

AGENDA

Audit and Governance Committee

Date: **Friday 11 May 2012**

Time: **2.00 pm**

Place: **The 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:

Pete Martens, Committee Manager

Tel: 01432 260248

Email: pmartens@herefordshire.gov.uk

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Agenda for the Meeting of the Audit and Governance Committee

Membership

Chairman
Vice-Chairman

Councillor J Stone
Councillor JW Millar

Councillor CNH Attwood
Councillor EMK Chave
Councillor PGH Cutter
Councillor KS Guthrie
Councillor AJ Hempton-Smith
Councillor TM James
Councillor Brig P Jones CBE
Councillor PJ McCaull

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES To approve and sign the Minutes of the meeting held on 9th March 2012.	1 - 6
5. INTERNAL AUDIT PROGRESS 2011/12 To update the Committee about the progress of internal audit work.	7 - 20
6. COMMUNITY GOVERNANCE REVIEWS To note a recent decision by Council for the Committee to undertake community governance reviews when they are requested.	21 - 26
7. CHANGES TO THE STANDARDS REGIME To note the latest developments regarding changes to the Standards Regime and development of a new code of conduct.	27 - 46
8. FUTURE MEETINGS To note the following dates for meeting of the Committee: 6 th July 7 th August 25 th September (instead of 17 th September) 9 th October 12 th November 5 th December	

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

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- The nearest bus-stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

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

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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

HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Audit and Governance Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH on Friday 9 March 2012 at 10.00 am

Present: Councillor J Stone (Chairman)
Councillor JW Millar (Vice Chairman)

Councillors: CNH Attwood, EMK Chave, PGH Cutter, KS Guthrie, AJ Hempton-Smith, TM James, Brig P Jones CBE and PJ McCaull

In attendance: Dr Phillip Ashurst

95. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

96. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes present at the meeting.

97. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

98. MINUTES

RESOLVED: That the minutes of the meeting held on 27 January 2012 be approved as a correct record and signed by the Chairman.

99. UPDATE ON HEREFORDSHIRE PRIMARY CARE TRUST

In accordance with paragraph 4.2.6.1 (b) of Part 4 (Procedure Rules) of the Council's Constitution, the Chairman considered that for reasons of special circumstances, this item should be considered as a matter of urgency in view of the fast moving changes regarding the Herefordshire Primary Care Trust (PCT)

The Chairman welcomed Dr Phillip Ashurst to the meeting. Dr Ashurst explained the latest situation regarding the reorganisation of PCT's and that he was now the Locality support Member for Audit and Assurance for Herefordshire PCT instead of a None-Executive Director. He said that the PCT's of Shropshire; Telford & Wrekin; Worcestershire and Herefordshire had been amalgamated into the West Mercia Cluster. There were also moves towards a single Cluster Audit Committee rather than one for each of the constituent PCT's. The first meeting of the Committee would be held on 19th March and he would be seeking clarity about the arrangements locally for audit assurance. The current Government proposals were for the introduction of a new Clinical Commissioning Group from 1st April 2013 and that this would also have implications for local audit assurance. Further guidance was awaited from the Government.

In answer to a question about transitional arrangements, Dr Ashurst said that guidance was awaited from the Department of Health. Meanwhile he was anxious to ensure that close links remained between the Council, Hoople and the PCT regarding audit assurance until the PCT

ceased to exist on 31st March 2013. Members asked questions about the likely audit arrangements under the new proposals and felt that it was important to maintain a robust system locally. They were concerned about the potential problems that could arise if it was dealt with at a regional level. Dr Ashurst said that he shared those concerns and that he would be seeking guidance at the forthcoming meeting and would keep the Committee updated.

The Chairman thanked Dr Ashurst for his informative presentation.

100. AMENDMENTS TO THE CONSTITUTION- BUDGET AND POLICY FRAMEWORK RULES

The Assistant Director Law Governance and Resilience presented a report about a proposed amendment to the Budget and Policy Framework Rules. The aim of the proposal was to provide greater flexibility; a mechanism to resolve any potential differences between Council and Cabinet, and to avoid the need to hold additional meetings of Council.

Budget and Policy Framework Rules 4.3.2.8 - 11 provided that recommendations accepted by Council from Cabinet without amendment could take immediate effect, otherwise Council could only make an 'in principle' decision. If rejected or if an amendment was proposed by Council, the matter would be referred back to Cabinet. Following this a further meeting of Council then had to be held to hear Cabinets views, even if the Leader and the Cabinet were in agreement with the changes proposed by Council. This seemed to be an unnecessary waste of resources and the Assistant Director Law Governance and Resilience proposed that the Rules be amended as set out in Paragraph 7 of his report.

Members discussed the proposals and those issues that were likely to benefit from the new system. A question was asked about the application of these rules to the Council decision to set the Council Tax. The Officers advised that this was a legal requirement independent of the process for setting a budget and not covered by the rules.

Having considered details of the proposal, the Committee was agreeable to them being recommended to Council as set out in the report of the Assistant Director Law Governance and Resilience.

RESOLVED THAT:

It be recommended to Council that the Budget and Policy Framework Rules 4.2.3.8 - 11 be amended as follows

"If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

The decision will be published and, if an in-principle decision has been made, a written copy shall be given to the Leader as soon as possible for the Cabinet to consider.

An in-principle decision will automatically become effective 5 working days from the day following the date of written notification to the Leader of the Council's decision, unless the Leader informs the Chief Executive in writing within those 5 days that the Cabinet objects to the decision becoming effective and provides reasons why in writing

Where notification of objection is received under (the paragraph) above, a meeting of Council will be called to be held within 28 days of the objection being received by the

Chief Executive, to reconsider the decision that is the subject of the objection. In reconsidering the decision the Council must take into account the objection of the Cabinet and reasons for it and any revised proposals submitted by the Cabinet and the Cabinet's reasons for those revised proposals. The Council may either:

approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.

The decision shall then be published and implemented immediately."

101. AMENDMENTS TO THE CONSTITUTION- COUNCIL PROCEDURE RULES- MEMBER QUESTIONS

A report was presented by the Assistant Director Law Governance and Resilience about proposed amendments to the Constitution relating to the Council Procedure Rules on Member Questions. The aim of the proposals were to harmonise the process with that for questions from Members of the Public. The provisions for public questions included rules in respect of

- the order in which questions are dealt with
- the number of questions an individual Member of the public may ask
- a time limit of one minute for a supplementary question

In contrast the rules for Member Questions do not:

- contain a rule governing the order in which questions are dealt with
- contain a rule governing the number of questions an individual Member may ask
- have time limit on supplementary questions. There is instead the general provision relating to the time allowed for questions as a whole which contains the provision: *"The Chairman will decide the time allocated to each question."*

The Assistant Director Law Governance and Resilience suggested the introduction of a rule stipulating the order in which Member questions are dealt with, similar to that for public questions. There was no provision for the Chairman of Council or anyone else to determine in what order Member Questions are asked. He therefore proposed that they be dealt with in the order in which they were received. He explained the current arrangements for grouping questions from Members and the public. He also pointed out that a member of the public may submit only one question at any meeting of the Council but that there was no limit on questions from Members. He asked the Committee to consider whether there should be a limit placed on the number of questions a Councillor may ask. He also provided details of the arrangements that neighbouring authorities had in place to deal with public and Member questions and suggested that the Committee might wish to place a time limit on supplementary questions.

Members discussed the proposals and alternatives together with the wider issues about council meetings in some detail and made the following points:

- the merits of having time limits at meetings of Council and the problem of Members remaining attentive when a meeting was unduly protracted;
- there was a danger that items towards the end of an agenda for a meeting could be rushed because of the time limit – alternatively, if a meeting went on as long as necessary, there could be a tendency to expand into the time available;

- a time limit on supplementary questions would be welcome, however, to keep Members to the point;
- why shouldn't the rules be different for Members when they were the elected representatives of the public?;
- expectations of the public were for debate to be clear and informative;
- there were merits in questions from Members being grouped into subject matter which would enable them to be dealt with in a more cohesive way ;
- for many Members, Council was one of their few opportunities to take part in debate in front of the public and care needed to be given not to limit this;
- there should be a limit of one supplementary question per item;
- more than one supplementary question should not be permitted;
- the current practice for disallowed questions on the order paper:- 'question disallowed'. This was unsatisfactory and no reference should be made to disallowed questions;
- the meetings and agendas needed to be managed carefully as Members could become frustrated when the debate did not flow;
- the venue of the Shirehall was not conducive to good debate and the acoustics made it difficult to hear properly – more thought needed to be given to layout and the installation of a more adequate sound system.
- if meetings continued into the afternoon, careful consideration needed to be given to a proper lunch break of at least 30 minutes. Ten or twenty minutes was inadequate for a long meeting, particularly for those Members having to travel a distance before and after it. It was not necessary for lunch to be provided but rooms should be made available for those Members who wished to make their own arrangements.

