

AGENDA

Audit and Governance Committee

Date: **Wednesday 10 May 2017**

Time: **2.00 pm**

Place: **Committee Room 1, Shire Hall, St. Peter's Square,
Hereford, HR1 2HX**

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

For any further information please contact:

Caroline Marshall

Tel: 01432 260249

Email: caroline.marshall3@herefordshire.gov.uk

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Agenda for the meeting of the Audit and Governance Committee

Membership

Chairman	Councillor PD Newman OBE
Vice-Chairman	Councillor FM Norman
	Councillor ACR Chappell
	Councillor EPJ Harvey
	Councillor JF Johnson
	Councillor RL Mayo
	Councillor RJ Phillips
	Councillor J Stone
	Councillor LC Tawn

AGENDA

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PUBLIC INFORMATION AND FIRE INFO		
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 21 March 2017.	7 - 10
5.	PROGRESS REPORT ON 2016/17 INTERNAL AUDIT PLAN 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.	11 - 48
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8.	2017/18 EXTERNAL AUDIT PLAN AND FEE To approve the 2017/18 external audit work and fee.	67 - 74
9.	HOUSING BENEFIT GRANT CERTIFICATION To review the external auditors certification letter in relation to the housing benefit subsidy claim for 2015/16 as submitted by Herefordshire Council.	75 - 82
10.	ANNUAL GOVERNANCE STATEMENT To approve the draft annual governance statement for 2016/17 prior to publication with the draft accounts.	83 - 106
11.	CONTRACT PROCEDURE RULES To approve the revisions to contract procedure rules (CPRs) which will allow the council to adopt a more mature attitude to managing commercial risk and simplify the procurement process, particularly below the EU value thresholds. Thus allowing better engagement with small and medium enterprises (SMEs) and local businesses, whilst still maintaining a robust governance framework to ensure council monies are spent in a legally compliant, ethical,	107 - 174

	responsible, and fully auditable manner.	
12.	FINANCIAL PROCEDURE RULES	175 - 206
	To refresh the financial procedure rules within the council's constitution.	
13.	COUNCIL CONSTITUTION	207 - 248
	To consider amendments to the council's constitution proposed by the governance improvement working group and the standards working group, and to agree recommendations to Council.	
14.	WORK PROGRAMME	249 - 254
	To note the current work programme of the committee.	

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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Audit and Governance Committee held at Council Chamber, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Tuesday 21 March 2017 at 2.00 pm

Present: Councillor PD Newman OBE (Chairman)
Councillor FM Norman (Vice Chairman)

Councillors: ACR Chappell, EPJ Harvey, JF Johnson, RJ Phillips, J Stone and LC Tawn

Officers: Andrew Lovegrove and Claire Ward, Tracey Sampson, Ian Baker (SWAP), Jacqui Gooding (SWAP), Phil Jones (Grant Thornton) and Zoe Johns (Grant Thornton)

187. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor RL Mayo.

188. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

189. DECLARATIONS OF INTEREST

There were no declarations of interest.

190. MINUTES

RESOLVED:

That the minutes of the meeting held on 23 January 2017 be confirmed as a correct record and signed by the chairman.

191. EXTERNAL AUDIT PLAN AND PROGRESS UPDATE

Members were provided with the external audit plan for 2016/17 for approval and an update on the progress of the external auditors.

The plan sets out how the external audit will be conducted and complies with the National Audit Office guidance. The plan detailed the key risks and aspects which affect the council.

Following a member's query, it was confirmed that if the council disposed or purchased of a high number of properties during a financial year, then this would form part of the external audit as it could have a significant impact on the council's statement of accounts.

It was confirmed that from a fraud and corruption perspective, there were no significantly high risk posts identified. There were strategies and procedures in place and key staff had to complete mandatory e-learning. It was noted that the revised anti-fraud strategy was due to be presented to committee for approval in May 2017.

It was agreed that the chief finance and S151 officer, in liaison with group leaders, would consider the sector issues and developments set out on pages 65 to 72 of the agenda and the impact on the council.

It was noted that the draft statement of accounts would be presented to committee in July 2017 with the final statement of accounts being presented to committee in September 2017 for approval. It was further noted that from 2018/19 that the final statement of accounts would need to be approved in July each year.

RESOLVED

That

- (a) The external audit plan be approved; and**
- (b) The external auditors update on progress be noted**

192. INTERNAL AUDIT CHARTER

Members were presented with the internal audit charter for approval

RESOLVED

That the internal audit charter be approved.

193. INTERNAL AUDIT PLAN 2017/18

Members were provided with the internal audit plan for 2017/18.

It was noted that the plan had been drawn up in liaison with senior managers and directors. The plan was designed to be flexible so that audits could be added if issues were identified during the year. There were a higher number of contingency days and this was to enable the new chief finance and S151 officer to add audits to the plan.

At the request of the committee, the chief finance and S151 officer and SWAP would discuss adding the following audits to the plan in connection with:

- Disposal and purchase of the council's estate to ensure that there were transparent and open processes in place. The audit would also ensure that the council was purchasing or selling property at the local market value.
- Balfour Beatty contract to ensure that the council was getting value for money from the contract.

RESOLVED

That the plan be approved.

194. PROGRESS REPORT ON 2016/17 INTERNAL AUDIT PLAN

Members were presented with an update on the progress of the internal audit work.

It was confirmed that all audits for 2016/17 were in progress and that all work will be completed by end of April 2017. Since the last update, SWAP had completed 15 audits; 6 were follow up audits and the remaining 9 were operational audits.

