

AGENDA

Audit and Governance Committee

Date: **Tuesday 19 February 2013**

Time: **10.00 am**

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:

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Agenda for the Meeting of the Audit and Governance Committee

Membership

Chairman

Councillor J Stone

Vice-Chairman

Councillor JW Millar

Councillor CNH Attwood

Councillor EMK Chave

Councillor PGH Cutter

Councillor AJ Hempton-Smith

Councillor TM James

Councillor Brig P Jones CBE

Councillor PJ McCaull

[Note: At the time of publication,
there is one vacancy on the
Committee]

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 5 December 2012.	1 - 6
5.	ANNUAL AUDIT FEE LETTER To inform the Audit and Governance Committee of the work to be undertaken by Grant Thornton over coming months for 2012/13 financial year. The report also includes the proposed indicative fee.	7 - 14
6.	COMMUNICATION WITH THE AUDIT AND GOVERNANCE COMMITTEE The report covers the process to ensure there is effective two way communication between the Audit and Governance Committee and the external auditor, namely Grant Thornton.	15 - 34
7.	INTERNAL AUDIT PROGRESS 2012/13 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.	35 - 46
8.	POWERS AND RESPONSIBILITIES IN RELATION TO STANDARDS COMPLAINTS To note the powers and responsibilities of the Audit and Governance Committee, and of other bodies in relation to Standards complaints against Councillors, and to consider best practice within the Council's adopted process.	47 - 62
9.	DISPENSATIONS To note the grant of dispensations to all Members of the Council to allow them to take part in meetings of the Council which will consider the Budget for 2013/14 and set Council Tax for the same period.	63 - 68
10.	DATE OF NEXT MEETING The next scheduled meeting is Friday 15 March 2013. A meeting is scheduled for Friday 6 September 2013. However, to ensure sufficient preparation time for the accounts, it is recommended that this meeting be moved to Friday 13 September 2013.	

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Audit and Governance Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH on Wednesday 5 December 2012 at 10.00 am

Present: Councillor J Stone (Chairman)

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

In attendance: Councillors GA Powell, AJW Powers and A Seldon
J Bharier, Independent Person, Standards Panel

36. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors CNH Attwood and JW Millar.

37. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

38. DECLARATIONS OF INTEREST

Councillor GA Powell declared a non-disclosable pecuniary interest in agenda item 6 [Standards Panel Report, 22 November 2012, minute 41 below], and remained in the meeting for the duration of the item.

39. MINUTES

The Chair commented that the Library at the Shire Hall, where the previous meeting had been held, was a suitable alternative venue for meetings of the Committee as the need arose.

Referring to minute 30 [Work Programme 2012/13], a Committee Member commented that some potential items of business identified at previous meetings for future consideration were still outstanding and requested that these be expedited.

RESOLVED: That the minutes of the meeting held on 12 November 2012 be approved and signed as correct record by the Chairman.

[Note: Agenda item 6 (minute 41) was considered before item 5 (minute 40) but the agenda order has been retained below for ease of reference.]

40. NOTICES OF MOTION

The Assistant Director Law, Governance and Resilience reported that issues with the process for amending notices of motion had been highlighted at Council in September 2012. Consequently, the amendment of the Council's Procedure Rules was recommended, alongside a related protocol. This would allow Members to retain priority by lodging a notice of motion (or a description of the subject matter) and then to refine the wording, in consultation with the Monitoring Officer, to ensure proper formulation prior to the publication of the relevant agenda.

The Chairman welcomed the report and noted the need for the deadline on submission to ensure that sufficient notice could be given of the subject matter to be debated.

In response to a question, the Assistant Director Law, Governance and Resilience confirmed that the existing Procedure Rules limited the number of notices to a maximum of three notices on each agenda [paragraph 4.1.16.2 refers].

The Committee endorsed the recommendations to Council.

RESOLVED: That the following be recommended to Council:

(a) Procedure Rule 4.1.16 be amended as indicated in the protocol appended to the report; and

(b) the protocol appended to the report be adopted.

41. STANDARDS PANEL REPORT, 22 NOVEMBER 2012

The Assistant Director Law, Governance and Resilience submitted a report on the recommendations of the Independent Person in relation to a breach of the Code of Conduct by Councillor GA Powell.

The Chairman commented that this was the second report from the Standards Panel since the introduction of the new standards system in July 2012. It was noted that a report from the Committee regarding breaches of the Members' Code of Conduct by Councillor MAF Hubbard [minute 34 of 2012/13 refers] had been submitted to Council in November 2012 but, due to unforeseen circumstances, the item had been held over until an extraordinary meeting of Council on 4 January 2013.

The Chairman explained the procedure that would be followed. He emphasised that the investigation into the complaint had been completed and considered by the Standards Panel. Therefore, unless new evidence was presented or issues were identified with the process, the Committee was not expected to reopen the whole case but to move forward by considering the recommendations.

The Chairman noted that the complaint had been made in 2010 and the length of time taken to reach this position was likely to have had an impact on the wellbeing of Councillor Powell. He added that this highlighted the need for cases to be dealt with as efficiently and as speedily as possible.

The Assistant Director Law, Governance and Resilience reported that the Assessment Sub-Committee of the Standards Committee had considered the complaint in December 2010 and referred the allegation for investigation but there had been delays subsequently, in part due to the abolition of the regime under the Localism Act 2011 and the implementation of a new system. As a complaint for final determination under the old regime but not concluded by the Standards Committee, this case fell to be considered by the newly constituted Standards Panel.

It was reported that the Standards Panel had met on 22 November 2012 to consider the complaint, originating from an email from the subject member on 21 July 2010 about certain matters relating to the Northolme Community Centre Association [NCCA]; detailed notes of the Panel meeting were appended to the report. The Panel found that: it was reasonable to perceive the subject member as acting in her capacity as a councillor when she sent the email; the allegations in the subject member's email were unsubstantiated; and the subject member had failed to comply with the Code of Conduct. Attention was drawn to the recommendations of the Independent Person, as follows:

- the Audit and Governance Committee be asked to present a report on the consideration of the investigation of the complaint to the next full council meeting;
- the Audit and Governance Committee be asked to recommend to Council to consider whether it was appropriate for the member to be appointed or nominated by the authority as a representative to external bodies; and
- training should be arranged for the subject member to ensure that she is fully aware of the provisions of the Members' Code of Conduct.

The Assistant Director Law, Governance and Resilience advised that any recommendation regarding external bodies could only be determined by Council as the appointing / nominating body. The Committee was also advised that Councillor Powell last attended Code of Conduct training in October 2008. It was noted that a decision regarding another complaint made by a representative of the NCCA about the subject member had been subsumed as part of the Panel's deliberations and recommendations.

In response to questions, the Assistant Director Law, Governance and Resilience provided clarification about the purpose of the second recommendation and the options available to Council, such as restricting future appointments / nominations to external bodies or to terminate any current arrangement involving the subject member. A Committee Member questioned the relevance of this recommendation, as vacancies might arise with no links to the circumstances of this specific case. The Assistant Director Law, Governance and Resilience said that it was his understanding that the Independent Person and the Panel had misgivings about the disjointed relationship that had developed between the subject member and the NCCA and considered that this, alongside the lack of training undertaken, should be borne in mind when considering any appointments / nominations.

A Committee Member expressed concern about the legal position for an external body if an appointment was withdrawn by the Council and sought clarification about the application and consistency of sanctions under the new standards system. The Assistant Director Law, Governance and Resilience advised that the legal position would depend on the nature of the external body concerned and the Complaints Process agreed by Council [minute 31 of 2012/13 refers] included the following examples of possible action '*Reporting its findings to Council for information*' and '*Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority*'. The Committee Member expressed concern that it would not be appropriate for Council to become engaged in a debate about the relative merits of any individual. Another Committee Member added that no criteria had been identified to enable an assessment to be undertaken of suitability to serve on particular external bodies.

The Chairman reminded the Committee of its responsibilities under the new standards system and said that the subject member would be invited to address the Committee and the Independent Person, Mr. Bharier, would be given an opportunity to respond.

Councillor Powell addressed the committee, the principal points included:

- i. The Council had nominated her to serve on the South Wye Regeneration Partnership, due to thirteen year's previous experience, but she could sit on the board in her own right in any case.
- ii. The issues were more extensive than the email dated 21 July 2010 and she provided background to the case, including:
 - Issues since the start of the Northolme Community Centre and concerns that had arisen about the accounts;

- Council officer advice to Councillor Powell, her withdrawal from the NCCA and information passed to other directors;
 - questions raised by other directors and their release from the NCCA;
 - incidents during and following a meeting held on 25 June 2010; and
 - the circumstances that prompted the email on 21 July 2010 from her private email address and not as 'Councillor Powell'.
- iii. Councillor Powell said that, on reflection, perhaps she should not have referred to the group running the centre as a 'clique' but wanted to convey the concerns she had at the time about procedures and access to meetings.
 - iv. The amount of evidence that she could present was limited by her annual practice of deleting emails from the previous year.
 - v. Councillor Powell said that others had commented on her approachability and she disputed any suggestion that she had been disrespectful.

The Chairman thanked Councillor Powell for her contribution and said that the Committee would have the opportunity to ask questions. In response to a question from the Chairman, Councillor Powell maintained that the Charity Commission had been involved with the NCCA. Councillor Powell re-iterated the concerns she had about the accounts.

Councillor Powell presented a folder highlighting paperwork that might not have been considered by the Standards Panel. The Independent Person confirmed that he had spent considerable time at the Council offices reading through the documentation submitted by various parties in relation to the complaint.

A Committee Member said that many associations had, by definition, a narrow focus and tensions about management and finances were not uncommon. However, it was acknowledged that it was not the business of this meeting to scrutinise the NCCA.

In response to a question from another Committee Member, Councillor Powell said that former directors might be able to clarify the extent of the involvement of the Charity Commission.

The Independent Person advised that he had over twenty years' experience at a senior level with charities. He said that investigations were only undertaken by the Charity Commission when major problems arose, such as serious financial irregularities or a complete breakdown of governance. Furthermore, the Charity Commission was obliged to report such investigations on its website and only four reports had been made in the last six months; as there were some 160,000 charities, this demonstrated the infrequency and significance of investigations. Although correspondence had been sent from the Charity Commission to individuals, rather than to the board of the NCCA, no evidence had been presented to suggest that this involved more than standard letters referencing existing advice notes.