The Committee concluded that a time limit on supplementary questions would be advantageous and that questions should be grouped by portfolio. Discussion centred upon a limit that should be recommended for the number of questions which could be asked by a Member. A proposal that three be allowed was lost and the Committee recommended that a maximum of two questions should be allowed per Member.

It was noted that the order of debate and the way in which matters were set out on the Agenda were prescribed by the constitution. The Assistant Director Law Governance and Resilience said, however, that he would prepare a report for consideration at a future meeting of the Committee about how matters were structured at meetings of Council and how the public was engaged. In answer to a question, the Assistant Director Law Governance and Resilience gave assurance that rule 4.1.15.7 in the Constitution regarding supplementary questions referred to one question per Member and not per portfolio area.

The Assistant Director Law Governance and Resilience recognised that the current layout of the Shirehall was not satisfactory but that this was one area which was being considered by the Accommodation Strategy Group. Proposals were being prepared for the creation of a civic hub based on Shirehall, Town Hall and a nearby building which would provide improved facilities for meetings. The proposals would be submitted to Members in due course.

RESOLVED THAT IT BE RECOMMENDED TO COUNCIL THAT:

- (i) the Constitution provide that Member questions at Council be grouped by the Monitoring Officer according to the appropriate Cabinet Member portfolio and in the order in which they are received;
- (ii) the Constitution provide that there should be a limit of two placed upon the number of questions any one Councillor may ask;
- (iii) the Constitution provide that there be a time limit of one minute for a supplementary Member question; and
- (iv) the current practice of listing disallowed questions be discontinued.

102. INTERNAL AUDIT PROGRESS 2011/12

The Head of Audit services presented a report which provided an update for the Committee on the progress of internal audits together with any key internal control issues arising from work which had recently been completed. The Committee noted the following work which had been undertaken by Audit Services:

- thirteen reviews had been finalised and three reviews drafted. No significant issues had been revealed by the audits;
- a further seventeen audits were being completed and included General Ledger, IT, Creditors and a review of the balances bought forward on the Council's Agresso financial management system; and
- an internal payment fraud had been reported to Internal Audit which was under investigation. It was an extremely rare event but controls had immediately been put in place to prevent a reoccurrence. The Anti-Fraud and Corruption – Review of Council's arrangements and Awareness Training would probably be held in abeyance for the time being, pending the results of the Police investigation.

Audit Services was continuing to provide support, guidance and information in a number of areas to Officers in respect of specific reviews and information about these had been included in the report. The additional information requested by the Committee at the last meeting had also been included in the report. A legend would also be included in the Status column in Appendix 1 at the request of Members.

The Head of Audit Services said that in cases where audits had been delayed, such as the Halo review, or departmental restructuring, other items in the programme had been brought forward.

The Head of Audit Services was in the process of developing the Internal Audit Plan for 2012/13. This involved meeting with members of the Council's HPSLT and other Director's and managers within the Council to understand the key issues affecting the organisation and how these would impact on the Plan. The Plan would be submitted to a future meeting of the Committee.

Members were pleased with the way in which matters were progressing. It was noted that the Council was investing considerable resources in the partner organisations but Members did not always feel that it was clear about the funding and financial arrangements that were in place. It was important that clarity was provided in the audits. A timetable of those pending for Amey, Hereford Futures and Halo was required by the Committee. Areas of importance were seen to be the partnership arrangements and

activity, openness and transparency, including the level of support by the Council and the service which was being provided for its investment.

The Chief Officer Finance and Commercial explained that as the Council moved towards becoming more of a commissioning authority, there would be more frequent reports to the Committee about the auditing arrangements for partner organisations. He explained the arrangements that were in place or under development regarding those organisations. Members asked if the Committee could see the management accounts for organisations such as Hoople and Amey and the Chief Officer Finance and Commercial said that he would look into what information could be provided. Members felt that it would be useful if a summary timetable sheet could be prepared and updated as necessary about the flow of information from partners and the Chief Officer Finance and Commercial would address this. Members felt that it was important for the Committee and the Overview and Scrutiny Committee to be assured that the arrangements with partner organisations was providing the Council with value for money.

Referring to the audits which had been undertaken, Members asked about the follow-up arrangements to ensure that the findings were complied with. The Head of Audit services said that recommendations were made to the appropriate officer and improvements then implemented. Audit Services would then subsequently check upon the new arrangements. Members referred to the Agresso financial management system and asked if information about it could be incorporated in a future report.

Members discussed the reviews that were being undertaken and the Head of Audit services said that they looked at the controls involved which minimised risk. The Committee felt that it would be useful if the reviews in the report were set out in portfolio area and the Head of Audit Services said that he would have a look at distinguishing between corporate themes and directorate issues in the report. A question was asked about a number of audits which appeared in the Progress Report for September 2011 which were not shown within the current report. The Head of Audit services said that it was likely that these had been redefined or incorporated into other reviews but that he would check on the matter.

RESOLVED THAT

Subject to the foregoing, the report be received and noted.

103. DATE OF NEXT MEETING

11th May at 2:00 pm.

The meeting ended at 11.20 am

CHAIRMAN

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	11 MAY 2012
TITLE OF REPORT:	INTERNAL AUDIT PROGRESS 2011/12
	INTERNAL AUDIT - FINANCE AND COMMERCIAL SERVICES

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

The purpose of this Internal Audit Report is to update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.

Recommendation

THAT subject to any comments the Committee wish to make the report be noted.

Key Points Summary

- Audit Services has finalised 13 reviews. Nine reviews are in draft. Further information on these audits is provided at paragraph four.
- There are nine audits being completed. These include a review of Debtors, General Ledger and Planning.
- A suspected fraudulent payment was reported to Internal Audit. Consequently this was investigated by Internal Audit. Further information is provided in paragraph 25.
- Audit Services are continuing to provide support, guidance and information in a number of areas to Council officers in respect of specific reviews. Further information is contained at Appendix 1.

Alternative Options

1. This report is for information and therefore alternative options are not applicable.

Further information on the subject of this report is available from
Saverio DellaRocca –Head of Audit Services on (01432) 260426

Reasons for Recommendations

2. To ensure compliance with good practice as set out in the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom.

Introduction and Background

3. To ensure that the Committee is informed of the status of internal audit work and any key internal control issues identified from work completed in the last quarter.

Key Considerations

Summary of progress against the audit plan

4. The Internal Audit plan was approved by the Audit and Governance Committee on 23 August 2011. We have set out the number and type of audit reviews to be completed in Appendix 1. The following table provides further information on the status of these reviews:

Total number of Audit Reviews	No of Audits Completed	No of Audits completed in Draft	No of Audits on-going and agreed with management	Audits Deferred	Assistance and Guidance provided
38	13	9	9	2	5

5. A total of 22 audit reviews and reports have been either been finalised or are in draft. These are set out in Appendix 1 along with the audit opinions given to reviews which have been finalised or have been issued in draft where appropriate (i.e. where draft reports have been accepted by management subject to formal agreement of recommendations). We also have provided further information in Appendix 2 and 3 about the methodology used to grade audit report and audit recommendations.
6. There are currently nine reviews being completed by Audit Services. These reviews should be completed by the end of April/early May.
7. Audit Services remains confident that sufficient audit work to enable the Head of Audit Services to form an opinion on the Council's system of internal control.

Summary of key audit issues

8. The findings from each of the issued reports since the last Audit and Governance Committee as set out below. This is split between reports that have been issued in draft (where management have agreed the initial findings and we are awaiting formal management responses) and those which have been agreed and finalised.

