legal and Democratic, the Council's Contract Procedure Rules, including maintenance of contract registers.
- u) Maintaining and developing the Council's benefit realisation processes.
- v) Carrying out financial checks on prospective Council contractors.
- w) Reviewing annually the Council's Contract Procedure Rules making recommendations for change to Cabinet.
- x) Updating annually the monetary sums included in the Financial Procedure Rules in line with appropriate price indices.

12.15 SPECIFIC DELEGATIONS TO THE DIRECTOR OF PUBLIC HEALTH

- 12.15.1 To have responsibility for the following activities:
 - (a) Delivery of the health of the local population through the delivery of key public health goals
 - (b) Producing an independent annual report on the health of the population in Hereford.
 - (c) Development and implementation of multi-agency long-term public health programmes
- 12.15.2 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.

12.16 SPECIFIC DELEGATIONS TO THE ASSISTANT CHIEF EXECUTIVE - LEGAL AND DEMOCRATIC

Statutory Officer Responsibilities

- 12.16.1 The Assistant Chief Executive - Legal and Democratic is delegated statutory responsibility for the Monitoring Officer role.
- 12.16.2 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'.

- 12.16.3 The Monitoring Officer shall arrange to investigate any matters relating to incidents or matters referred by the Standards of England in respect of the Member's Code of Conduct.
- 12.16.4 The Monitoring Officer shall be the principal adviser to the Standards Committee, except where the Monitoring Officer has previously advised a member on a matter referred by the Standards Board for England and for hearing by the Standards Committee.
- 12.16.5 The Monitoring Officer shall maintain the register of Members' Interests.
- 12.16.6 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.
- 12.16.7 The Monitoring Officer shall deal with Ombudsman complaints.
- 12.16.8 The Monitoring Officer shall deal with the Standards Board for England in respect of any referral for investigation as a result of a breach of the Council's Code of Conduct.
- 12.16.9 The Monitoring Officer shall be responsible for all Monitoring Officer functions in respect of Town and Parish Councils within the Council's area in so far as they are constant with the function of the Town and Parish Clerk.
- 12.16.10 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 Member's Code of Conduct.
- 12.16.11 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.
- 12.16.12 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.
- 12.16.13 The Monitoring Officer shall have the right of access to any meetings of officers (including Joint Management Team) or Members of the Council. This does not extend to any meetings held by or on behalf of any political group.
- 12.16.14 The Monitoring Officer shall have the right of assistance of any officer in undertaking the role of the Monitoring Officer.
- 12.16.15 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.
- 12.16.16 The Monitoring Officer shall have the authority to disclose information and documents to the Standards Board for England 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.
- 12.16.17 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.

- 12.16.18 The Monitoring Officer shall have the right to obtain at the Council's expense external legal advice.
- 12.16.19 The Monitoring Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.16.20 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 Constitution is avoided or rectified.
 - d) The Monitoring Officer will be 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

- 12.16.21 The Assistant Chief Executive - Legal and Democratic is authorised to serve statutory notices to ascertain the legal interests of any person in land.
- 12.16.22 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.23 The Assistant Chief Executive - Legal and Democratic 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 222 of the Local Government Act 1972.
- 12.16.24 The Assistant Chief Executive - Legal and Democratic 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 Assistant Chief Executive - Legal and Democratic shall maintain a list of the enabling statutory provisions.
- 12.16.25 The Assistant Chief Executive - Legal and Democratic is authorised to issue and sign documents in relation to the Right to Buy provisions of the Housing Act 1985.
- 12.16.26 The Assistant Chief Executive - Legal and Democratic 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.

- 12.16.27 The Assistant Chief Executive - Legal and Democratic, 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.
- 12.16.28 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.29 The Assistant Chief Executive - Legal and Democratic shall keep the Common Seal of the Council under lock and key and shall be responsible for the key.
- 12.16.30 The Assistant Chief Executive - Legal and Democratic is responsible for ensuring that the Common Seal of the Council is affixed to appropriately authorised documents only.
- 12.16.31 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.32 The Assistant Chief Executive - Legal and Democratic 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.

12.17 ARRANGEMENTS FOR REVIEWING THE SCHEME OF DELEGATION

- 12.17.1 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 annual meeting of Council or as necessary. The Director of Resources and the Assistant Chief Executive - Legal and Democratic shall agree the proposed changes and the Audit and Corporate Governance Committee shall be invited to review them reporting to Council as appropriate.
- 12.17.2 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.
- 12.17.3 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.