The Chairman adjourned the meeting for fifteen minutes to enable the Independent Person to review the contents of the folder tabled by Councillor Powell. Upon recommencement of the meeting, the Independent Person was invited to respond and he made the following points:

1. The Localism Act 2011 required the appointment of 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*' [Part 1, Chapter 7, paragraph 28 (7) refers]. The Standards Panel also included a

representative of Herefordshire Council and a representative of the town and parish councils.

2. Panel members had served on the former Standards Committee. Therefore, the panel had significant experience of the Code of Conduct, examining cases and identifying appropriate sanctions if complaints were upheld.
3. He re-iterated the extent of the documentation reviewed in relation to this case and said that he could not identify any new evidence in the folder provided by Councillor Powell.
4. There might be governance and management issues to resolve within the NCCA but, as the Independent Person, he had to focus on the conduct of the subject member and in what capacity that conduct had occurred. In view of the subject member's previous involvement, it was considered reasonable to perceive her as acting in her capacity as a Councillor.
5. Councillors needed to consider how their behaviour might be perceived by the public and it was not necessarily helpful to appear to be taking sides in such disputes.
6. The Panel had to concentrate on matters that could be substantiated and concluded that the subject member had failed to comply with the Code of Conduct.

The Chairman noted that the complainant was not present and invited a final comment from the subject member. Councillor Powell said that: documentation in the respect of the Charity Commission existed but it was not hers to submit; she did not consider that she had breached the Code of Conduct; she continued to act in the best interests of the people in her ward; public money had to be properly accounted for; and she had brought her concerns to the attention of the Council and had sought officer advice.

The Chairman recognised the experience within the Standards Panel and that it was operating on the basis of the role agreed by Council. He noted the commitment and considerable work undertaken by the Panel and thanked the Independent Person for his further contribution at this meeting.

The Chairman invited comments from the Committee about the recommendations detailed in the report. A Committee Member, although in broad agreement with the report and recommendations - particularly in relation to training, did not feel able to support the recommendation '*Members request Council to consider the recommendation of the Independent Person as to the membership of outside bodies*'. This was endorsed by the Committee.

A Committee Member suggested that the involvement of Council officers on the management boards of community organisations should be reviewed.

In view of the limited training received by the subject member to date, it was proposed that the training be provided within three months and the outcome reported back to the Committee in due course.

RESOLVED: That:

- (a) **The report of the Standards Panel meeting on 22 November 2012 be approved; and**
- (b) **The recommendations of the Independent Person be approved and the Monitoring Officer be requested to arrange training for the subject member, to be undertaken by the subject member within three months of the date of this meeting.**

42. DATE OF NEXT MEETING

The Committee noted that the next scheduled meeting was to be held on Friday 18 January 2013. This would be followed by a private, informal meeting with Committee Members and the Heads of Internal and External Audit, as part of established best practice.

[Note: The 18 January 2013 meeting was subsequently cancelled. Therefore, the next scheduled meeting was to be held on Tuesday 19 February 2013. The informal meeting with the auditors was postponed and was to follow the Committee meeting on Friday 15 March 2013.]

The meeting ended at 11.38 am

CHAIRMAN

MEETING :	AUDIT AND GOVERNANCE COMMITTEE
DATE:	19 FEBRUARY 2013
TITLE OF REPORT:	ANNUAL AUDIT FEE LETTER
REPORT BY:	DAVID POWELL, CHIEF OFFICER: FINANCE AND COMMERCIAL

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To inform the Audit and Governance Committee of the work to be undertaken by Grant Thornton over coming months for 2012/13 financial year. The report also includes the proposed indicative fee.

5. Recommendation(s)

THAT:

(a) **Audit and Governance Committee notes the content of Grant Thornton's Annual Fee letter; and**

(b) **Audit and Governance Committee note the planned outputs.**

6. Key Points Summary

- The proposed audit fee for 2012/13 is £164,803. This is a reduction of 40% or £109,869 on the 2011/12 fee.
- The Audit Plan lists key milestones and deadlines leading to the Auditors being able to complete required work prior to issuing an audit opinion and value for money conclusion.

7. Alternative Options

7.1 There are no Alternative Options.

8. Reasons for Recommendations

8.1 Grant Thornton are the Council's appointed external auditor. The annual fee letter is an opportunity for the Audit and Governance Committee to be informed of the planned outputs and proposed fee.

9. Introduction and Background

9.1 This report is required in order to inform Audit and Governance Committee about the outputs and fees level for audit work.

10. Key Considerations

10.1 The Annual Audit Fee letter details the amount to be paid to Grant Thornton (£164,803). This is a decrease on the actual fees of £274,672 for 2011/12. The reason for the reduction is outlined in the letter and is from a combination of factors. Any fee amendments will be discussed with the Council's Chief Officer: Finance and Commercial and a report would then go to the Audit and Governance Committee.

10.2 The Audit fee covers work on the audit of financial statements, value for money conclusion and Whole of Government accounts requirements.

10.3 The Audit Commission indicates that given the timescale of the financial challenge faced by local government it will review the robustness of Herefordshire's medium term financial plan. The financial resilience of all local authorities is of increasing importance given the combination of government funding reductions and pressure on services. In 2013/14 Herefordshire's government funding will be £5.45m less than it was in 2012/13 and this requires the Council to have a robust system for delivering savings and for assurance to be given that it can deliver services within resources.

10.4 The letter lists the planned outputs and their indicative dates.

11. Community Impact

11.1 Not applicable.

12. Equality and Human Rights

12.1 Not applicable.

13. Financial Implications

13.1 The fee reflected in the Audit Plan is included in the Council's budget.

14. Legal Implications

14.1 There are no legal implications.

15. Risk Management

- 15.1 The effective management of risk is through the delivery of internal processes that address the risks associated with areas such as final accounts delivery.
- 15.2 Appendix 1 of the attached report indicates the basis of the fee. Certain assumptions are included such as Hoople providing appropriate access and working papers of the required standard. This is mitigated by the oversight of the Hoople contract by the Chief Officer: Finance and Commercial.

16. Consultees

- 16.1 None.

17. Appendices

- 17.1 Audit letter dated 12 December 2012 from Grant Thornton.

18. Background Papers

- 18.1 None identified.



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12 December 2012

Dear David

Planned audit fee for 2012/13

We are delighted to have been appointed by the Audit Commission as auditors to the Council and look forward to providing you with a high quality external audit service for at least the next five years. We look forward to developing our relationship with you over the coming months, ensuring that you receive the quality of external audit you expect and have access to a broad range of specialist skills where you would like our support.

The Audit Commission has set its proposed work programme and scales of fees for 2012/13. In this letter we set out details of the audit fee for the Council along with the scope and timing of our work and details of our team.

Scale fee

The Audit Commission defines the scale audit fee as “the fee required by auditors to carry out the work necessary to meet their statutory responsibilities in accordance with the Code of Audit Practice. It represents the best estimate of the fee required to complete an audit where the audited body has no significant audit risks and it has in place a sound control environment that ensures the auditor is provided with complete and materially accurate financial statements with supporting working papers within agreed timeframes.”

For 2012/13, the Commission has independently set the scale fee for all bodies. The Council's scale fee for 2012/13 is £164,803 which compares to the audit fee of £274,672 for 2011/12, a reduction of 40 %

Further details of the work programme and individual scale fees for all audited bodies are set out on the Audit Commission's website at: www.audit-commission.gov.uk/scaleoffees1213.

The audit planning process for 2012/13, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary as our work progresses.

Scope of the audit fee

Our fee is based on the risk based approach to audit planning as set out in the Code of Audit Practice and work mandated by the Audit Commission for 2012/13. It covers:

- our audit of your financial statements

Chartered Accountants

Member firm within Grant Thornton International Ltd
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A list of members is available from our registered office.

- our work to reach a conclusion on the economy, efficiency and effectiveness in your use of resources (the value for money conclusion)
- our work on your whole of government accounts return.

Value for money conclusion

Under the Audit Commission Act, we must be satisfied that the Council has adequate arrangements in place to secure economy, efficiency and effectiveness in its use of resources, focusing on the arrangements for:

- securing financial resilience; and
- prioritising resources within tighter budgets.

We undertake a risk assessment to identify any significant risks which we will need to address before reaching our value for money conclusion. We will assess the Council's financial resilience as part of our work on the VFM conclusion and a separate report of our findings will be provided.

We will continue to assess the Council's arrangements and discuss any additional work required during the year. We have previously discussed the need to review the arrangements the Council has put in place to ensure value for money in relation to any variation to the current waste disposal contract. We are in discussion with the Council as to the appropriate timing of this review and therefore at this stage have not allowed any time in the fee to carry out this work.

Certification of grant claims and returns

The Audit Commission has replaced the previous schedule of hourly rates for certification work with a composite indicative fee. This composite fee, which is set by the Audit Commission, is based on actual 2010/11 fees adjusted to reflect a reduction in the number of schemes which require auditor certification and incorporating a 40% fee reduction. The composite indicative fee grant certification for the Council is £10,600.

Billing schedule

Our fees are billed quarterly in advance. Given the timing of our appointment we will raise a bill for two quarter's in December 2012 with normal quarterly billing thereafter. Our fees will be billed as follows:

Main Audit fee	£
December 2012	82401
January 2013	41201
March 2013	41201
Grant Certification	
June 2013	10,600
Total	10,600

Outline audit timetable

We will undertake our audit planning and interim audit procedures in March. Upon completion of this phase of our work we will issue our detailed audit plan setting out our findings and details of our audit approach. Our final accounts audit and work on the VFM

conclusion will be completed in September 2013 and work on the whole of government accounts return in September 2013.