Draft Reports

9. We have issued 8 audit reports in draft since the last Audit and Governance Committee. We have summarised the findings for each of these reports below.

Draft Reports – Limited Assurance

10. We have issued “Limited Assurance” opinions over four areas as follows. In each case, management have accepted the issues raised and are putting in place formal action plans to address issues raised:
11. **Creditors (Agresso system)** - Agresso is the new integrated support services system which includes the Council’s financial management system. It is used to record all the Council’s financial transactions and has a number of separate modules which help the Council run its services. These modules include payroll (used for payments to staff), creditors (used to raise purchase orders and pay invoices) and debtors (used to raise invoices for council run services). At the request of the Council’s Chief Finance Officer (CFO) audit reviewed the adequacy of the design of the creditors system to mitigate key operational and fraud risks. We concluded that there were some system weaknesses both from an IT and operational perspective that have exposed the Council to risk. We have issued a comprehensive report setting out the areas where procedures need to be tightened. These include management of the supplier masterfile (the creation and amendment of supplier information), IT access to the system (who has access to what functions) and the use of direct payments (invoices where there is no order).
12. **Agresso IT Controls** - Alongside the work on Creditors (Agresso) the CFO requested audit services to undertake a review of the IT controls over the Agresso system. IT controls are important in ensuring that staff only have access to appropriate functions related to their role and that data is protected and secure. We identified that the IT access and security controls operating over the system were weakened during the implementation of Agresso. The Council had already tightened up controls before the end of the audit and work continues to address other issues.
13. **Health and Safety** - The Council had already identified that this area required further significant development prior to the commencement of the audit. In conjunction with KPMG a scope of work was agreed that sought to review existing control issues and advise on how these could be resolved. As part of our audit we noted weakness in the Council’s control systems which assured the management of key H&S risks particularly over legionella, fire safety and asbestos. In response to these the Council developed an action plan which outlined the key work streams for improvement. The action plan was reviewed and it was concluded that with the necessary commitment and resource agreed by senior management, it was sufficiently focused to deliver the outcomes the Council required.
14. **Business Continuity** - The Council identified that this key area required further development and positively engaged with KPMG so that key control weaknesses could be identified and resolved. As part of our work we noted that while the Council does not have an up to date Corporate Business Continuity Plan (BCP) or key service line BCP’s in place in all areas it has processes which enable it to cope in the event of a Business Continuity event occurring. These processes and the role of the Incident Team were evidenced in action when the Council’s IT systems were recently affected. The Council is aware that the lack of up to date BCP’s present a significant risk and this has been raised as an urgent action with senior managers. To mitigate this risk the Council has developed a long term strategy which seeks to develop effective Business Continuity Management processes. The Council’s long term strategy was reviewed and assessed as sufficient to ensure the Council has an effective Business Continuity process in place in the future.

Draft Reports – Adequate Assurance

15. We have issued “Adequate Assurance” opinions over three areas, as follows:
16. **Risk Management** - The Council has developed, with NHS Herefordshire, a risk management policy and framework which reflects good practice principles. However, the application of the framework across the organisation is variable. This is a common issue we identify across all public sector organisations. As well as some areas of best practice, there are areas that require further development including ensuring that risk is considered at every level of the organisation, risk registers are completed regularly and a formal risk management training programme is developed.
17. **ICT Services** - This audit covered the controls over the Council’s IT infrastructure. It was found that there are robust policies and processes for backing up systems, and client data. We noted that backups are undertaken daily, weekly, monthly and six monthly. There were some areas that required development including how the Council interacts with Hoople and the NHS over ICT roles and responsibilities. These processes include documenting the roles and responsibilities of the three parties in relation to ICT.
18. **Hoople Governance** - Hoople has made steady progress implementing the structures and processes required to ensure sound corporate governance. A Hoople Board and constituent Committees with appropriate terms of reference are in place, a Business Plan has been developed which sets out clear narratives on its vision, values, operations, financial management processes have been established and Service Level Agreements are in place with Partners. Work continues in developing processes in other areas (e.g. formalising the business planning and budget cycle and embedding key organisational objectives via the performance management framework) under the oversight of the Hoople Audit Committee.

Other draft reports (not yet agreed with management)

19. **AMEY** - This covers the AMEY contract’s performance management and value for money arrangements. The issues raised in this report are being considered by management and appropriate actions are being put in place to address issues raised. As the Council is currently in discussions with AMEY regarding future arrangements, it is not possible at this time to go into the detail of the report as any reference to whether current arrangements deliver VFM may compromise the Council’s commercial position in relation to future arrangements.

Final Reports

20. We have issued two finalised audit reports since the last Audit and Governance Committee. We have provided further detail on these reports below.

Final Reports – Adequate Assurance

21. **Cash and Deposits** - The Council has a sound control framework in place over the function although there are some areas that need to be addressed. Existing controls are designed to ensure that cash and other income received is accurately banked and recorded on the Council’s systems in a timely manner. There are two key areas that the Council has agreed to address in relation to the handling of safe keys and reversal of cashier transactions.
22. **Director Annual Assurance Statements** - This audit reviewed how officers completed the Annual Assurance Statements. These statements are used to support the compilation of the Council’s Annual Governance Statement. Key areas for improvement included ensuring that there was corporate ownership of the process and updating the format of the Assurance Statements based on user feedback to ensure that they fully reflect key processes and

developing formal procedures that cover the compilation of these Statements.

Audit Reviews in Progress

23. Audit Services are currently completing a number of audits. These are:

- General Ledger;
- Debtors;
- Planning;
- Performance Management;
- Rising to the Challenge – Performance Monitoring;
- Annual Governance Statement;
- Education Transport;
- Schools; and
- Sustainability.

24. These reviews will be completed and draft reports issued in due course. We will report any significant issues arising from these reviews to the next Audit and Governance Committee.

Other audit work

Suspected Fraud

25. The Council suffered a suspected fraud whereby a false invoice appears to have been paid. This matter is now with the Police but we understand that the Council has been informed that the monies will be repaid. In response to the fraud, the Council has:

- prepared a case file (through Internal Audit) which has been given to the Police to assist them;
- under the direction of the CFO reviewed the circumstance of the suspected fraud and reviewed areas of concerns (as set out in paragraphs 11 and 12 above); and
- undertaken further work to assess whether there have been further fraudulent payments – no issues have been currently found.

Support and Guidance

26. KPMG and Internal Audit have also provided assistance and guidance to Chief Officers, Directors and Members in the following areas, Benefits Realisation, Performance “plus” system, Procurement processes within People Services and Fees and Charges.

27. Schools - Internal Audit was previously required to complete work within this area in relation to the Financial Management Standard in Schools (FMSiS) process. This standard was withdrawn in 2011. In conjunction with the Schools Finance team we have now agreed a new audit process and we will use this approach to undertake audits of Schools as part of our 2012/13 audit plan.

28. Audit Services is also contributing into a number of other reviews for the Council. We have

provided further details on this in Appendix 1.

Audit Planning for 2012/13

29. We are currently in the process of developing the Internal Audit Plan for 2012/13. This process has involved meeting with members of the Leadership Team and other key officers within the Council to understand the key issues affecting the organisation and how these will impact the Internal Audit Plan for 2012/13. Alongside this process we have initially begun to populate the Plan with key areas which should be subject to Internal Audit Review in the forthcoming year. Some of these areas are detailed below:

- AMEY - We will follow up work undertaken in 2011/12 and identify in conjunction with management other areas of focus;
- Hoople Client Side Management - This audit will focus on how the Council develops its relationship with Hoople and establishes monitoring procedures to ensure that Hoople is delivering on its SLA targets;
- Adult and Social care - This review will focus on how the Council is implementing new methods of working in response to a specialist KPMG report on this key area;
- Budgetary Control - As part of this audit will review the Council's controls over budget monitoring and its effectiveness. This audit will also involve meeting with budget holders to understand their views on the Council's budget monitoring processes given the arrangements with Hoople the audit will also review the new arrangement to support budget monitoring;
- Project Management - This audit will focus on the Council's overall project management arrangements and controls. This will involve reviewing a sample of projects and assessing how they have complied with the Council's procedures in this area.
- Data Protection - As part of this audit will review how the Council complies with the requirements of the Data Protection Act 1998.
- Other Income Streams - The Council receives income from a variety of sources. As part of this audit we will review a selection of income streams and assess the controls which the Council has in place which ensure that income received is correctly accounted for.
- Environmental Health – Food Licensing - As part of this audit we will review the controls which the Council has in place in relation to how it issues licences to premises in this area and ensures appropriate standards are being maintained.