PART 12

SCHEME OF DELEGATION (with tracked changes)

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 their delegated responsibilities are outlined within their specific job descriptions. Consistent or significant failure to comply with the Scheme may 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) 'Joint Management Team' (JMT) is the overarching management team for both Herefordshire Council and the PCT and hold a corporate responsibility for managing across the Partnership. The term 'Joint Management Team', is used in this document to refer to JMT members with Council responsibilities postholders acting in their individual capacities rather than collectively as the JMT:

(i) Those positions listed below as (I-VIII) are those Members of JMT who are directly employed by Herefordshire Council and are covered by this scheme.

- I. The Chief Executive.
- II. Deputy Chief Executive.
- III. The Director of Children's Services.
- IV.

The Director of Resources (Council).

- V. Director of Regeneration.
- VI. Director of Environment and Culture.
- VII. Assistant Chief Executive – HR.
- VIII. Assistant Chief Executive – Legal and Democratic.

(ii) Those positions listed below (IX and X) are those Members of JMT who, whilst directly employed by Herefordshire PCT, have specific responsibilities outlined in this Scheme.

- IX Director of Integrated Commissioning (DASS).
- X Director of Public Health (PCT)

(iii) Those positions listed below as (XI To XIII) are Members of JMT who are directly employed by Herefordshire PCT. It is mandatory for these positions to be

mindful of and adhere to this Scheme in respect of any matters of direct impact to the Council or its employees.

XI The Director of Resources (PCT).

XII Managing Director of Provider Services (PCT)

XIII Director of Clinical Leadership and Quality (PCT)

d) 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 management and salary of employees needed to discharge those functions, and the organisation of those employees.
- II. The **Monitoring Officer (Assistant Chief Executive – Legal and Democratic)** 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 may lead to maladministration.
- III. The **Chief Finance Officer (Director of Resources (Council))** who is responsible for the proper administration of the Council's financial affairs.

e) There are four 'Heads of Profession' with specific delegations, as follows:

- I. The **Assistant Chief Executive – 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 Reference to the Director of Resources hereafter shall be to the Director of Resources (Council).

12.1.5 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's 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 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 Assistant Chief Executive - Legal and Democratic or Heads of Profession relevant to the matter under consideration.

d) Be mindful of and act within the appropriate Schemes of Delegation when working on matters relating to both Council and PCT.

12.3 SUB-DELEGATION

12.3.1 This Scheme authorises members of the Joint Management Team 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 Joint Management Team 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 shall be confined within the terms of the relevant Cabinet Member's area of responsibility set out in Part 6 of the Constitution and also in accordance with the General Terms of Reference for Cabinet Members set out in Part 6.6.5.4. of the Constitution.

12.4.2 Cabinet Member Decisions are those that do not fall within the definition of an Administrative or Management Decisions (see 12.5) and are not Key Decisions as defined in the Council's Constitution.

12.4.3 Each member of the Joint Management Team is responsible for identifying and advising on Cabinet Member Decisions and managing the process in line with the arrangements set out below.

Reports

- 12.4.4 Before asking a Cabinet Member to make a decision, the member(s) of the Joint Management Team concerned shall draft a report using (but not necessarily limited to) a pro-forma prepared by the Assistant Chief Executive – Legal and Democratic 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 and issues for those recommendations, 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.
 - j) The alternative options available to the Cabinet Member with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
 - k) The employment/staffing implications.
 - l) The legal issues.
 - m) The financial implications, both strategic and operational.
 - n) The risk management issues.
 - o) The implications for any other areas of the Council's activities and crosscutting themes.
 - p) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any other member of the Joint Management Team affected by the proposals.
 - q) The appendices.
 - r) The background papers and reporting routes and previous reporting decisions.

Consultation

- 12.4.5 The member(s) of Joint Management Team concerned shall then send a copy of the 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 Joint Management Team who is responsible for services that might be affected by the proposed decision.

Objections

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

Determination

- 12.4.7 If no objections are received, the Cabinet Member must sign the report to confirm his/her agreement to the recommendations adopting the reasons set out in the report - . Once the Decision Notice is published, the member(s) of the Joint Management Team concerned will ~~can then~~ implement the decision.