Phase of work	Timing	Outputs	Comments
Audit planning and interim audit	March	Audit plan	The plan summarises the findings of our audit planning and our approach to the audit of the Council's accounts and VFM.
Final accounts audit	July-September	Report to those charged with governance	This report will set out the findings of our accounts audit and VFM work for the consideration of those charged with governance.
VFM conclusion	Jan to September 2013	Report to those charged with governance	As above
Financial resilience	Jan to Sept 2013	Financial resilience report	Report summarising the outcome of our work.
Whole of government accounts	September 2013	Opinion on the WGA return	To be carried out at the same time as final accounts audit.
Annual audit letter	October 2013	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.
Grant certification	June to December 2013	Grant certification report	A report summarising the findings of our grant certification work

Our team

The key members of the audit team for 2012/13 are:

	Name	Phone Number	E-mail
Engagement Lead	Tony Corcoran	0121 2325359	Tony.j.corcoran@uk.gt.com
Engagement Manager	Terry Tobin	0121 2325276	terry.p.tobin@uk.gt.com
VFM/Advisory Lead	Ian Barber	0121 2325357	ian.m.barber@uk.gt.com
Audit Executive	Martin Bell	0121 2325232	martin.j.bell@uk.gt.com

Additional work

The scale fee excludes any work requested by the Council that we may agree to undertake outside of our Code audit. Each additional piece of work will be separately agreed and a detailed project specification and fee agreed with the Council.

Quality assurance

We are committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact Jon Roberts, our Public Sector Assurance regional lead partner (jon.roberts@uk.gt.com)

Yours sincerely

Tony Corcoran
For Grant Thornton UK LLP

MEETING :	AUDIT AND GOVERNANCE COMMITTEE
DATE:	19 FEBRUARY 2013
TITLE OF REPORT:	COMMUNICATION WITH THE AUDIT AND GOVERNANCE COMMITTEE
REPORT BY:	DAVID POWELL, CHIEF OFFICER: FINANCE AND COMMERCIAL

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 The report covers the process to ensure there is effective two way communication between the Audit and Governance Committee and the external auditor, namely Grant Thornton.

5. Recommendation(s)

That the Audit and Governance Committee notes the content of Grant Thornton's report as attached at Appendix A

6. Key Points Summary

- As the external auditor, Grant Thornton has a responsibility under professional auditing standards to ensure there is effective communication with the Audit Committee. This means developing a good working relationship with Committee Members, while maintaining their independence and objectivity.
- In planning and performing the audit of the financial statements Grant Thornton need to understand how the Audit and Governance Committee, supported by the Council's officers, meets its responsibilities.

7. Alternative Options

7.1 There are no Alternative Options.

8. Reasons for Recommendations

8.1 Grant Thornton is the Council's appointed external auditor. The attached report is an opportunity for the Audit and Governance Committee to state how the Committee will enable effective communications between itself and the external auditor including the provision of assurance regarding management of the risk of material misstatement.

9. Introduction and Background

9.1 The attached report summarises the respective responsibilities of the Audit and Governance Committee, officers and external audit in a raft of areas as set out by International Standards on Auditing (UK and Ireland).

10. Key Considerations

10.1 The primary responsibility of the external auditors is to consider the risk of material misstatement that could affect our financial reporting. Each section of the report includes a series of questions that officers have responded to. The Audit and Governance Committee is asked to consider these responses and confirm that it is satisfied with the arrangements.

10.2 The external auditor has a responsibility under professional audit standards to ensure there is effective communication with the Council's Audit and Governance Committee.

10.3 Committee members have a responsibility around financial reporting requirements. The attached document is a framework within which the Committee needs to respond to officer comments about audit issues.

11. Community Impact

11.1 Not applicable.

12. Equality and Human Rights

12.1 Not applicable.

13. Financial Implications

13.1 There are no financial implications.

14. Legal Implications

14.1 There are no legal implications.

15. Risk Management

15.1 The effective management of risk is through the delivery of internal processes that address the risks associated with areas such as final accounts delivery.

16. Consultees

16.1 None.

17. Appendices

17.1 Communication with the Audit Committee - paper submitted by Grant Thornton.

18. Background Papers

18.1 None identified.



Auditing Standards – Communication with the Audit Committee

Herefordshire Council

Audit year 12 / 13

Last updated 8 February 2013

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Introduction

The purpose of this report is to ensure there is effective two-way communication between the Council's Audit Committee, who are 'those charged with governance' and the external auditor.

As your external auditor, we have a responsibility under professional auditing standards to ensure there is effective communication with the Audit Committee. This means developing a good working relationship with Committee members, while maintaining our independence and objectivity. If this relationship works well it helps us obtain information relevant to our audit and helps Audit Committee members to fulfil their financial reporting responsibilities. The overall outcome helps to reduce the risk of material misstatement.

In planning and performing our audit of the financial statements we need to understand how the Audit Committee, supported by the Council's officers, meets its responsibilities in the following areas.

- fraud
- laws and regulations
- going concern
- related party transactions
- accounting for estimates

This report summarises the respective responsibilities of the Audit Committee, officers and external audit in each of these areas, as set out by International Standards on Auditing (UK and Ireland) (ISAs). Our primary responsibility is to consider the risk of material misstatement.

Each section of the report includes a series of questions that officers have responded to. We would like to ask the Audit Committee to consider these responses and confirm that it is satisfied with the arrangements.

Fraud risk assessment

The ISAs define fraud as:

"An intentional act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage."

[ISA (UK&I) 240, paragraph 11]

The primary responsibility to prevent and detect fraud is with the Audit Committee and Council officers. To do this:

- officers need to ensure there is a strong emphasis on fraud prevention and deterrence, with a commitment to honest and ethical behaviour
- Audit Committee oversight needs to include the potential for the override of controls and inappropriate influence over the financial reporting process.

Our overall responsibility is to ensure the Council's financial statements are free from material misstatement due to either fraud or error. We are required to maintain professional scepticism throughout the audit, which means considering the potential for the intentional manipulation of the financial statements.

We are also required to carry out a fraud risk assessment to inform our audit approach. This includes considering the following:

- how management assesses the risk of material misstatement in the financial statements due to fraud
- officers' response to assessed fraud risk, including any identified specific risks
- investigations into data matches identified through the National Fraud Initiative and subsequent outcomes
- how officers communicate the processes for assessing and responding to fraud risk to the Audit Committee
- how officers communicate its views on ethical behaviour to the Audit Committee
- how the Audit Committee exercises oversight of officers' fraud risk assessment and response processes and the internal controls to mitigate these risks
- what knowledge the Audit Committee has of actual, alleged or suspected fraud.

Table 1 below sets out how officers have responded to our fraud risk assessment.

Table 1: Fraud risk assessment

Question	Management response
<p>1. What is officers' assessment of the risk of material misstatement in the financial statements due to fraud? Is this consistent with the feedback from your risk management processes?</p>	<p>The risk of material misstatement of the accounts due to undetected fraud is low.</p> <p>Although there is an ongoing risk of fraud being committed against the Council clear and effective arrangements are in place to both prevent and detect fraud.</p> <p>One material instance of fraud has been identified in 2011/12.</p>
<p>2. Are you aware of any instances of fraud, either within the Council as a whole or within specific departments since 1 April 2011?</p>	<p>The Council is aware that some instances of fraud have occurred (within the Housing Benefit section). These instances are uncovered by the internal Fraud Investigation team within Corporate Finance. However, one other material instance of fraud was identified during the 2011/12 year and this is progressing through the Courts with a trial date set for September 2013.</p>
<p>3. Do you suspect fraud may be occurring, either within the Council or within specific departments?</p> <ul style="list-style-type: none"> • Have you identified any specific fraud risks? • Do you have any concerns there are areas that are at risk of fraud? • Are there particular locations within the Council where fraud is more likely to occur? 	<p>We do not suspect fraud is occurring within the Council. However, evidence published by the National Fraud Authority amongst others, suggests that fraud is committed in all organisations to varying degrees, so it is likely that some fraud is occurring at Hereford. In order to mitigate fraud occurring the Council has a number of processes in place.</p> <p>The Internal Audit plan incorporates consideration of potential fraud risks and how these are to be mitigated, for example through the reviews of the Council's key systems and the work it completes on the Council's Anti-Fraud processes to ensure that they are fit for purpose.</p>

Question

Management response

	<p>In addition to this management is expected to identify and record fraud risks where necessary on the corporate risk register.</p> <p>There are some areas that are inherently at risk from fraud such as:</p> <ul style="list-style-type: none">■ Council Tax; and■ Housing Benefit. <p>However, there is a dedicated benefits investigation team within the Corporate Finance division which investigates any potential fraud issues.</p>
<p>4. Are you satisfied that the overall control environment, including:</p> <ul style="list-style-type: none">• the process for reviewing the system of internal control;• internal controls, including segregation of duties;• exist and work effectively? <p>If not where are the risk areas? What other controls are in place to help prevent, deter or detect fraud?</p>	<p>Yes.</p> <p>No significant internal control issues have been identified by Internal Audit or External Audit as part of their work on the Council's systems. The Council's management have stated in their Director Assurance Statements that they are not aware of any significant control failures occurring in 2011/12.</p> <p>In addition to segregation of duties, the Council has a number of other control processes in place to prevent, deter or detect fraud, including the use of exception reports to identify unusual transactions which could be fraudulent.</p>
<p>5. How do you communicate to employees about your views on business practices and ethical behaviour? How do you encourage staff to report their concerns about fraud?</p> <ul style="list-style-type: none">• What concerns are staff expected to report about fraud?	<p>The Council has an Anti-Fraud Strategy and a Whistleblowing procedure in place which explain the procedures to follow when staff need to raise any fraud concerns. These policies and procedures are available to all staff via the Council's intranet.</p>
<p>6. From a fraud and corruption perspective, what are considered to be high-risk posts?</p> <ul style="list-style-type: none">• How are the risks relating to these posts identified, assessed and managed?	<p>There are not any significantly high-risk posts identified.</p>
<p>7. Are you aware of any related party relationships or transactions that could give rise to instances of fraud?</p> <ul style="list-style-type: none">• How do you mitigate the risks associated with fraud related to related party relationships and transactions?	<p>The 2011/12 financial statement disclosure of related party transactions does not identify any potential fraud risk.</p> <p>Members and officers are required to make full disclosure of any relationships that impact on their roles. Members are required to declare any relevant interests at Council and Committee meetings.</p>

Question	Management response
8. What arrangements are in place to report fraud issues to Audit Committee?	Internal Audit provides the Audit and Governance Committee with updates of their work on fraud prevention and detection, including any significant identified frauds and the action taken.