Community Impact

30. This report does not impact on this area.

Equality and Human Rights

31. This report does not impact on this area.

Financial Implications

32. There are no financial Implications.

Legal Implications

33. There are no Legal Implications.

Risk Management

34. There is a risk that the level of work required to give an opinion on the Council's systems of Internal Control is not achieved.

Consultees

35. The views of the HPSLT and the Chief Officer, Finance and Commercial were consulted in the drafting of this report.

Appendices

Appendix 1 – Status of Audit Plan 2011/12

Appendix 2 – Audit Opinions - Definition of Assurance Grading

Appendix 3 – Rating of Recommendations

Background Papers

36. None

Appendix 1 – Status of Audit Plan 2011/12 – May 2012

We have set out below reviews for 2011/12. These have been split by Directorate and detail the number and priority of recommendations made (we have set out the definitions of the individual priorities in Appendix 3). Where we have finalised reviews, all recommendations made within those audits have been agreed by management.

No	Audit Review	Status	Audit Opinion	Recommendations		
				P1	P2	P3
Directorate: Corporate Services						
1	Member Allowances	Finalised – October 2011	Substantial	-	-	-
2	Treasury Management	Finalised – January 2012	Substantial	-	-	-
3	Anti-Fraud and Corruption – Hot Topics – Officer Expenses	Finalised – January 2012	Substantial	-	-	1
4	Anti-Fraud and Corruption – Review of Council's arrangements and Awareness Training.	Draft report issued – December 2011 The Anti-Fraud and Corruption Awareness Training has been arranged 2012/13.	Adequate	-	4	-
5	Director Annual Assurance Statements	Finalised – March 2012	Adequate	-	5	-
6	Risk Management	Draft report issued – March 2012	Adequate	-	7	-
7	Health and Safety including Public Health	Draft report issued – February 2012	Limited	8	3	-
8	Business Continuity/ Emergency Planning and ICT Disaster Recovery	Draft report issued – February 2012	Limited	1	2	1
9	Performance Management	In progress – be issued shortly	-	-		
10	Rising to the Challenge – Project Monitoring	In progress – be issued shortly	-	-		
11	Benefits Realisation	Feedback provided to the Chief Officer – Finance and Commercial.	-	-		
12	Project Management – Performance Plus	Feedback provided to the Assistant Director, People, Policy and Partnerships.	-	-		
13	Annual Governance	In progress – be issued shortly	-	-		

No	Audit Review	Status	Audit Opinion	Recommendations		
	Statement					
14	Follow Up – Agency Payments	Finalised – December 2011	Adequate	-		
15	PFI	Advice and support being provided by KPMG to the Chief Officer – Finance and Commercial.	N/A	-		
16	Fees and Charges	Advice and support provided to the Task and Finish Group.	N/A	-		
Hoople						
17	Payroll	Finalised – February 2012	Adequate	-	4	2
18	Accounts Payable	Draft report issued – April 2012	Limited	3	2	2
19	Debtors	In progress – be issued shortly	-	-		
20	General Ledger inc FMS Bank Reconciliations and Transfer of Balances on Agresso	In progress – be issued shortly	-	-		
21	NNDR and Council Tax	Finalised – October 2011	Adequate	-	2	3
22	Housing Benefit	Finalised – October 2011	Substantial	-	-	2
23	Cash and Deposits	Finalised – March 2012	Adequate	-	2	-
24	ICT Services Review (ISO 27001), including IDOX and Academy	Draft report issued – December 2011	Adequate	-	4	-
25	Agresso IT Controls	Draft Report issued – March 2012 The audit resource from IT Strategy audit was reallocated to this area based on discussions with management. IT Strategy will be included with the Audit Plan for 2012/13.	Limited	7	12	-
26	Hoople - Governance	Finalised – March 2012	Adequate	-	2	2
27	Gifts and Hospitality	Finalised – August 2011	Adequate	-	3	1
28	Anti Money Laundering	Finalised – January 2012	Adequate	-	-	6

No	Audit Review	Status	Audit Opinion	Recommendations		
Directorate: People Services						
29	Education Transport (Follow Up)	In progress – be issued shortly	TBC	-		
30	Licensing - Taxi's	Finalised – January 2012	Adequate	-	2	-
31	Schools	We have discussed and agreed the scope of this work with management and will be completing this work in May 2012.	-	-		
32	Procurement Audit	Advice and support provided by KPMG to the Director for People Services	-	-		
33	Adult and Social Care including ISIS Framework I, Children Services – Early Years and Integrated Commissioning	A separate review of this area is being undertaken by the Council. KPMG have inputted into the review and we will follow up the recommendations flowing from this as part of our 2012/13 Internal Audit Plan.	-	-		
Directorate: Places and Communities						
34	AMEY Contract	Draft report issued – March 2012	TBC	-		
35	HALO Leisure Management	This audit has been deferred pending the completion of an internal review. The Council are currently completing a review of its Leisure Services which will also focus on HALO and how it fits into the Council's overall aims and objectives in delivering Leisure Services.	N/A	-		
36	ABG Grant Review	Finalised – October 2011	Adequate	-	4	1
37	Sustainability	In progress – be issued shortly	-	-		
38	Planning	In progress – be issued shortly	-	-		

Other work

We are also providing assistance and support into matters raised by Council officers. These include:

Area	Comment
Licensing	Information and advice being provided to the Director of People Services.
Carers Support	Information and support being provided to the Chief Officer – Finance and Commercial.
Procurement of Consultants	Information and support provided to the Chief Officer – Finance and Commercial.
Review of Project Implementation	Information and support provided to the Assistant Director, People, Policy and Partnerships.
Whistleblowing process review	Review of process. Feedback provided to the Assistant Director – Law, Governance and Resilience
Contract Compliance	Review of recruitment process. Feedback report provided to Head of Commercial Services.
Fraud	Review of reported fraud. Information and support being provided to the Chief Officer – Finance and Commercial.

Appendix 2 – Audit Opinions – Definition of Assurance Grading

Conclusion	Definition
No assurance	One or more priority one recommendations and fundamental design or operational weaknesses in more than one part of the area under review (i.e. the weakness or weaknesses identified have a fundamental and immediate impact preventing achievement of strategic aims and/or objectives; or result in an unacceptable exposure to reputation or other strategic risks).
Limited assurance	One or more priority one recommendations, or a high number of medium priority recommendations that taken cumulatively suggest a weak control environment (i.e. the weakness or weaknesses identified have a significant impact preventing achievement of strategic aims and/or objectives; or result in an unacceptable exposure to reputation or other strategic risks).
Adequate assurance	One or more priority two recommendations (i.e. that there are weaknesses requiring improvement but these are not vital to the achievement of strategic aims and objectives - however, if not addressed the weaknesses could increase the likelihood of strategic risks occurring).
Substantial assurance	No or priority three only recommendations (i.e. any weaknesses identified relate only to issues of good practice which could improve the efficiency and effectiveness of the system or process).

Appendix 3 – Rating of Recommendations

At the last Audit and Governance Committee members requested further clarification on how audit recommendations are graded. We detail below how we assess the importance of recommendations which we make. Within the table we also set out how we can apply these priorities to recommendations we could make in a particular audit. This example is a review of Health and Safety.

Priority	Definition	Health and Safety Example Audit
Red <i>(Priority 1)</i>	A significant weakness in the system or process which is putting the Council at serious risk of not achieving its strategic aims and objectives. In particular: significant adverse impact on reputation ; non-compliance with key statutory requirements; or substantially raising the likelihood that any of the Council's strategic risks will occur. Any recommendations in this category would require immediate attention .	Issues that result in non-compliance with Health and Safety Legislation, i.e. No Health and Safety Policy in place.
Amber <i>(Priority 2)</i>	A potentially significant or medium level weakness in the system or process which could put the Council at risk of not achieving its strategic aims and objectives. In particular, having the potential for adverse impact on the Council's reputation or for raising the likelihood of the Council's strategic risks occurring, if not addressed .	Issues that may result in non-compliance with Health and Safety legislation if not corrected or improved, ie Health and Safety Policy in place, however, incomplete in one or two sections.
Green <i>(Priority 3)</i>	Recommendations which could improve the efficiency and/or effectiveness of the system or process but which are not vital to achieving the Council's strategic aims and objectives. These are generally issues of good practice that we consider would achieve better outcomes.	Issues that are best practice, ie Health and Safety Policy in place, however, could be subject to minor improvement, such as listing new job titles for staff.