- 12.4.8 If a consultee has objected to the proposed decision, the report will be referred to Cabinet. The member(s) of Joint Management Team concerned shall not take any action in respect of the proposed recommendations until Cabinet has determined the matter.

- 12.4.9 The member(s) of Joint Management Team concerned shall send a copy of the report to the Assistant Chief Executive – Legal and Democratic who will include it on the agenda for the next convenient Cabinet meeting. Cabinet shall determine the recommendations of the member(s) of Joint Management Team.

Referring to Cabinet

- 12.4.10 A member of the Joint Management Team may consider that an issue requires a Cabinet key decision is too important to be decided by a Cabinet Member and in. In discussion with their Cabinet Member, the member of Joint Management Team may report the matter to Cabinet in such circumstances.

Urgent Cabinet Member Decisions

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

- 12.4.12 If a member of Joint Management Team 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 Joint Management Team 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 12.4.4 is written promptly and includes the reasons for taking the decision urgently. The report must be sent to the Assistant Chief Executive – Legal and Democratic to present to the next convenient Cabinet meeting.

Recording Cabinet Member Decisions

- 12.4.13 A member of Joint Management Team drafting a Cabinet Member Decision report shall provide the Assistant Chief Executive – Legal and Democratic with the signed decision agreement of the Cabinet Member within two working days of the date of ~~the~~ decision.
- 12.4.14 The Assistant Chief Executive – Legal and Democratic shall publish all Cabinet Member Decisions within 5 working days of the date of the decision.
- 12.4.15 The Assistant Chief Executive – Legal and Democratic 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 and be publicly available on the Council's website. Copies can be made available and may be subject to the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. 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.
- 12.4.16 The record of Cabinet Member Decisions shall include the member of Joint Management Team's report supporting the Decision subject to any requirement for confidentiality.

Call-in Mechanism

- 12.4.17 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.
- 12.4.18 A provisional Cabinet Member Decision will be notified in accordance with the Scrutiny Committee rules.
- 12.4.19 A provisional Cabinet Member Decision may be called in under the terms of the Council's scrutiny procedure rules.
- 12.4.20 A provisional Cabinet Member Decision can be implemented if not called-in.

Accountability

- 12.4.21 Members of the Joint Management Team are accountable to the Council for every Cabinet Member Decision they advise on. They may be required to report to and attend Strategic Monitoring Committee or a 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 Joint Management Team is of the opinion it should be treated as an Executive Decision.

Consultation

12.5.3 Members of the Joint Management Team 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 Joint Management Team to take responsibility for Administrative Decisions. However, members of the Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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

Joint Management Team's Responsibilities

- 12.6.1 Members of the Joint Management Team 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 local Members affected by the proposals contained in the report in good time.
- 12.6.2 Any reports presented to the Assistant Chief Executive – Legal and Democratic 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 Joint Management Team are responsible for identifying reports that need to be incorporated into the Forward Plan setting out a timescale as to when such a report will be provided to Cabinet.

Report Format

- 12.6.4 All Cabinet, Committee and Sub-Committees reports and those relating to Cabinet Member decisions must be prepared using the pro-forma prescribed by the Assistant Chief Executive – Legal and Democratic, ~~Cabinet, Committees, Sub-Committees and Cabinet Member decisions.~~
- 12.6.5 The Assistant Chief Executive – Legal and Democratic may prescribe a pro-forma specific to Council, Cabinet, each Committee, each Sub-Committee and Cabinet Member decision. The following information will be required as a minimum:
- a) The title of the report.
 - b) The Cabinet Member(s) portfolio(s) concerned.
 - c) The meeting at which the report is to be considered.

- d) The date of the meeting at which 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:
 - 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.
- l) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- m) The employment/staffing implications – comments must be agreed with the Head of Human Resources.
- n) The legal issues – comments must be agreed with the Assistant Chief Executive – Legal and Democratic
- o) The financial implications, both strategic and operational – comments must be agreed with the Director of Resources, or in their absence, ~~the Head of Financial Services, or their~~ a nominated representative.
- p) The risk management issues – comments must be agreed with the Risk & Insurance Manager.
- q) The consultations undertaken and the views expressed by the consultees.
- r) The implications for any other areas of the Council’s activities and crosscutting themes.
- s) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Joint Management Team affected by the proposals.
- t) The appendices.
- u) The background papers and ~~reporting ‘routemap’~~ previous reporting and decision making.