Laws and regulations

Auditing standards require us to consider the impact that law, regulation and litigation may have on the Council's financial statements. The factors that may result in particular risks of material misstatement due to fraud or error are:

- the operational regulatory framework - this covers the legislation that governs the operations of the Council
- the financial reporting framework - according to the requirements of International Financial Reporting Standards, the Code of Accounting for Local Authorities in England and relevant Directions
- taxation considerations - for example compliance with Value Added Tax and Income Tax regulations
- government policies that otherwise impact on the Council's business
- other external factors
- litigation and claims against the Council.

Where we become aware of information about a possible instance of noncompliance we need to gain an understanding of it to evaluate the possible effect on the financial statements.

The ISAs also require us to make enquiries of management and the Audit Committee about the arrangements in place to comply with law and regulation. To help with this, management have responded to the following questions.

Table 2: laws and regulations

Question	Management response
1. How does management gain assurance that all relevant laws and regulations have been complied with?	<p>The role of the Monitoring Officer is defined in the Constitution as "responsible for reporting the actual or potential breach of a legal requirement to the Council meeting or Cabinet."</p> <p>The Monitoring Officer is supported by a team of Legal and Democratic Services Officers and the Resilience Team. Together they advise him of any matters of concern.</p> <p>The Monitoring Officer sees all reports to the Officer Leadership Team and all reports to Members.</p> <p>All reports to Members are required to have a legal implications section and a risk section.</p> <p>The section 151 officer is responsible for preparing the accounting statement in accordance with relevant legal and regulatory requirements.</p>

Question	Management response
2. How is the Audit Committee provided with assurance that all relevant laws and regulations have been complied with?	The Monitoring Officer (or representative) attends Audit & Governance Committee Meetings when legal issues arise and advises members on any areas of concern.
3. Have there been any instances of noncompliance with law and regulation since 1 April 2011?	No
4. Is there any actual or potential litigation or claims that would affect the financial statements?	No

Going concern

Going concern is a fundamental principle in the preparation of financial statements. Under the going concern assumption, a council is viewed as continuing in operation for the foreseeable future with no necessity of liquidation or ceasing trading. Accordingly, the Council's assets and liabilities are recorded on the basis that assets will be realised and liabilities discharged in the normal course of business. A key consideration of going concern is that the Council has the cash resources and reserves to meet its obligations as they fall due in the foreseeable future.

We have discussed the going concern assumption with key Council officers and reviewed the Council's financial and operating performance. Below are key questions on the going concern assumption which we would like the Audit Committee to consider.

Table 3 – Going concern

Question	Management response
1. Has a report been received from management forming a view on going concern?	The Chief Officer (Finance and Commercial Services), as S151 Officer, is satisfied that the budget proposals are based on robust estimates, and that the level of reserves is adequate. The S151 Officer's statement is reported in the Medium Term Financial Strategy
2. Are the financial assumptions in that report (e.g., future levels of income and expenditure) consistent with the Council's Business Plan and the financial information provided to the Council throughout the year?	Strategy underpins the strategic, transformational and operational intentions for Herefordshire Council and forms part of the service planning process. The financial assumptions are therefore consistent with the Corporate Plan. Reports in year are consistent with the budget set.
3. Are the implications of statutory or policy changes appropriately reflected in the Business Plan, financial forecasts and report on going concern?	The financial plan considered the government changes in terms of grant settlement and the financial settlement. The plan is updated to reflect the financial settlement.

Question	Management response
4. Have there been any significant issues raised with the Audit Committee during the year which could cast doubts on the assumptions made? (Examples include adverse comments raised by internal and external audit regarding financial performance or significant weaknesses in systems of financial control).	No
5. Does a review of available financial information identify any adverse financial indicators including negative cash flow or poor or deteriorating performance against the better payment practice code? If so, what action is being taken to improve financial performance?	No
6. Does the Council have sufficient staff in post, with the appropriate skills and experience, particularly at senior manager level, to ensure the delivery of the Council's objectives? If not, what action is being taken to obtain those skills?	Yes

Accounting estimates

Local authorities need to apply appropriate estimates in the preparation of their financial statements. Accounting estimates are used when it is not possible to measure precisely a figure in the accounts. ISA (UK&I) 540 sets out requirements for auditing accounting estimates. The objective is to gain evidence that the accounting estimates are reasonable and the related disclosures are adequate.

Under this standard, we have to identify and assess the risks of material misstatement for accounting estimates by understanding how the Council identifies the transactions, events and conditions that may give rise to the need for an accounting estimate.

We need to be aware of all estimates that the Council are using as part of their accounts preparation; these are detailed at Appendix A.

The audit procedures we conduct on the accounting estimate will demonstrate that:

- the estimate is reasonable
- estimates have been calculated consistently with other accounting estimates within the financial statements.

Related Parties

For local government bodies, the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) requires compliance with IAS 24: Related party disclosures. The Code identifies the following as related parties to local government bodies:

- entities that directly, or indirectly through one or more intermediaries, control, or are controlled by the Council (i.e. subsidiaries)

- associates
- joint ventures in which the Council is a venturer
- an entity that has an interest in the Council that gives it significant influence over the Council
- key officers, and close members of the family of key officers
- post-employment benefit plan (pension fund) for the benefit of employees of the Council, or of any entity that is a related party of the Council.

The Code notes that, in considering materiality, regard should be had to the definition of materiality, which requires materiality to be judged from the viewpoint of both the Council and the related party.

ISA (UK&I) 550 requires us to review your procedures for identifying related party transactions and obtain an understanding of the controls that you have established to identify such transactions. We will also carry out testing to ensure the related party transaction disclosures you make in the financial statements are complete and accurate.

Table 4: Related Parties

Question	Management response
1. Who are the Council's related parties?	<p>The Council has a number of related parties in which there is a material impact to the financial statements via virtue of - whether the Council might have the potential either to be controlled or influenced by the party or the potential to exert control or influence over the party .</p> <p>The Council discloses its related parties under the following headings:</p> <p>(1)Central Government</p> <p>(2)Members</p> <p>(3)Officers</p> <p>(4)Other public bodies (including Worcestershire County Council and the Clinical Commissioning Group). Until the end of March 2013 the PCT remains in place.</p> <p>(5)Significant long-term contracts (including Amey Wye Valley and FOSCA UK)</p> <p>(6)Other organisations (including HALO Leisure Trust, Herefordshire Housing Ltd, Hereford Futures and West Mercia Energy)</p>

Question

2. What are the controls in place to identify, account for, and disclose, related party transactions and relationships?

Management response

A number of arrangements are in place for identifying the nature of a related party and reported value including:

- Maintenance of a Register of interests for Members
- Annual return from senior managers/officers
- Review of in-year income and expenditure transactions with known identified related parties from prior year or known history

Review of year-end debtors and creditors analysing systems and manual accruals records

A Accounting estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether Management have used an expert	Underlying assumptions : - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Property plant & equipment valuations	Valuations are made by the internal valuer in line with RICS guidance on the basis of 5 year valuations with interim reviews.	There is a rolling program of valuations and the finance team issues a terms of engagement covering specific issues for the year	Yes, the internal valuer is a member of RICS	Valuations are made in line with RICS guidance - reliance on expert.	Introduction of IFRS accounting standards
Measurement of Financial Instruments	Council values financial instruments at fair value based on the advice of their external treasury consultants	Take advice from professionals	Yes	Take advice from treasury management professionals	No
Overhead allocation	The finance team apportion central support costs to services based on fixed bases.	All support service cost centres are allocated according to the allocation basis.	No	Apportionment bases are reviewed each year to ensure they are equitable.	No
Provisions for liabilities	Provisions are made where an event has taken place that gives the Council a legal or constructive obligation that	Charged in the year that the Council becomes aware of the obligation	Yes - the level of insurance provision was reviewed in 2011/12 by the council's insurance	Estimated settlements are reviewed at the end of each financial year. The insurance provision is periodically reviewed by the council's insurance broker	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether Management have used an expert	Underlying assumptions : - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
	probably requires settlement by a transfer of economic benefits or service potential, and a reliable estimate can be made of the amount of the obligation. Provisions are charged as an expense to the appropriate service line in the CI&ES in the year that the Council becomes aware of the obligation, and are measured at the best estimate at the balance sheet date of the expenditure required to settle the obligation, taking into account relevant risks and uncertainties.		broker		
Accruals	Activity is accounted for in the financial year that it takes place, not when money is paid or received	Procedures for identifying accruals are included in the closedown instructions	No	Accruals for income and expenditure have been principally based on known values. Where accruals have had to be estimated the latest available information has been used.	No
PFI schemes and	PFI and similar contracts are	The models for the PFI	Use of model for	Valuations are made in-line with	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether Management have used an expert	Underlying assumptions : - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
similar contracts	agreements to receive services, where the responsibility for making available or improving the asset to provide the services passes to the PFI contractor. As the Council is deemed to control the services that are provided under its PFI schemes, it carries the assets used under the contracts on its Balance Sheet as part of Property, Plant and Equipment. The original recognition of these assets at fair value (based on the cost to purchase the property, plant and equipment) is balanced by the recognition of a liability for amounts due to the scheme operator to pay for the capital investment.	contracts are used to produce the accounts. The internal valuer is used for valuations	calculating PFI payment elements Use the Internal RICS Member for valuations	RICS guidance - reliance on expert.	
Defined benefit pension amounts and disclosures	Non-teaching staff are members of the Local Government Pensions Scheme, administered by Worcestershire	Rely on the calculations made by the actuary	The actuary of the pensions scheme	Reliance on the expertise of the actuaries of the pension scheme	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether Management have used an expert	Underlying assumptions : - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
	County Council.				
Provisions for liabilities.	Provisions are made where an event has taken place that gives the Council a legal or constructive obligation that probably requires settlement by a transfer of economic benefits or service potential, and a reliable estimate can be made of the amount of the obligation. Provisions are charged as an expense to the appropriate service line in the CI&ES in the year that the Council becomes aware of the obligation, and are measured at the best estimate at the balance sheet date of the expenditure required to settle the obligation, taking into account relevant risks and uncertainties	Charged in the year that the Council becomes aware of the obligation	No	Estimated settlements are reviewed at the end of each financial year – where it becomes less than probable that a transfer of economic benefits will now be required (or a lower settlement than anticipated is made), the provision is reversed and credited back to the relevant service. Where some or all of the payment required to settle a provision is expected to be recovered from another party (e.g. from an insurance claim), this is only recognised as income for the relevant service if it is virtually certain that reimbursement will be received by the Council	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether Management have used an expert	Underlying assumptions : - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Accruals	CCMT collate accruals of Expenditure and Income. Activity is accounted for in the financial year that it takes place, not when money is paid or received	Activity is accounted for in the financial year that it takes place, not when money is paid or received	No	Accruals for income and expenditure have been principally based on known values. Where accruals have had to be estimated the latest available information has been used.	No
Landfill Allowance liability.	As landfill is used, a liability and an expense are recognised. The liability is discharged either by surrendering allowances or by payment of a cash penalty to DEFRA (or by a combination)	Finance check calculations from DEFRA.	No	The liability is measured at the best estimate of the expenditure required to meet the obligation, normally the market price of the number of allowances required to meet the liability at the reporting date. However, where some of the obligation will be met by paying a cash penalty to DEFRA, that part of its liability is measured at the cost of the penalty	No



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MEETING :	AUDIT AND GOVERNANCE COMMITTEE
DATE:	19 FEBRUARY 2013
TITLE OF REPORT:	INTERNAL AUDIT PROGRESS 2012/13
REPORT BY:	INTERNAL AUDIT - FINANCE AND COMMERCIAL SERVICES

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 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.