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	11 MAY 2012
TITLE OF REPORT:	COMMUNITY GOVERNANCE REVIEWS
REPORT BY:	ASSISTANT DIRECTOR LAW, GOVERNANCE AND RESILIENCE

CLASSIFICATION: OPEN

Wards Affected

County-wide

Purpose

To note a recent decision by Council for the Committee to undertake community governance reviews when they are requested.

Recommendation

THAT it be noted that:

- (a) **the Council has decided to undertake a community governance review of the areas of Ross Town Council and Ross Rural Parish Council in the Autumn of 2013; and**
- (b) **the Audit and Governance Committee has been empowered to undertake community governance reviews and to make recommendations to Council on the matter; and that**
- (c) **the Committee considers whether it wishes to form a Sub-Committee to deal with community governance reviews**

Key Points Summary

- The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) makes provision for local authorities to undertake community governance reviews (CGRs). The 2007 Act provisions are intended to enable citizens and community groups to make the best use of empowerment opportunities.
- A CGR may reflect the fact that communities expand over time with new housing developments, with existing parish boundaries becoming anomalous as new homes are built and people find they are in different parishes from their near neighbours. It can also deal with warding arrangements
- The guidance provides at paragraph 28 that a CGR should not be started when a review of the principal council's electoral arrangements is being undertaken. The Boundary Commission is reviewing this Council's electoral arrangements and should have concluded its work by the

Autumn of 2013. The Commission's Chairman has specifically asked the Council to desist from a CGR while that review is in progress.

- CGRs are best handled by a small group of Members, who can then make recommendations to Council. Council has decided to expand the remit of the Committee to undertake CGRs in the future, so that expertise is built up for any future CGRs in other areas. Council has also suggested that the Committee may wish to form a Sub-Committee to deal with CGRs.

Alternative Options

1. Not to undertake a CGR and to leave existing parish boundaries unchanged. This would disregard the submissions in favour of review made by the Town Council and the agreement of the Parish Council involved.
2. To defer a decision until the results of the Boundary Commission's review are known. The Commission is likely to publish its findings in spring 2013 and any changes will be at the time of the ensuing local elections in 2015.

Reasons for Recommendations

3. Council has committed to an Autumn 2013 start date for a CGR provides some certainty for the Town and Parish involved and provide a longer period for awareness raising and community engagement.

Introduction and Background

- 4.1. In June 2010 the Ross-on-Wye Town Council decided to make a formal request to the Council for a CGR of the HR9 postal area. This was then postponed until after the May 2011 elections.
- 4.2. In December 2011 representatives of the Town Council met the Assistant Director Law Governance and Resilience and made a number of points in favour of a CGR including:
 - new housing and commercial developments had expanded the town's built up area into the rural parish area;
 - the 2010 Ross Town Plan adopted by the Council covers both town and rural areas;
 - there are 12 members of the Town Council, which meets regularly and has a number of main committees. Elections are contested (25 candidates for 12 seats). Ross Rural has 8 members and meets every 2 months. There have been no elections since 2003.
 - The Town Council maintains facilities such as play areas and a community centre which are enjoyed by inhabitants of the Ross Town and Rural areas alike.
- 4.3. The Town Council representatives said that, despite the terms of June 2010 resolution, they were now asking for a view of the town and parish council areas rather than a review of the whole HC9 area. Those areas are indicated on the attached plan and edged Brown (Ross Town) and green (Ross Rural) – see Appendix 1.
- 4.4. The Ross Rural Parish Council met on 4th January 2012 and their clerk has confirmed that they are happy to proceed with the request for a CGR.

Key Considerations

- 5.1 The request for a CGR in this instance appears to fulfil the criteria for review
- 5.2 Any review provides an opportunity to consider boundaries, numbers of members and warding arrangements
- 5.3 The proposal links to the corporate priority of locality working

Community Impact

- 6. The community impact of the present arrangements and the potential for change is described earlier in this report. On initial appraisal, there are no equalities issues.

Financial Implications

- 7. There is no budget for CGRs and the cost of printing, stationery, room hire, advertisements and a postal ballot would have to be met from a special budget in the financial year 2013/14. Funding will be considered as part of the budget process for 2013/14.

Legal Implications

- 8. The Council must have regard to the mandatory statutory guidance under the 2007 Act in the conduct and timing of any review. Failure to comply could result in a judicial challenge.

Risk Management

- 9. If the Council does not proceed with a CGR, then the existing arrangements may damage community engagement and democratic representation at the local level

Consultees

- 10. The Committee will make appropriate arrangements for consultation and a ballot. The proposals in this report have been discussed with local Ward Members.

Appendices

- 11. Plan of Ross Wards

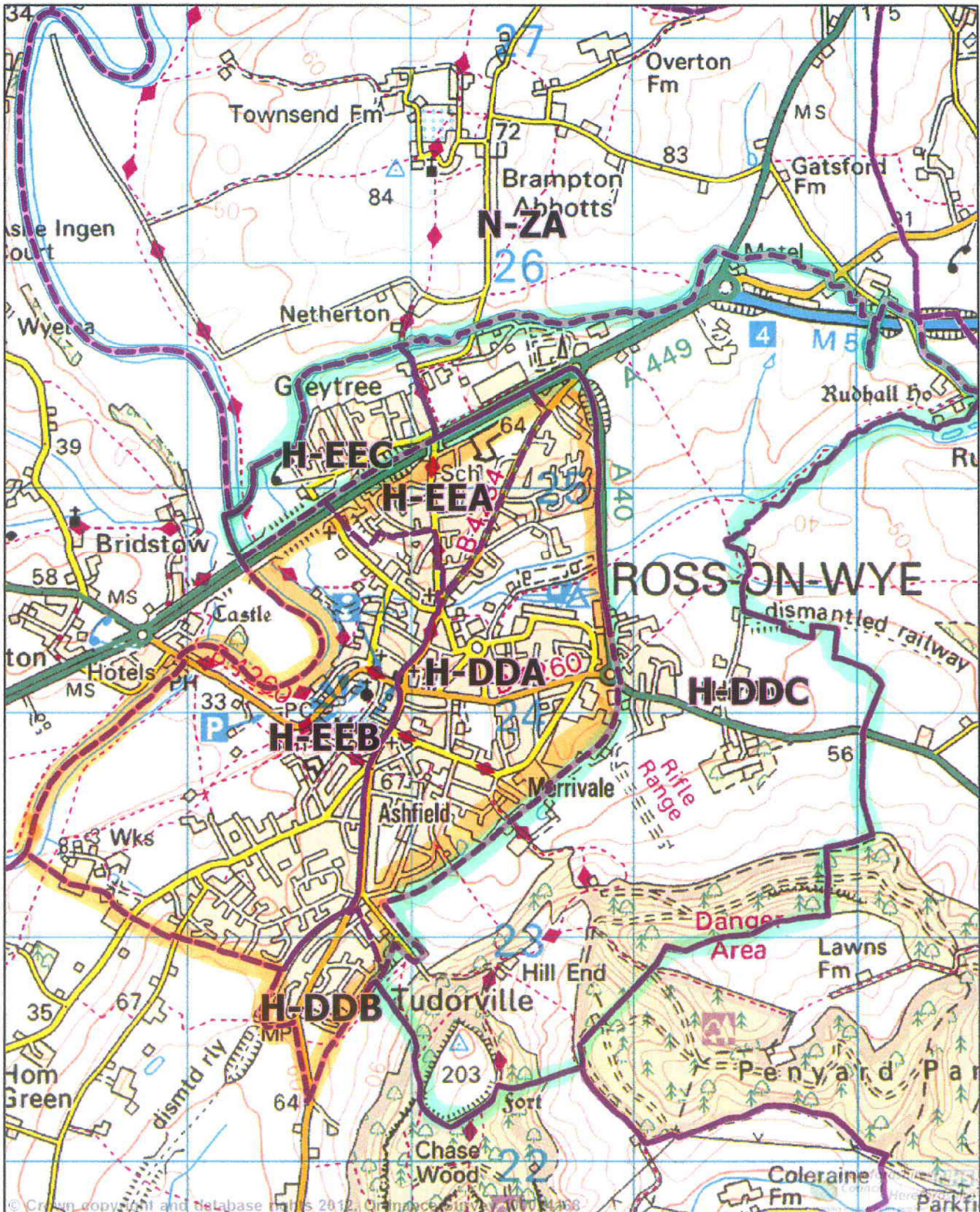
Background Papers

- 12. Correspondence with Town and Parish Councils for Ross Town Council and Ross Rural Parish Council.