12.6.6 The accuracy of such report is the responsibility of the report author.

Finalising Reports

12.6.7 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 Assistant Chief Executive – Legal and Democratic have been properly consulted.

12.6.8 Members of the Joint Management Team 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

12.6.9 Members of the Joint Management Team must ensure that their reports are available for the Assistant Chief Executive – Legal and Democratic to despatch with respective agenda papers in order to meet the legal requirements for Council/Committee and Cabinet meetings.

12.6.10 Members of the Joint Management Team must 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.

12.6.11 Members of the Joint Management Team 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.

12.6.12 Members of the Joint Management Team 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 Joint Management Team 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 of this Constitution, subject to the limitations set out in 12.2.

12.7.2 Members of the Joint Management Team are expected to maintain a close liaison with the relevant Cabinet Members and Committee Chairmen.

12.7.3 Members of the Joint Management Team ~~are expected to~~ must consult with the ~~Councillors for the local electoral ward areas~~ local members that might be affected by the exercise of their delegated powers.

12.7.4 Members of the Joint Management Team will comply with the Protocol for Member / Officer Relations as set out in the Council's Constitution.

12.7.5 Members of the Joint Management Team ~~are expected to~~ must ensure the Chief Executive is consulted on key or controversial issues –when appropriate and kept informed.

12.7.6 An authorised officer can exercise any power conferred on a member of the Joint Management Team in their absence or at other times subject to 12.3 of the constitution.

- 12.7.7 Members of the Joint Management Team 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 Joint Management Team are authorised to decide whether the Common Seal of the Council should be affixed to a document indicating the appropriate authority for such sealing. It must be affixed to all contracts with a total value in excess of the prevailing European procurement limits. Such sealing shall be carried out by the Assistant Chief Executive – Legal and Democratic on receipt of authorisation.
- 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 Joint Management Team 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 Joint Management Team are responsible for ensuring the Council’s Criminal Records Bureau policies and procedures are followed.
- 12.7.11 Members of the Joint Management Team, 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Assistant Chief Executive – Legal and Democratic, has been agreed.

- 12.7.17 Members of the Joint Management Team shall ensure the proper security of all buildings and other assets under their control.
- 12.7.18 Members of the Joint Management Team 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 Joint Management Team concerned shall consult with the Director of Resources. The Director of Resources will ~~refer such proposals to the~~ decide if such proposals are acceptable and inform the Cabinet Member (Resources) and relevant Cabinet Member(s), ~~for approval having provided advice on the alternative option to that proposed of his/her decision on having provided information on the~~ at proposal.
- 12.7.21 Members of the Joint Management Team shall pass title deeds to the Assistant Chief Executive – Legal and Democratic who is responsible for the custody of all the Council's title deeds.
- 12.7.22 Members of the Joint Management Team ~~shall~~ must 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 Joint Management Team ~~shall~~ must 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 Joint Management Team ~~shall~~ must 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 Joint Management Team ~~shall~~ must ensure assets are identified, their location recorded and that they are appropriately security marked and insured.
- 12.7.26 Members of the Joint Management Team must 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 or where involve issues of health and safety are involved.
- Financial management**
- 12.7.27 Members of the Joint Management Team 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 following their identification and consideration of a full options appraisal process, including a financial assessment of the options identified . Members of the Joint Management Team are responsible for securing financial and legal advice from the Director of Resources and Assistant Chief Executive – Legal and Democratic respectively.
- 12.7.28 ~~Members of the Joint Management Team 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 in consultation with the ~~together with the~~ Assistant Chief Executive – Legal and Democratic is to prepare Financial Procedure Rules and Contract Procedure Rules. These rules will be proposed for formal adoption by the Council by the Assistant Chief Executive. ~~Members of the Joint Management Team are responsible for promoting these formal requirements and must ensure compliance with them in their areas of responsibility.~~
- 12.7.30 Members of the Joint Management Team are responsible for ensuring that a Scheme of Financial Delegation is in place for their area of responsibility in consultation with the Director of Resources and the Assistant Chief Executive – Legal and Democratic. 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team are ~~to responsible for drawing~~ to the attention of ~~their employees~~ all officers in their areas of responsibility, 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 Joint Management Team shall ensure that these documents are readily available for reference within their Directorates and are complied with by the officers for whom they are responsible.
- 12.7.35 Members of the Joint Management Team 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 Joint Management Team 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 within a financial year and take account of any properly authorised urgent decisions.
- 12.7.37 Members of the Joint Management Team are responsible for identifying any income in excess of the known budget ~~'windfalls' (for example income from fees and charges in excess of budget) and or on the availability of~~ budget no longer required for the purpose for which its allocation 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team are responsible for ensuring that works, goods and services are purchased from preferred Council suppliers where such have been identified- A list of preferred Council suppliers is maintained by, and is available from, the Director of Resources.
- 12.7.41 Members of the Joint Management Team are responsible for ensuring that the Director of Resources and/or the Assistant Chief Executive - Legal and Democratic or nominated representatives, together with Internal and/or External Audit officers, have immediate access if required to any assets, documents, staff or systems.
- 12.7.42 Members of the Joint Management Team 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 every such the incident in writing to the Director of Resources and Assistant Chief Executive – Legal and Democratic.
- 12.7.43 Members of the Joint Management Team 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 Joint Management Team 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 Joint Management Team 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 Joint Management Team are responsible for ensuring action is taken in accordance with the Council's Disciplinary Procedures in the event that an employee consistently fails to meet the agreed standards of performance in their role.
- 12.7.47 Members of the Joint Management Team 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 on taking up employment with the Council.