5. Recommendation(s)

That, subject to any comments the Audit and Governance Committee wish to make, the report be noted.

6. Key Points Summary

- Audit Services has finalised a number of audits, these are, Public Health - Food Licensing, reviews of Income Collection Procedures (over three separate Council functions), Treasury Management and Council Tax/National Non-Domestic Rates (NNDR).
- There are a number of audits being completed. Draft reports have been issued in connection with Debtors, Housing Benefit, Legal Services and Data Protection. Additionally, Audit Services is on site and completing audits of Procurement, Payroll and IT Controls.
- Audit Services are continuing to provide support, guidance and information in a number of areas to Council Officers in respect of specific reviews. We have provided further

information on these areas at points 10.11, 10.12 and 10.13.

7. Alternative Options

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

8. Reasons for Recommendations

8.1 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.

9. Introduction and Background

9.1 The purpose of this report is 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.

10. Key Considerations

Summary of progress against the audit plan

10.1 The Internal Audit plan was approved by Audit and Governance Committee on 6 July 2012. We have set out the number and type of audit reviews to be completed in Appendix 1.

10.2 Internal Audit Services is progressing with the Internal Audit Plan. To date, seven audit reviews have been finalised. There are currently nine reviews being completed by Audit Services, with a draft report issued in four areas. The remainder of the reviews in the audit plan are being scoped and agreed with members of the Council's Leadership Team, the Council's Chief Officer: Finance and Commercial, and Directors as appropriate.

10.3 Audit Services is confident that sufficient audit work will be completed so that the Head of Internal Audit can form an opinion on the Council's system of internal control. However, it is also closely monitoring its progress against completing all of the audits set out within the Internal Audit Plan and both the impact of additional reviews which have been requested and changes which have occurred within the Audit Services Team and any consequent impact on the delivery of the plan.

Audit reviews completed

10.4 Two reviews were graded as providing "Limited Assurance"; these were Income Collection - Industrial Lets and Public Health - Food Licensing.

10.5 Our review of Industrial Lets identified that the Council needed to establish a clear framework of control to ensure that rental charges for its industrial buildings are raised and are in accordance with the rental agreement. As part of our audit we identified two incorrect commercial lets which meant that the Council had not received income totalling over £8,000 in 2012/13. We understand that this has now been rectified. As part of the recommendations flowing from this review we stated that the Council should undertake a reconciliation which ensures that the rental lease being invoiced is correct. Audit's intervention means that processes will be tightened. As part of our 2013/14 audit work we will review this area to ensure that the recommendations which we have raised have been fully implemented.

10.6 Our review of Public Health - Food Licensing found that the Council has a dedicated,

experienced and knowledgeable team in this area who clearly understands their role and the need to provide a quality service to the residents of Herefordshire. However, we also noted that the Council needed to develop the function's controls in a number of areas. Firstly, the Council needed to fully document the basis by which it deviates from the requirements of the Food Law Code of Practice, specifically in terms of how the annual programme of food hygiene inspections is carried out. We also noted that reporting to the Regulatory Committee required further development, specifically how the Environmental Health (Commercial) Team is ensuring that the Council's statutory obligations in food law enforcement are being met. Other areas for improvement included fully documenting staff training to ensure that it complies with the Code of Practice and documenting the results of follow up inspection visits. As part of our 2013/14 audit work we will review this area to ensure that the recommendations which we have raised have been fully implemented.

- 10.7 Two reviews were graded as "Adequate Assurance". These were Income Collection - Car Parking and Income Collection - Bereavement Services. In both areas, we noted that processes and controls could be improved; however, there were no significant areas of concern.
- 10.8 Two areas were graded as "Substantial Assurance". These were Treasury Management and Council Tax/National Non-Domestic Rates (NNDR). We found a number of good controls operating within both of these areas and some minor areas for improvement were noted.

Audit and other reviews in progress

- 10.9 There are currently a number of reviews being completed by Audit Services. Work on these is progressing well with draft reports issued in areas, such as Debtors, Housing Benefit, Legal Services and Data Protection. There are also a number of audits where on-site work is currently being completed, these include:
- Payroll;
 - Procurement;
 - IT Access Controls;
 - Anti-Fraud and Corruption - Hot Topics and Risk Areas; and
 - Hoople - Governance (Follow Up).
- 10.10 We will report any significant issues arising from these reviews to future meetings of the Audit and Governance Committee.

Other audit input

- 10.11 Audit Services is in the process of reviewing the system by which the Council capitalises highways expenditure. This audit was requested by the Chief Officer: Finance and Commercial. This review is assessing how the Council accounts for this type of expenditure and ensures compliance with the CIPFA Code of Practice on Local Authority Accounting. Related to this review, work has been requested to consider the Council's capital planning process to identify and agree capital expenditure schemes. This work is underway.
- 10.12 Audit Services has also been requested by the Chief Officer: Finance and Commercial to review and assess internal controls within the Integrated Community Equipment Store (ICES). This function is funded through Section 75 of the National Health Service Act 2006 and provides medical equipment to aid independent living. This work is nearing completion.

- 10.13 The Council is working together with KPMG in reviewing key aspects of its Adult and Social Care function. This work involves reviewing aspects of the function's IT systems, such as the link between Frameworki and the Council's Agresso financial system, in addition to how it procures Care Services. This work is currently underway.

Feedback on audits completed

- 10.14 Audit Services recently revised its audit satisfaction questionnaire to ensure that it could be easily completed by management and the function could obtain more useful feedback on the audit process. These questionnaires have been sent through to key service managers who have been involved in the audit process so far. Their feedback to date has been very positive in all instances with some Managers commenting that the function has provided an "Excellent" service, for example in our review of the Modern Records Unit (ISO 270001). Audit Services will provide a comprehensive report against all of its performance indicators within its Annual Assurance Report.

11. Community Impact

- 11.1 This report does not impact on this area.

12. Equality and Human Rights

- 12.1 This report does not impact on this area.

13. Financial Implications

- 13.1 As a direct result of Audit Services review of the Council's Industrial Lets function, the Council has been able to ensure it has collected the required rental income.

14. Legal Implications

- 14.1 There are no legal implications.

15. Risk Management

- 15.1 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.

16. Consultees

- 16.1 The Leadership Team and the Chief Officer: Finance and Commercial were consulted in the drafting of this report.

17. Appendices

- 17.1 Appendix 1 - Status of Audit Plan 2012/13
17.2 Appendix 2 - Audit Opinions - Definition of Assurance Grading
17.3 Appendix 3 - Rating of Recommendations

18. Background Papers

- 18.1 None.

Appendix 1 – Status of Audit Plan 2012/13 – February 2013

Note – The scope and timing of audits is subject to confirmation and the agreement of the Project Sponsor.

Audit Review	Status	Audit Opinion	Recommendations		
			P1	P2	P3
Core Support Systems					
Payroll	In progress	-	-		
Creditors	Planned for February 2013	-	-		
Treasury Management	Completed	Substantial	-	-	-
Income Collection – Car Parking	Completed	Adequate	-	1	1
Income Collection – Bereavement Services	Completed	Adequate	-	2	1
Income Collection – Industrial Lets	Completed	Limited	1	2	-
Debtors	Draft Report issued	-	-		
Budgetary Control	Planned for February 2013	-	-		
NNDR and Council Tax	Completed	Substantial	-	-	2
General Ledger	Planned for February 2013	-	-		
Housing Benefit	Draft Report issued	-	-		
Asset Register	Planned for March 2013	-	-		
Procurement	In progress	-	-		
Rising to the Challenge – Project Review	Planned for March 2013	-	-		
Health and Safety – Follow Up	Planned for March 2013	-	-		

Audit Review	Status	Audit Opinion	Recommendations		
			P1	P2	P3
Sustainability – Follow Up	Planned for March 2013	-			
Business Continuity – Follow Up	Planned for March 2013	-			
Legal Services	Draft Report issued	-			
IT Systems					
ISO 27001 Modern Records Unit	Completed	Adequate	-	4	2
Access Controls review - Agresso, Academy, ISIS and Abacus	In progress – Draft report to be issued shortly	-			
Data Protection	Draft Report issued	-			
IT Strategy	Planned for March 2013	-			
Anti-Fraud Systems					
Anti-Fraud and Corruption Arrangements	This work will involve joint KPMG and Council workshops which are currently being arranged. The aim of the workshops will be to enhance staff understanding of this area and the part staff can play in detecting and reporting fraudulent incidents.	-			
Anti-Fraud and Corruption – Procedures Audit	Planned for February 2013	-			
Anti-Fraud and Corruption – Hot Topics and Risk Areas	In progress	-			
Audit Commission - Anti-Fraud Survey	Planned for March 2013	-			
Governance Systems					
Performance Management – Follow Up	Planned for March 2013	-			

Audit Review	Status	Audit Opinion	Recommendations		
			P1	P2	P3
Operational Systems - Directorates					
Hoople – Client Side Management	Planned for March 2013	-	-		
Hoople – Governance (Follow Up)	In progress	-	-		
Adult and Social Care – Financial Management and Follow Up	The reviews of these areas have been incorporated within a KPMG consultancy review which is currently being completed.	-	-		
Adult and Social Care – Procurement (Follow Up)		-	-		
Places and Communities - Public Health – Food Licensing	Completed	Limited	1	4	4
Places and Communities – Procurement	Planned for March 2013	-	-		
Schools					
Financial Management	In discussions with management we have agreed to defer the audit of this area and complete the work as part of the Internal Audit Plan for 2013/14. This will allow us to review and test how Schools are complying with the new Financial Value Standard which fully came into effect in 2013/14.	-	-		

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:	19 FEBRUARY 2013
TITLE OF REPORT:	POWERS AND RESPONSIBILITIES IN RELATON TO STANDARDS COMPLAINTS
REPORT BY:	HEAD OF GOVERNANCE / MONITORING OFFICER

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To note the powers and responsibilities of the Audit and Governance Committee, and of other bodies in relation to Standards complaints against Councillors, and to consider best practice within the Council's adopted process.