County of Herefordshire District Council,
Brockington, 35 Hafod Road, Hereford. HR1 1SH.
website: www.herefordshire.gov.uk
switchboard: 01432 260000

Working in partnership for the people of Herefordshire



Location:

Description: ROSS WARDS

Map Scale 1:25,620 ; Map Centre OS Grid Reference 360,368.8537669;224,447.3958644

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No further copies may be made.

Ross Rural Boundary

Ross Town Boundary

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	11 MAY 2012
TITLE OF REPORT:	CHANGES TO THE STANDARDS REGIME
REPORT BY:	ASSISTANT DIRECTOR LAW GOVERNANCE AND RESILIENCE

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To note the latest developments regarding changes to the Standards Regime and development of a new code of conduct.

Recommendations

THAT:

The Committee notes the latest developments regarding the new standards regime and development of a new code of conduct and the potential role that is envisaged for them.

Key Points Summary

- At its meeting on 27th January, 2012, the Committee noted that it had been tasked by Council to consider and make recommendations about any changes that are necessary to the Constitution. The membership of the Committee has been increased from seven to ten to cater for the new arrangements.
- Proposals for a new regime of ethical governance to replace the Standards Committee are currently under active consideration. They are described in the appended report (Appendix A) which recently went to the Standards Committee on 24th April and have received provisional endorsement from Group Leaders.
- The Audit and Governance Committee would be involved in the new arrangements for dealing with complaints about Councillors when the current standards regime comes to an end as required under the Localism Act 2011.
- The aim of the Government is for the new arrangements to take effect from 1st July, 2012. The Standards Committee has suggested that a panel involving the “independent persons” should be created to investigate those complaints referred by the Monitoring Officer. The Panel will then report to the Audit and Governance Committee for a final adjudication. The

Further information on the subject of this report is available from
Pete Martens Committee Manager on (01432) 260248

sanctions at the Committee's disposal will be very limited compared with those under the current regime

- Part of the process will involve the introduction of a new Code of conduct for Members. The Department for Communities and Local Government (DLG); The Local Government Association; and The Association of Council Secretaries and Solicitors have been drafting the wording that could be incorporated into a new code. There is likely to be some flexibility for each local authority to finalise its own code but the regulations and timescales regarding this are still awaited from the Government. The Standards Committee has carried out a considerable amount of work on a code of conduct suitable for the Council and is likely to follow the model prepared by the Association of Council Secretaries and Solicitors
- Guidance is also awaited from the Government about the issue of independent persons. Indications are that it will not be permissible for the Council's existing independent members to serve as independent persons under the new regime within a period of five years from their previous service. Steps are therefore being taken to prepare the recruitment process for new independent persons.
- The timescales are now becoming quite constrained for the new system to become operational from 1st July and firm guidance is yet to be received from the Government. There will be a need for Council to approve the process to be adopted in Herefordshire and it may therefore be necessary for additional meetings of Council and the Committee to be arranged for this purpose. Council will need to consider a new code of conduct together with the arrangements for dealing with complaints against Councillors.
- No transitional arrangements have yet been issued for current cases to continue to be dealt with under the existing legislation when the new arrangements are introduced. It is hoped that the new secondary legislation will make provision for these cases to be concluded under the present arrangements.
- Further guidance is awaited from the Government about the new legislation and how complaints received from 1st July will be dealt with. The Committee will be provided with further details when they have been received.

Alternative Options

- 1 Legislation is not prescriptive about the process Councillors should adopt for dealing with standards complaints regarding Members of this Council and members of town and parish councils.
2. A number of different models are under consideration across the country. Some envisage the retention of some form of Standards Committee and a complex process along current lines. Others are more minimal
3. The current proposals are a middle course and will be kept under review as the national picture becomes clearer.

Reasons for Recommendations

4. To enable the Committee to note the new arrangements and the steps that need to be taken regarding the new Standards Regime.

Introduction and Background

- 5 Currently it is proposed that the Committee be involved in the process of dealing with complaints about Councillors. The scheme proposed is appended.

6. The new Standards Regime is due to become effective from 1st July but there can be little further progress until the necessary secondary legislation dealing with the registration of pecuniary interests and transitional arrangements has been produced by DLG.
7. The Committee will be provided with information about any new developments at the meeting if there are any.

Key Considerations

8. The process will assist with the Council's governance arrangements and those of local councils by the adoption of a new code of conduct and a new system of dealing with complaints. New rules about registration and declaration of interests will introduce criminal penalties to this area.

Community Impact

9. Strong ethical governance and accountability are essential to inspire public confidence in the workings of the Council. The arrangements will not have any community impact other than providing greater clarity of the decision making process.

Equality and Human Rights

10. This decision does not have equality implications for the purposes of the Equality Act 2010.

Financial Implications

12. The new arrangements may require some budgetary provision for the Monitoring Officer to procure external assistance in carrying out investigations where this is impractical or inappropriate to do so from internal resources.

Legal Implications

13. The new arrangements will need to be compliant with the Localism Act 2011 and secondary legislation thereunder.

Risk Management

14. A failure to prepare for the new Standards Regime could have led to a loss of accountability and transparency and the risk of reputational damage to the Council.

Consultees

15. None

Appendices

16. Report to Standards Committee outlining proposals for determining complaints under the new regime.
Draft code prepared by The Association of Council Secretaries and Solicitors.

Background Papers

None identified.

Standards Committee Suggestions

The Localism Act 2011 received Royal Assent on 15 November 2011. Sections 26 – 37 of the Act deal with standards. The current regime, including a statutory code of conduct for councillors, and oversight of the arrangements by Standards for England, is abolished. In place of this are new statutory obligations, which are considerably less prescriptive.

The Secretary of State has not yet made an order to bring into force these changes. However, there are indications that the effective date would be 1 April 2012, by which date Herefordshire Council would need to have in place arrangements for compliance with the statutory duties.

The Standards Committee has considered this, and had discussions with the Group Leaders. We now present proposals for meeting statutory obligations in a manner which would maintain public confidence. In respect of complaints, our aim has been to have a procedure which is as simple and short as is possible, while complying with a range of legal obligations, such as the principles of natural justice, as well as those of the Localism Act.

A few aspects of the proposals remain tentative: we are seeking clarification on interpretation of one or two matters.

The statutory obligations

Herefordshire Council must:

- promote and maintain high standards of conduct (section 27);
- adopt a code of conduct which must:
 - be consistent with the Nolan principles;
 - set out requirements for a register for disclosure of interests – financial and non-financial (ss 27 and 28).
- set up arrangements for dealing with complaints relating to members of the council and of parish and town councils, which must
 - Include involvement of at least one independent person (s28).
- establish a register of interests – and registers of interests for parish and town councils (s29).

Members must:

- register and declare financial interests of themselves and their spouse or partner(s30). Failure to do so becomes a criminal offence (s34).

High standards of conduct – the code

The Act states that the adoption of a code is a requirement for discharging the duty to promote high standards of conduct.

The duty to adopt a code extends to parish and town councils. However, such councils may adopt the code of their principal authority (in our case, Herefordshire Council).

The Standards Committee has considered three options:

- a. to adopt the existing code of conduct, contained within the Council's constitution, subject to some amendment, in particular in relation to disclosure of interests;
- b. to adopt a model code prepared by ACSeS and LGA; or
- c. to prepare a new code which would meet the requirements for content.