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 Assistant Chief Executive - Legal and Democratic) 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 Assistant Chief Executive - Legal and Democratic, 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 INTEGRATED COMMISSIONING (DASS)

12.9.1 To have responsibility for the following activities:

- a) Adult Social Care Services.
- b) Strategic planning and purchasing of adult and children's social care and health services
- c) Section 75 agreements between the council and the primary care trust
- d) Supporting People programme

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

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

12.9.4 To represent the Council on the Supporting People Commissioning Board.

12.9.5 To represent the Council on the Herefordshire Community Safety and Drugs Partnership.

12.9.6 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'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 DEPUTY CHIEF EXECUTIVE

- 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.

Risk Management & Insurance

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

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 AND CULTURE

12.12.1 To have responsibility for the following activities:

- a) Highways & traffic management.
- b) Environmental Health & Trading Standards Services.
- c) Environmental Support Services.
- d) Cultural and Leisure 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 and Culture 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) Make agreements for the execution of highways works.
- f) 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.
- g) 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.
- h) 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.
- e) To authorise modifications or diversions to Public Rights of Way.
- f) To ensure the Council meets its statutory responsibilities in respect of housing, libraries, parks, countryside and Public Rights of Way development.

12.13 SPECIFIC DELEGATIONS TO THE DIRECTOR OF REGENERATION

- 12.13.1 To have responsibility for the following activities:-
- a) Planning Services.
 - b) Transportation Services.
 - c) Strategic housing.
 - d) Conservation and archaeology.
- 12.13.2 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.
- 12.13.3 The Director of Regeneration is authorised to:
- a) Obtain information under Section 330 of the Town and Country Planning Act 1990.
 - b) Obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

12.14 SPECIFIC DELEGATIONS TO THE DIRECTOR OF RESOURCES (COUNCIL)

Statutory Officer Responsibilities

- 12.14.1 The Director of Resources is delegated the statutory responsibilities of Chief Finance Officer.
- 12.14.2 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.
- 12.14.3 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.
- 12.14.4 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.

- 12.14.5 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.
- 12.14.6 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.
- 12.14.7 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.
- 12.14.8 The Chief Finance Officer shall have the right of assistance of any officer in undertaking his/her role.
- 12.14.9 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.
- 12.14.10 The Chief Finance Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.14.11 The Chief Finance Officer shall be a member of the Joint Management Team -in order to ensure that financial and funding implications are factored into decisions from the outset.
- 12.14.12 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.
- 12.14.13 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.
- 12.14.14 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 and 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.

12.14.15 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.
- 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.

12.14.16 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

12.14.17 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.

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

12.14.19 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.

12.14.20 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.

12.14.21 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.

12.14.22 To authorise and approve, with the Assistant Chief Executive - Legal and Democratic' consent, the disposal of land and the granting or variation in granting of leases, licences and/or dedications of or over any land.

12.14.23 To authorise and approve the granting of smallholding tenancies.

12.14.24 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

12.14.25 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

12.14.26 Operational responsibility for internal Audit Services is delegated to the Chief Internal Auditor 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

12.14.27 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

12.14.28 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.