5. Recommendation(s)

THAT:

- (a) the report be noted; and
- (b) the Committee endorses its procedures for dealing with Standards complaints at meetings, and within the Council's adopted process.

6. Key Points Summary

- The Audit and Governance Committee has resolved to consider the powers and sanctions available to it in respect of Standards cases, under the Localism Act 2011.
- The report indicates precisely what can be expected of the Audit and Governance Committee in relation to the Localism Act and what has been agreed by the Committee and by Council in relation to Standards matters.

- Appendix A outlines a specific procedure followed by the Audit and Governance Committee when considering Standards cases at meetings.
- Arising from the report and Appendix A, the Committee may wish to seek further guidance from the Monitoring Officer on powers, responsibilities and sanctions, and consider the procedures that it follows at meetings.
- The report is also intended to provide a comprehensive reference of the functions of other bodies in relation to Standards, such as Council and the Monitoring Officer, so that members can see within one document the how one part of the process relates to another. Appendices B and C further illustrate the processes that Herefordshire Council has adopted for dealing with Standards complaints.
- References to the Localism Act, the Council and other bodies which have made decisions about the way that Standards procedures are handled, are contained throughout the key considerations of the report in italics, so that members can pinpoint where and why a decision about process was made.

7. Alternative Options

- 7.1 The procedures, powers and responsibilities as set out are governed by the Localism Act 2011 and by decisions made by the Council or another of its Committees. There are no alternative options currently available to these. The Committee may however, wish to refine further its own procedures at meetings in the light of its experiences.

8. Reasons for Recommendations

- 8.1 At its meeting on 12 November 2012, the Audit and Governance Committee resolved to consider the powers and sanctions available to it in respect of Standards cases under the Localism Act 2011.

9. Introduction and Background

- 9.1 On 20 July 2012, the Council adopted a new Code of Conduct and a procedure for dealing with complaints, following the introduction of the Localism Act 2011. The functions listed below have all been decided either as a result of the Localism Act, or as required by the Council or one of its Committees.
- 9.2 The various powers and responsibilities of the Audit and Governance Committee, Council, the Monitoring Officer, the Standards Panel and the Independent Persons are set out below, and members may wish to use the document as a reference source when dealing with Standards complaints.

10. Key Considerations

Note: All references to the Localism Act 2011 in this section refer specifically to Part 1 (Local Government), Chapter 7 (Standards), and are shortened to "LA" plus the relevant Section.

Audit and Governance Committee

- 10.1 The functions in the Localism Act, Sec 28 (11)(a)(b) have been delegated to the Monitoring Officer for complaints that can be resolved informally, and to the Audit and Governance Committee for complaints that have been investigated or cannot be resolved informally (for example, because the subject member/complainant does not want an informal resolution) [Council, 20 July 2012]. As a result, the Committee has the power to decide (a) whether to take action about a Councillor who has been complained about, and (b) what action to take or to recommend. In carrying out its functions in this respect, the Committee must take account of the opinion of an Independent Person [LA, Sec 28(7)(a)], who will put a recommendation before the Committee. This will take the form of a written report from the Independent Person, who will have considered all aspects of the complaint in detail and will have spoken to the parties involved as necessary. As a general rule, the Independent Person will also be present at the Committee when a Standards complaint is on the agenda, to answer the Committee's questions and give further opinion. The Chairman of the Audit and Governance Committee and the Monitoring Officer have devised a procedure for the Audit and Governance Committee to follow when considering Standards complaints. This is attached at Appendix A to the report.
- 10.2 On the recommendation of the Independent Person, the Committee makes decisions on allegations about Councillors breaching the Code of Conduct [LA, Sec 28(6)(b)] [Council, 20 July 2012]. There are important distinctions to be made about where powers lie for administering the various sanctions.
- 10.3 In a case involving a member of Herefordshire Council, the Audit and Governance Committee has broad discretion about the action it can take but it cannot fine, suspend or disqualify a member from membership of the authority itself [Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2011, Sec 2(h)]. Some examples of possible action are:
- (1) Censuring the member;
 - (2) Reporting its findings to Council for information. In this case, the formal noting of the report and the release of it into the widest domain is, in itself, the sanction. Council notes the report and can comment, but at this stage Council does not have the power to re-open the case and re-hear the complaint;
 - (3) Recommending the Monitoring Officer to arrange training for the member;
 - (4) Removing access to support services, etc.
- 10.4 There are also some sanctions which can only be imposed by Council, and these are to be distinguished from 10.3 above. They usually relate to various offices held by Councillors, and because Council has the constitutional power to appoint Councillors to these offices, it follows that only Council has the power to remove Councillors from them. In these cases, the Audit and Governance Committee must recommend the course of action to Council. Examples include:
- (1) Recommending to Council that a member be replaced as Executive Leader of the authority;
 - (2) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.

- 10.5 Similarly, there are some sanctions which can only be imposed by Group Leaders, and the Audit and Governance Committee must recommend the course of action to them. For example:
- (1) Recommending to the Leader of the Council that a member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - (2) Recommending to the member's Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council.
- 10.6 It is worth bearing in mind that the list of sanctions provided is not exhaustive, although care needs to be taken to make sure that any alternative sanction imposed will not hinder the subject member in performing the duties that he/she was elected to perform, or amount to a suspension or a fine. For this reason, sanctions are more likely to be impossible if they relate to the restriction of a very specific activity over a defined period, and this should in turn relate specifically to the actions which caused the member to breach the Code of Conduct. The Monitoring Officer will be able to guide Members on these matters when they arise.
- 10.7 In cases about parish or town councillors, only the parish or town council can impose sanctions. No body of the Council, including the Audit and Governance Committee, has authority to do this. Therefore, these types of complaint are referred automatically from the Independent Person to the parish or town council in question.
- 10.8 The Committee grants some dispensations on written application, to Councillors who are requesting participation in decision making where they have a disclosable pecuniary interest *[LA, Sec 33 (2)(b)(c) and (e)] [Council, 28 September 2012]*. The granting of some dispensations has also been delegated to the Monitoring Officer, so there is a shared responsibility depending upon what the dispensation relates to.

Council

- 10.9 The Council must have arrangements in place, both for investigating allegations against Councillors *[LA, Sec 28(6)(a)]*, and for making decisions about allegations *[LA, Sec 28(6)(b)]*. In practice, these arrangements have been delegated to the Monitoring Officer and the Audit and Governance Committee, respectively *[Council, 20 July 2012]*.
- 10.10 The views of an Independent Person must be sought and taken into account before Council makes a decision on any complaint that has been investigated *[LA, Sec 28(7)(a)]*.
- 10.11 The Council has two roles in the handling of Standards complaints: (1) Council receives the reports of the Independent Persons when the Audit and Governance Committee has resolved that this should be done as a form of sanction. The aim of this is for Council to note that a member has breached the Code of Conduct, and comment accordingly – it is intended to have the effect of a form of censure at the highest level. Bearing in mind the work already undertaken by the Standards Panel and the Audit and Governance Committee at this point, it is advisable that Council's comments should not re-examine or try to re-open the debate on the case. (2) Only the Council can impose certain sanctions, for example: replacing a member as Executive Leader of the authority, or removing a member from outside appointments to which he/she has been appointed or nominated by the Council. In these circumstances, it is expected that Council will debate the matter, taking account of the views of the Independent Person and the Audit and Governance Committee, and make a resolution accordingly. The Independent Person will usually attend Council to answer any questions and give further opinion.

10.12 The Council also:

- (1) Promotes and maintains high standards of conduct by members and co-opted members of the authority [LA, Sec 27(1)].
- (2) Adopts a Code of Conduct which deals with the conduct that is expected of members and co-opted members of the Council when they are acting in that capacity [LA, Sec 27(2)]. It must either revise the Code of Conduct that was in place when the Localism Act came into force [LA, Sec 28(5)(a)], or it must adopt a new Code of Conduct [LA, Sec 28(5)(b)]. [A new Code was adopted by Herefordshire Council on 20 July 2012 – found in the Constitution, Part 5].
- (3) Appoints at least one Independent Person whose views can to be sought on allegations of Councillor misconduct [LA, Sec 28(7)(a)&(b)]. In practice, the Council meeting must have the final say on the appointment [LA, Sec 28(8)(c)(iii)]. Recruitment and selection is administered by officers, and carried out by a panel normally comprising the Monitoring Officer, the Chairman or Vice-Chairman of the Council, the Chairman of the Audit and Governance Committee, one member of an opposing political group and one Independent Person from the Standards Panel.
- (4) Receives an annual report from the Monitoring Officer on the effectiveness of the Code [Constitution, Preamble, Page 1].
- (5) Must approve any adopting, revising or replacing the Council's Code of Conduct [LA, Sec 28 (13)].