At the time of writing, a final version of the model code (option b) is not yet available. However, the most recent draft is written in more positive terms than the council's existing code. Our view is that, subject to any amendment of detail to deal with local circumstances, option 'b' would be preferred.

1. We recommend that the model code of conduct produced by ACSeS be used as the basis for consultation with parish and town councils, with a view to it being initially adopted with appropriate amendment by Herefordshire Council and subsequently adopted by Parish and Town councils,

".... at least one independent person"

The Act requires that the Council appoint "... at least one independent person ... whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate."

The views of the independent person may be sought by the Council in relation to allegations which it decides not to investigate, and also by members of the Council or parish councils who are subject to a complaint.

The statutory requirement raises the likelihood of possible prejudice: a councillor may consult the independent member who later may also be required to offer views on the investigation into that member.

It is also possible that, in the interests of natural justice, an independent person may exclude themselves from involvement in a case because of close personal or financial interest.

We have also taken account of the number of complaints that have been dealt with over the past three years: about 50 a year. We therefore consider that the Council would need to appoint a panel of at least three independent persons.

Our experience has been that it is very valuable for the independent members of the current Standards Committee to work alongside members of the Council and of parish councils and therefore we consider that the current committee format to be an appropriate and effective mechanism.

2. We recommend that a Standards Panel be established by the Council, comprising, as a minimum:

- **Three Independent members (one of whom is to be Chair & one Vice Chair),**
- **two members of Herefordshire Council,**
- **two Parish/Town Councillors.**

3. We recommend that consideration be given to appointing a fourth independent member in due course, and that substitutes be nominated for the four councillors.

The mechanism of appointment for independent persons, and the qualifications for such persons, are set out in the Act. Mechanism and qualifications are broadly unchanged from those currently applying. It is plainly in the interests of the Council to utilise the learning and experience of the past. Advice is still being sought on detail in this area.

4. We recommend that the existing independent members of the Standards Committee be appointed, in the first instance, as Independent Persons under the Localism Act.

Complaints procedure - Arrangements for dealing with complaints.

The Council "...must have in place —

- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made." (s28)

Our understanding is that such decisions become decisions of the Council, whereas under the present system, decisions would be made by the Standards Committee. This is a significant change. We consider this a little later, in the section on the procedure.

We have taken the opportunity to simplify the current (statutory) procedure, and to make it more transparent. Our proposal is shown schematically in Appendix 1. Some further commentary is necessary.

- i. The Monitoring Officer (MO) plays a more prominent role than at present. In particular, the MO would be the first filter on receipt of any complaint, whereas the current arrangement for filtering requires a meeting of an assessment sub-committee of the Standards Committee.
- ii. The member subject to a complaint would learn about this, and be able to respond, earlier in the process than at present.
- iii. If a complaint is investigated, and therefore requires "a decision of the Council", it would first be referred to a sub-Panel of the Standards Panel, comprising an independent Chair and two others, who would normally be a councillor and a parish councillor.
- iv. The sub-panel would consider the complaint, usually at a meeting where complainant, subject member and MO could present their submissions. The option could be available for all submissions to be presented in writing.
- v. The sub-panel would prepare a report, which would include recommendations on findings, and any appropriate sanction.
- vi. The report would be published.
- vii. The report would be presented:
 - a) If the subject member is a member of Herefordshire Council, to the Audit and Governance sub-Committee for decision; or
 - b) If the subject member is a parish or town councillor, to that parish or town council for decision.

We would expect that, usually, the time from a complaint being received to the publication of a report, would be no more than 12 weeks.

5. We recommend that the appended complaints procedure be endorsed in principle.

This is an area where some detail will need further clarification. We also recognise that we will need to learn from our experience.

6. We recommend that the MO work with the Standards Committee and subsequently the Standards Panel to settle the detailed working of the complaints procedure.

7. We recommend that the Standards Panel regularly review the procedure and report to Herefordshire Council on any changes that may be appropriate in the light of experience.

Registers of interest

The Council, and town and parish councils, will need to have new registers of interests consistent with the revised requirements on disclosure that will be contained in the code of conduct. The registers should also identify those interests, the non-disclosure of which would be a criminal offence.

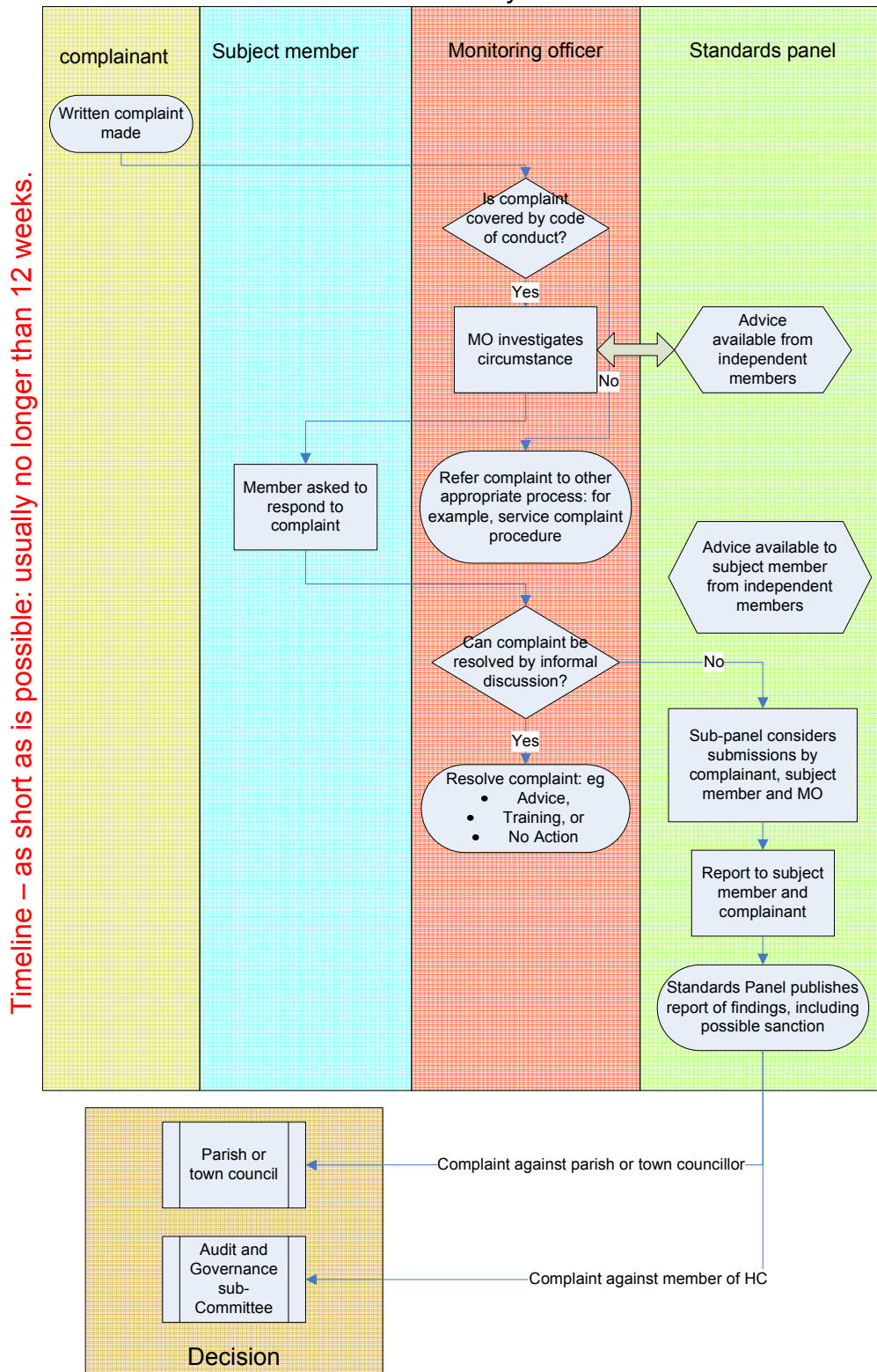
8. We recommend that the MO commence work as soon as possible on establishing new registers of interests for the Council ,and for all town and parish councils within the remit of the Council, and that appropriate resources be allocated to meet this statutory obligation.