12.14.29 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.
- r) Making appropriately authorised imprest account advances and determining the arrangements for operating such accounts.

Procurement & Efficiency Review

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

x) Updating annually the monetary sums included in the Financial Procedure Rules in line with appropriate price indices.

12.15 SPECIFIC DELEGATIONS TO THE DIRECTOR OF PUBLIC HEALTH

- 12.15.1** To have responsibility for the following activities:
- (a) Delivery of the health of the local population through the delivery of key public health goals
 - (b) Producing an independent annual report on the health of the population in Hereford.
 - (c) Development and implementation of multi-agency long-term public health programmes
- 12.15.2** 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.

12.16 SPECIFIC DELEGATIONS TO THE ASSISTANT CHIEF EXECUTIVE - LEGAL AND DEMOCRATIC

Statutory Officer Responsibilities

- 12.16.1 The Assistant Chief Executive - Legal and Democratic is delegated statutory responsibility for the Monitoring Officer role.
- 12.16.2 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'.
- 12.16.3 The Monitoring Officer shall arrange to investigate any matters relating to incidents or matters referred by the Standards of England in respect of the Member's Code of Conduct.
- 12.16.4 The Monitoring Officer shall be the principal adviser to the Standards Committee, except where the Monitoring Officer has previously advised a member on a matter referred by the Standards Board for England and for hearing by the Standards Committee.
- 12.16.5 The Monitoring Officer shall maintain the register of Members' Interests.
- 12.16.6 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.
- 12.16.7 The Monitoring Officer shall deal with Ombudsman complaints.
- 12.16.8 The Monitoring Officer shall deal with the Standards Board for England in respect of any referral for investigation as a result of a breach of the Council's Code of Conduct.
- 12.16.9 The Monitoring Officer shall be responsible for all Monitoring Officer functions in respect of Town and Parish Councils within the Council's area in so far as they are constant with the function of the Town and Parish Clerk.
- 12.16.10 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 Member's Code of Conduct.

- 12.16.11 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.
- 12.16.12 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.
- 12.16.13 The Monitoring Officer shall have the right of access to any meetings of officers (including Joint Management Team) or Members of the Council. This does not extend to any meetings held by or on behalf of any political group.
- 12.16.14 The Monitoring Officer shall have the right of assistance of any officer in undertaking the role of the Monitoring Officer.
- 12.16.15 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.
- 12.16.16 The Monitoring Officer shall have the authority to disclose information and documents to the Standards Board for England 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.
- 12.16.17 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.
- 12.16.18 The Monitoring Officer shall have the right to obtain at the Council's expense external legal advice.
- 12.16.19 The Monitoring Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.16.20 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 Constitution is avoided or rectified.
 - d) The Monitoring Officer will be 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

- 12.16.21 The Assistant Chief Executive - Legal and Democratic is authorised to serve statutory notices to ascertain the legal interests of any person in land.
- 12.16.22 The Assistant Chief Executive - Legal and Democratic 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.

- 12.16.23 The Assistant Chief Executive - Legal and Democratic 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 222 of the Local Government Act 1972.
- 12.16.24 The Assistant Chief Executive - Legal and Democratic 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 Assistant Chief Executive - Legal and Democratic shall maintain a list of the enabling statutory provisions.
- 12.16.25 The Assistant Chief Executive - Legal and Democratic is authorised to issue and sign documents in relation to the Right to Buy provisions of the Housing Act 1985.
- 12.16.26 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.27 The Assistant Chief Executive - Legal and Democratic, 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.
- 12.16.28 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.29 The Assistant Chief Executive - Legal and Democratic shall keep the Common Seal of the Council under lock and key and shall be responsible for the key.
- 12.16.30 The Assistant Chief Executive - Legal and Democratic is responsible for ensuring that the Common Seal of the Council is affixed to appropriately authorised documents only.
- 12.16.31 The Assistant Chief Executive - Legal and Democratic 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.
- 12.16.32 The Assistant Chief Executive - Legal and Democratic 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.

12.17 ARRANGEMENTS FOR REVIEWING THE SCHEME OF DELEGATION

- 12.17.1 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 annual meeting of Council or as necessary. The Director of Resources and the Assistant Chief Executive - Legal and Democratic shall agree the proposed changes and the Audit and Corporate Governance Committee shall be invited to review them reporting to Council as appropriate.
- 12.17.2 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.
- 12.17.3 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.