10.13 It is perhaps worth noting that Standards functions are expressly not to be the responsibility of the executive [LA, Sec 27(8)]

Monitoring Officer

- 10.14 The Monitoring Officer is responsible for the effectiveness of the Council's codes in respect of legal obligations and ethical Standards, and reports annually on this to the Audit and Governance Committee and to Council [Constitution, preamble, Page 1].
- 10.15 The Monitoring Officer is responsible for establishing, maintaining, making available for inspection, and publishing on the Council's website a register of interests of members and co-opted members of the Council (and must also do this for Parish and Town Councils [LA, Sec 29(4)]), and providing Parish and Town Councils with any data they need to publish a register on their websites [LA, Sec 29]. The Monitoring Officer is also obliged to withhold from the publically available version of the register of interest, certain information as appropriate relating to "Sensitive Disclosable Pecuniary Interests" [LA, Sec 32].
- 10.16 The Monitoring Officer has authority over arrangements relating to the investigation of allegations about Councillors' conduct [LA Sec 28(6)(a)] [delegated by Council, 20 July 2012]. Investigations will usually be carried out by the Monitoring Officer, or most often by someone appointed by the Monitoring Officer.
- 10.17 He must seek the views of an appointed Independent Person over all Standards complaints which result in an investigation [LA, Sec 28(7)(a)]. It has also been agreed that the Monitoring Officer will seek the views of an Independent Person in all instances when a complaint cannot be resolved informally [Council, 20 July 2012].

- 10.18 He can choose to seek the views of an appointed Independent Person in complaints where no investigation has taken place [LA, Sec 28(7)(b)(i)]. In this instance, the Monitoring Officer is not obliged to seek the views of an Independent Person, and can be the only person who handles the complaint. In practice however, the Independent Persons are given the details of all complaints, and the Monitoring Officer usually uses them as a sounding board in all instances where a complaint is accepted. In this way, transparency, integrity and good practice are maintained in the process.
- 10.19 The functions in the Localism Act, Sec 28 (11)(a)(b) have been delegated to the Monitoring Officer for complaints that can be resolved *informally only* [Council, 20 July 2012].
- 10.20 In the pursuit of informal complaint resolution, the Monitoring Officer can decide (a) whether to take action about a Councillor who has been complained about, and (b) what action to take. This will involve undertaking an initial appraisal of all complaints to decide whether some action should be taken. This appraisal will include assessing whether the complaint appears to be covered by the Council's Code of Conduct, deciding whether the complaint is appropriate for investigation (e.g. is it not sufficiently serious; not in the public interest; vexatious, malicious or obsessive; political tit for tat; broadly similar to another complaint about the same issue?). The Monitoring Officer will also attempt to resolve complaints informally wherever possible. Complaints can be resolved informally in a number of ways, including:
- provision of advice;
 - provision of training;
 - inviting an apology;
 - mediation.
- 10.21 The Monitoring Officer grants some dispensations on written application, to Councillors who are requesting participation in decision making where they have a disclosable pecuniary interest [LA, Sec 33 (2)(a) and (d)] [Council, 28 September 2012]. The granting of some dispensations has also been delegated to the Audit and Governance Committee, so there is a shared responsibility depending upon what the dispensation relates to.
- 10.22 The Monitoring Officer makes the administrative arrangements for recruiting Independent Persons, including putting together an interview panel [Standards Committee on 20 April 2012].

Independent Persons

- 10.23 With the introduction of the Localism Act 2011, Central Government decided that it was important to retain a proper degree of independence within the system for dealing with complaints relating to ethical standards. The intention is for this to ensure transparency, and provide assurance that complaints are being dealt with effectively and at a distance from the political arena. For this reason the Council must appoint, through a proper recruitment process [LA, Sec 28 (8)(c)], at least one Independent Person [LA, Sec 28(7)]. Independent Persons provide their services to Herefordshire on a voluntary basis.
- 10.24 Independent Persons have no voting powers and are not councillors or committee members, or co-opted onto the Council. The Localism Act sets out very specific criteria for who can undertake the role [LA, Sec 28(8)]. They are trusted, experienced and objective advisors from a diverse background, and they will consider all of the information relating to a complaint, the views of the parties involved, the Code of Conduct and the law as it affects Standards matters, before issuing a recommendation in the form of a full written report.

- 10.25 Their views must be taken into account by Council, the Audit and Governance Committee, and the Monitoring Officer in all complaints that are investigated [LA, Sec 28(7)(a)], and in Herefordshire's case, all those that cannot be resolved informally by the Monitoring Officer [Council, 20 July 2012]. Their views may also be taken into account by the Monitoring Officer at various stages during the informal process [LA, Sec 28(7)(b)].
- 10.26 Independent Persons can also give their opinions on a complaint to any Herefordshire county, parish or town councillor who has had a complaint made about them and who seeks advice. It is important to note that this role does not extend to advocacy; therefore, an Independent Person will remain objective in the advice that he/she gives to the Monitoring Officer, the Audit and Governance Committee, and the Council.
- 10.27 Herefordshire Council currently has three Independent Persons, with the aim of building greater flexibility into the system, and lowering the risk of conflicts of interest at various stages of the complaints process. The role of the Independent Person is developing alongside the embedding of the Council's Standards process, and the Independent Person will usually be available to the Audit and Governance Committee and Council when it considers Standards complaints.

Standards Panel

- 10.28 The arrangements relating to the Standards Panel were agreed by Council on 20 July 2012. They have been devised chiefly by the Standards Working Group, which was set up by the former Standards Committee to create a complaints process in accordance with the Localism Act. Prior to agreement by Council, the current arrangements had also been considered and endorsed by Group Leaders informally, and by the Audit and Governance Committee formally.
- 10.29 The Standards Panel comprises the Monitoring Officer, and one each of the following, drawn from a pool of available and appointed members: an Independent Person (who always chairs the Panel), a Parish/Town Council Advisor, and a Local Authority Advisor. Processes relating to appointments of the various types of panel member were agreed by the Standards Committee on 20 April 2012, and the Audit and Governance Committee on 21 September 2012.
- 10.30 The Standards Panel's role is to consider complaints that have been investigated or cannot be resolved informally. The Panel will look at all of the evidence and information provided with the complaint, seek any further information it requires, and listen to all parties involved complaint. The Advisors and the Monitoring Officer will assist the Independent Person in arriving at a recommendation, which will then be published as a report.
- 10.31 Some of the main functions of the Standards Panel are to help maintain a level of independence within Standards, keeping Standards matters away from the political arena as far as possible, and to undertake the work on cases so that the Audit and Governance Committee and Council are given a dedicated and effective level of support to help them to exercise their statutory functions.

11. Community Impact

- 11.1 None identified.

12. Equality and Human Rights

- 12.1 The information in this report is compliant with the provisions of the Equality and Human Rights legislation.

13. Financial Implications

13.1 None arising directly from this report.

14. Legal Implications

14.1 The Council's Standards Committee and the previous regime for resolving complaints about the conduct of elected members were abolished on 1 July 2012 by the Localism Act 2011. The content of this report complies with the requirements of the Localism Act.

15. Risk Management

15.1 If complaints are not handled expeditiously then public confidence may be undermined and the Council's ethical credibility may be undermined.

16. Consultees

16.1 None.

17. Appendices

17.1 Appendix A: Audit and Governance Committee - Procedure to be followed when considering Standards complaints

17.2 Appendix B: How the Council deals with complaints about Member conduct

17.3 Appendix C: Standards Process Flow Chart

18. Background Papers

18.1 None.

APPENDIX A

AUDIT AND GOVERNANCE COMMITTEE:

PROCEDURE TO BE FOLLOWED WHEN CONSIDERING STANDARDS COMPLAINTS

1. **Introduction by Monitoring Officer:** MO introduces the complaint background and gives it the appropriate context for the meeting.
2. **Chairman:**
 - The Chairman explains the Committee's acceptance that both the Subject Member, and the Complainant (if relevant) have non-disclosable pecuniary interests in this agenda item.
 - The Chairman states that the general attitude of the Committee is to accept the findings of the Independent Person, but before doing so, the Committee will: (a) agree on whether due process has been followed by the Standards Panel/Independent Person; (b) consider any new evidence from the Subject Member and the Complainant and decide how this is to be dealt with in relation to the Independent Person's recommendation; (c) receive the Subject Member's representations on the sanctions proposed, and consider whether any lesser, alternative or additional sanctions should be imposed.
3. **Subject Member's address to the Committee:** The Subject Member is given an opportunity to address the Committee. The Subject Member's representative(s) may also address the Committee with the agreement of the Chairman.
4. **Questions from the Committee:** The Committee has an opportunity to ask any questions of the Subject Member and representative(s).
5. **Independent Person:** The IP is given an opportunity to respond and is asked whether, given the statement made by the Subject Member, he/she would like to amend the recommendations. He/she may also wish to substantiate his/her recommendations. In addition, he/she may require a short adjournment to consider any new information.
6. **Complainant:** The Chairman may ask the Complainant, if present, questions in order to clarify any matters raised. The Complainant can attend as an ordinary member of the public, and will not be asked for opinions on the IP's findings or sanctions. He/she can speak at the Chairman's discretion.
7. **Committee's Deliberations:** The Committee deliberates on its decision, and any recommendations to Council. Members will have access to the possible sanctions available, and assistance from the Monitoring Officer. This part remains in open session, therefore nobody will be asked to leave the meeting. If new matters raised are of significance, alternative options open to the Committee could be (a) to request a further investigation; (b) to defer for further information; or (c) ask the IP to conduct a further review.

[Note: Throughout the discussion, please bear in mind the possible requirement to conduct part of the discussion in exempt session, or to adjourn the meeting, depending on what information is given.]

Appendix B

How the Council deals with complaints about member conduct

Complaints Process

If you wish to complain about the conduct of a member of Herefordshire Council or a member of one of our parish or town councils, you must submit your complaint in writing, to:

The Monitoring Officer (Head of Governance)
Herefordshire Council
Brockington
35 Hafod Road
Hereford HR1 1SH

or e-mail it to jjones4@herefordshire.gov.uk

Complaint forms are available from the resources box on the Council's Standards and Ethics web page: http://www.herefordshire.gov.uk/council_gov_democracy/36346.asp

Forms can also be obtained directly from the Monitoring Officer (Head of Governance), Brockington, 35 Hafod Road, Hereford HR1 1SH, or by contacting our offices on 01432 261829.

This complaints process can only deal with complaints about the behaviour of a member. It will not deal with complaints about matters that are not covered by the members' Code of Conduct. If your complaint does not concern a councillor, see Herefordshire Council's general complaints process on the [Customer Feedback web page](#).