Training - Transition to the new arrangements

9. We recommend that the MO, with the support of the Standards Committee and subsequently the Standards Panel, and with HALC, ensure that all councillors receive appropriate information and briefing on the new statutory duties and new arrangements.

Outline process for dealing with a complaint of a breach of the Code of Conduct

Proposal from the Standards Committee to Herefordshire Council:
13 January 2012



[Draft Version 1A submitted by ACSeS to the LGA for consideration (version 1 being a re-working of the previous code and version 2 being a pre-cursor to the issued LGA Template)]

**The Code of Conduct
for Members and Co-Opted Members**

together with

**The Rules for
Registration of Interests
and
Conflicts of Interest**

*Approved by the Council/Authority on
n. June 2012*

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The Code of Conduct for Members of [...]

- I. Purpose of the Code *n*
- II. Scope of the Code
- III. Public Duties of Members
- IV. General Principles of Conduct
- V. Expectations of Conduct
- VI. Rules of Conduct
- VII. Registration and Declaration of Interests
- VIII. Duties in respect of the [...] Authority's [Standards and Governance] Committee and the Monitoring Officer

Part 2

Registration, Disclosure and Duties on Interests held by Members

- I. Registration of Interests *n*
- II. Duties in Respect of Interests *n*

The Code of Conduct for Members of [...]

Prepared pursuant to Chapter 7 of the Localism Act 2011

I. Purpose of the Code

1. The purpose of this Code of Conduct is to assist Members (including co-opted Members) in the discharge of their obligations to the Authority, their local communities and the public at large by:
 - a) setting out the standards of conduct that are expected of Members and co-opted Members of the Authority when they are acting in that capacity, and in so doing
 - b) providing the openness and accountability necessary to reinforce public confidence in the way in which Members perform those activities.

II. Scope of the Code

2. The Code applies to Members in all aspects of their activities as a Member, including when acting on Authority business, ward/division business or when otherwise purporting to act as a Member. It does not seek to regulate what Members do in their purely private and personal lives.
3. The obligations set out in this Code are complementary to those which apply to all Members by virtue of the procedural and other rules of the Authority and the rulings of the Chair
4. The obligations set out in this Code are also complementary to, and include, those obligations which apply to Members falling within the scope of related Codes and Protocols of the Authority, specifically
 - the Protocol on Member and Officer Relations;
 - the Protocol on use of IT and equipment;
 - the Members' Planning Code; and
 - the Guidance for Members' on Licensing.

III. Public Duties of Members

5. Members have a duty to uphold the law, including the general law against discrimination and the requirements of the Localism Act , and to act on all occasions in accordance with the public trust placed in them.
6. Members have an overriding duty to act in the interests of the [District/City/Borough/County/Authority's] area as a whole, but also have a

special duty to represent the views of the residents and communities of their [ward/division].

IV. General Principles of Conduct

7. In carrying out their duties in exercising the functions of their Authority or otherwise acting as a [Councillor/Member], Members will be expected to observe the following general principles of conduct identified by the Committee on Standards in Public Life in its First Report as applying to holders of public office. These principles will be taken into consideration when any allegation is received of breaches of the provisions of the Code.

“Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.”

V. Expectations of Conduct

8. Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.
9. Members shall at all times ensure that their use of expenses, allowances, facilities and services provided from the public purse is strictly in accordance with the rules laid down on these matters, and that they observe any limits placed by the Authority on the use of such expenses, allowances, facilities and services.
10. Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, or its Members or officers generally, into disrepute.

VI. Rules of Conduct

11. Members shall in particular observe the following rules when acting as a Member or co-opted Member of the Authority and Members are informed that you:
 - (1) **Do** treat others with respect and courtesy.
 - (2) **Do not** -
 - (a) do anything which may cause your authority to breach any of its the equality duties (in particular as set out in the Equality Act 2010);
 - (b) bully any person;
 - (c) intimidate or attempt to intimidate any person who is or is likely to be—
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
 - (3) **Do not** use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
 - **Do** be aware of the requirements of the Bribery Act 2010 and that offences under the Act include the situation where a Member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, any function of a public nature, any activity

connected with the Authority or any activity to be performed by or on behalf of the Authority or others should be performed improperly.

- (4) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is—
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority
 - (5) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
 - (6) **Do not** conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
12. Members shall observe the following rules when using the resources of the Authority, or authorising the use of those resources by others, and Members are informed that you:
- (1) **Do** act in accordance with the authority's reasonable requirements including the requirements of the authority's ITC policy and the policies listed at *[councils to insert link or reference to annexes]* which you are deemed to have read ;
 - (2) **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and
 - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
 - (4) **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your own interests.
13. Members shall observe the following rules when making decisions on behalf of or as part of the Authority, and Members are informed that you:
- (1) **Do** have regard to any relevant advice provided to you by the Council's chief financial officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.

- (2) **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the authority.

VII. Registration and Declaration of Interests

14. Members shall fulfil conscientiously the requirements of the Authority in respect of the registration of interests in the Register(s) of Members' Interests and, where it is required or appropriate to do so, shall always draw attention to any relevant interest in any proceeding of the Authority or its Committees, or in any communications with the Authority, its Members or officers as required in Part 2.

VIII. Duties in respect of the Authority's [Standards and Governance] Committee and the Monitoring Officer

15. The application and guidance on the application of this Code shall be a matter for the Authority and for the Authority's [Standards and Governance] Committee and, as appropriate, the Monitoring Officer, acting in accordance with their terms of reference.
16. Members shall co-operate, at all stages, with any investigation into their conduct by or under the authority of those persons and shall not seek to intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness or involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with his or her authority's code of conduct.
17. No Member shall lobby a member of the Authority's [Standards and Governance] Committee in a manner calculated or intended to influence their consideration of a complaint of a breach of this Code otherwise than in accordance with the arrangements laid down by the Authority.

Registration, Disclosure and Duties on Interests Held by Members and Co-Opted Members of

I. Registration of Interests

1. **Do** fulfil the requirements of the law and the Council/Authority in registering your interests in the Register of Members' Interests. These are explained on the following pages.
2. **Do** draw attention to any relevant interest, , where it is required or appropriate to do so, in any proceeding of the Council/Authority or its Committees with which you are involved or in any communications with any colleague, officer or outside body in your role as a member
3. **Do** approach the Authority's Monitoring Officer if you feel that your interest should be treated as sensitive because it could lead to you, or a person connected with you, being subject to violence or intimidation

Part A: Disclosable Pecuniary Interests

- [as required by the Regulations]

Part B: Other Pecuniary Interests

- [Other financial interests (if any) that would qualify as grounds for bias in an application to quash a decision of the Authority]

Part C: Other Non-Pecuniary Interests

- [Other interests that would qualify as grounds for bias in an application to quash a decision of the Authority]

[Part D: Register of Gifts and Hospitality] ?

II. Disclosure and Duties in Respect of Interests Held by Members

1. Declaration of interests not included in the Register

1.1 Do ensure, if you have an interest that is not entered in the authority's register, that

- (i) where you are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority, you disclose the interest to the meeting (unless the authority's monitoring officer considers that it is a sensitive interest); and
- (ii) you notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure (unless it is subject of a pending notification)

1.2 Do then act accordingly.

2. Disclosable Pecuniary Interests

2.1 Do ensure, where you

- (i) are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority; and
- (ii) are or become aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,

that you

- **do not** participate, or participate further, in any discussion of the matter at the meeting; and
- **do not** participate in any vote, or further vote, taken on the matter at the meeting

2.2 Do ensure, where you

- (i) are to discharge a function of the authority acting alone, and
- (ii) are or become aware that you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, in the course of discharging that function

that you

- **do not** take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- 2.3 **Do** make a written request made to the proper officer of the authority if you consider it appropriate that the Authority grant a dispensation relieving you from either or both of the restrictions in paragraph 2.1
- 2.4 **Do** be aware that, in respect of disclosable pecuniary interests, failing to act as required by the Localism Act (as outlined here) is a criminal offence.

3 General

- 3.1 **Do** act in accordance with the Authority's standing orders (Procedure Rules) where you
- (i) are present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority; and
 - (ii) are or become aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting,
- 3.2 **Do** base your conduct when acting as a Member on a consideration of the public interest, avoiding conflict between your personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public interest.