How complaints are dealt with (see also Flow Chart attached)

- When the Monitoring Officer receives a complaint he or she undertakes an initial appraisal to decide whether some action should be taken. This appraisal will include the following:
 - Assessing whether the complaint appears to be covered by the Council's Code of Conduct for members
 - Deciding whether the complaint is appropriate for investigation (e.g. is it not sufficiently serious; not in the public interest; vexatious, malicious or obsessive; political tit for tat; broadly similar to another complaint about the same issue?)
 - Deciding whether the complaint is really about (eg) a service delivery matter, the policies and practices of the Council or the conduct of an officer. Such complaints will be transferred to the appropriate procedure
 - Notifying the member of the complaint and obtaining an initial response
- The Monitoring Officer may consult the Council's Independent Persons, who have been appointed by the Council for this purpose and are not elected members

- The Monitoring Officer will attempt to resolve complaints informally wherever possible and (when it is appropriate to do so) complaints may be resolved informally in a number of ways, which could include:
 - provision of advice;
 - provision of training;
 - inviting an apology;
 - mediation.
- If the complaint cannot be resolved informally, then it will be referred to a panel chaired by an Independent Person and assisted by two others, who would normally be an elected member of Herefordshire Council and a parish councillor. The panel would meet to consider submissions made either in person or in writing by the complainant, the subject member and the Monitoring Officer. The complainant will be notified of the procedure which will be followed. The Independent Person then produces a report with recommendations. We aim to conclude this part of the process within twelve weeks of receiving a complaint. The report will be published on the Council’s website.
- The report of the panel will be presented, either:
 - to the Council’s Audit and Governance Committee in the case of a complaint against a member of Herefordshire Council ; or
 - to the relevant town or parish council in the case of a complaint against a town or parish council member.

That body will then decide what action to take on the recommendations in the panel’s report.

- In a case involving a member of Herefordshire Council, the Audit and Governance committee, has a broad discretion about the action it can take but it cannot fine, suspend or disqualify a member from membership of the authority itself. Some examples of possible action are:
 - (a) Censuring the member
 - (b) Reporting its findings to Council for information;
 - (c) Recommending to the member’s Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - (d) Recommending to Council that the member be replaced as Executive Leader of the authority;
 - (e) Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;

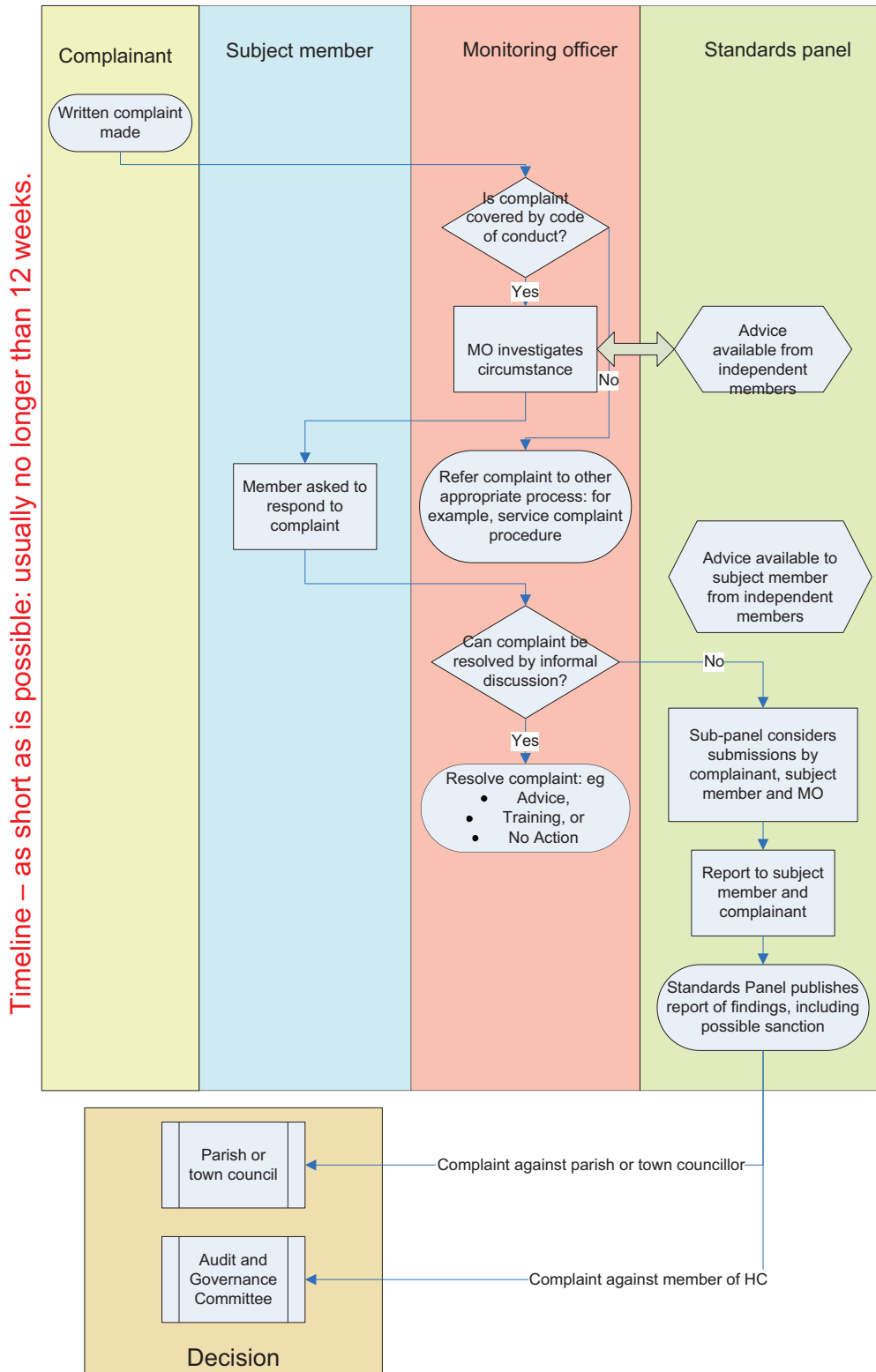
- (f) Recommending the Monitoring Officer to arrange training for the member;
- (g) Recommending to Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority
- In a case involving a member of a town or parish council, that council has similar discretion about the action it can take. It cannot fine, suspend or disqualify a member from membership of the council itself. Some examples of possible action are:
 - (a) Censuring the member
 - (b) Recommending the Monitoring Officer to arrange training for the member;
 - (c) Recommending to the council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority

When this procedure comes into force

This procedure came into force on 20th July 2012 and covers all new complaints received after 1st July 2012. With modification, it also covers complaints which were being handled by the Council's former Standards Committee but were not completed by 30th June 2012.

Appendix C

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



MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	19 FEBRUARY 2013
TITLE OF REPORT:	DISPENSATIONS
REPORT BY:	HEAD OF GOVERNANCE / MONITORING OFFICER

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To note the grant of dispensations to all Members of the Council to allow them to take part in meetings of the Council which will consider the Budget for 2013/14 and set Council Tax for the same period.

5. Recommendation

That the report be noted.

6. Key Points Summary

- Due to the cancellation of the Audit and Governance Committee meeting scheduled for 18 January 2013 and the identified need for dispensations to be granted in advance of forthcoming Council meetings, the Monitoring Officer circulated the attached report to Members of the Audit and Governance Committee for consideration and approval on 28 January 2013.
- Dispensations were subsequently granted to all Members of the Council to allow them to participate in the decisions on the setting of the Budget and Council Tax at the Council meetings to be held on 18 February and 8 March 2013.
- Please see Appendix 1 for full details.

MEETING	AUDIT AND GOVERNANCE COMMITTEE
DATE:	19 FEBRUARY 2013
TITLE OF REPORT:	DISPENSATIONS
REPORT BY:	HEAD OF GOVERNANCE / MONITORING OFFICER

1. Classification

Open.

2. Key Decision

This is not a key decision.

3. Wards Affected

County-wide.

4. Purpose

To approve a request, supported by the Monitoring Officer, to grant all members of the Council a dispensation to allow them to take part in meetings of the Council which will consider the budget for 2013/14 and set Council Tax for the same period.

5. Recommendation

That a dispensation be granted to all Members of the Council to allow them to participate in the decision on the setting of the Budget and Council Tax at the Council Meetings to be held on 18 February and 8 March 2013.

6. Key Points Summary

- The Council has by law to set a Council Tax level.
- The Committee is authorised to grant dispensations to Members who have a disclosable pecuniary interest.

7. Alternative Options

- 7.1 If the Committee refuses to grant a dispensation to all Members, Council would not be able to set the Council Tax or determine a budget for 2013/2014 and would therefore be in

breach of its statutory duty.

8. Reasons for Recommendations

8.1 To allow the Council to set the Council Tax and determine a budget for 2013/2014.

9. Introduction and Background

9.1 Section 33 of the Localism Act allows the Council to grant a dispensation to elected Members allowing them to participate and vote on a matter being considered at a meeting in which they have a disclosable interest.

9.2 Council agreed, at its meeting on 20 July 2012 to delegate the granting of dispensations to the Audit and Governance Committee.

9.3 The Monitoring Officer has advised that under the provisions of the Localism Act 2011 Members are required to disclose a pecuniary interest where it relates to a beneficial interest in land or a licence to occupy land. Since liability for Council Tax flows from such interest, members may find themselves unable to participate and vote. This would create a major impediment setting the Council Tax and budget because most elected members are affected in this way.

9.4 In these circumstances it is appropriate for the Committee to issue a block dispensation to all Members of the Council which would allow them to participate in the decision on the setting of the Budget and Council Tax at the Council meetings to be held on 18 February and 8 March 2013.

9.5 Without the dispensation, the number of persons prohibited by section 31(4) of the Localism Act from participating in the terms relating to the budget and Council Tax setting would be so great a proportion of the meeting transacting the business as to impede consideration of the business. Without the dispensation the representation of different political groups on the Council considering this matter would be so upset as to alter the likely outcome of any vote relating to the business.

10. Key Considerations

10.1 As set out above.

11. Community Impact

11.1 As set out above.

12. Equality and Human Rights

12.1 N/A

13. Financial Implications

13.1 If the dispensations are not granted the Council would not be able to approve a budget or set its Council Tax.

14. Legal Implications

14.1 The proposals in the report comply with the requirements of the Localism Act 2011.

15. Risk Management

15.1 If Council failed to be able to set a Council Tax level and agree a budget, it would be in breach of its legal duty.

16. Consultees

16.1 Not appropriate.

17. Appendices

17.1 None.

18. Background Papers

18.1 None.