Members' attention was drawn to the significant and partial assurance findings of the reports which were:

- Recruitment contracts – partial
- Housing and council tax benefits – partial
- Public health contracts – reasonable with one priority 4 finding

It was noted that three additional audits had been added to the 2016/17 plan and four audits had been removed.

The head of HR and organisational development confirmed that a flag is being built into the council's Agresso system. This is to ensure that if a member of staff who was in receipt of a welcome payment left within the two year period, the appropriate recoupment of the welcome payment could take place. It was noted that welcome payments were limited to identified social care posts. It was further noted that a policy on welcome payments was being developed.

Following a member's query, it was noted that the reason for the housing and council tax benefit audit's partial assurance was due to the recommendations of 2014/15 not being completed. The service had put in place plans to complete these actions. It was confirmed that all actions arising from internal audits were now tracked by officers and the committee were provided with a bi-annual update on progress.

RESOLVED

That the report be noted.

195. WORKING GROUP UPDATES

The solicitor to the council presented the working groups update.

It was noted that the consultation on the revised code of conduct would be starting imminently.

RESOLVED

That the report be noted.

196. FUTURE WORK PROGRAMME FOR 2017/18

The committee's updated work programme was presented.

RESOLVED:

That the work programme be agreed.

The meeting ended at 3.51 pm

CHAIRMAN



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Progress report on 2016/17 internal audit plan
Report by:	Chief finance officer/internal audit

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.

Recommendation(s)

THAT:

- (a) performance against the approved plan be reviewed and any areas for improvement identified; and
- (b) the robustness of the management response to recommendations be reviewed and any recommendations for strengthening the response to further mitigate risk be identified.

Further information on the subject of this report is available from
Jacqui Gooding, assistant director (SWAP) on Tel (01432) 260294

Alternative options

- 1 There are no alternative recommendations; it is a requirement of the council's adopted audit and governance code that the committee considers these matters in fulfilling its assurance role.

Reasons for recommendations

- 2 To enable the committee to monitor performance of the internal audit team against the approved plan.
- 3 To assure the committee that action is being taken on risk related issues identified by internal audit. This is monitored by acceptance by management of audit recommendations and progress updates in implementing the agreed action plans. In addition, audit recommendations not accepted by management are reviewed and progress to an appropriate recommendation to cabinet if it is considered that the course of action proposed by management presents a risk in terms of the effectiveness of or compliance with the council's control environment.

Key considerations

- 4 The internal audit progress report is attached at appendix A. In the period covered by the report, three priority 5 and nine priority 4 recommendations were made.
- 5 The annual plan summary is provided at appendix C, and a glossary of terms provided at appendix B.

Community impact

- 6 The council's corporate values and plan include commitments to being open transparent and accountable about its performance. By ensuring robust management responses to identified risks, the council will be better able to meet its corporate plan priority to secure better services, quality of life and value for money.

Equality duty

- 7 The report does not impact on this area.

Financial implications

- 8 None arising from the recommendations; any additional recommendations made by the committee will be considered by the relevant manager or cabinet member and the financial implications of accepting those recommendations will be considered then.

Legal implications

- 9 None.

Risk management

- 10 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. This is mitigated by the regular active management and monitoring of progress against the agreed internal audit plan.

Further information on the subject of this report is available from Jacqui Gooding, assistant director (SWAP) on Tel (01432) 260294

- 11 Risks identified by internal audit are mitigated by actions proposed by management in response.

Consultees

- 12 None.

Appendices

Appendix A – SWAP plan progress report 2016-17

Appendix B – Summary of control assurance definitions, categorisation of recommendations and risk levels

Appendix C – Audit Plan Status 2016-17

Background papers

- None identified.



Herefordshire Council

Report of Internal Audit Activity
Plan Progress 2016-17 May 2017

Contents

The contacts at SWAP in connection with this report are:

Gerry Cox

Chief Executive

Tel: 01935 385906

gerry.cox@southwestaudit.co.uk

Ian Baker

Director of Quality

Tel: 07917628774

ian.baker@southwestaudit.co.uk

Jacqui Gooding

Assistant Director

Tel: 01432 260426 or

07872500675

jacqui.gooding@southwestaudit.co.uk

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Appendices

Appendix B - Audit Definitions

Appendix C - Audit Plan Progress 2016-17

Our audit activity is split between:

- Operational Audit
- Key Control Audit
- Governance, Fraud & Corruption Audit
- IT Audit
- Special Reviews

See Appendix A for individual audits

Role of Internal Audit

The Internal Audit service for Herefordshire Council is provided by South West Audit Partnership Limited (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 21 March 2017.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

- Operational Audit Reviews
- School Themes
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Reviews

Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Director of Resources (Section 151 Officer) following consultation with the Senior Management Team. This year's (2016/17) Plan was presented to this Committee on 23 March 2016.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

Update 2016-17

Completed Audit Assignment in the Period

Audit Plan Progress

The summary of the Annual Plan for 2016/17 (Appendix C) highlights progress to date. Based on the findings of each review, an overall control assurance is offered. For a summary of Control Assurance Definitions, Categorisation of Recommendations and Risk Levels, please refer to [Appendix 'B'](#).

It is important that Members are aware of the status of audits as this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

As can be seen from [Appendix 'C'](#), the following audits have been progressed to date:

Operational:

- Completed, 19 reviews (1 substantial, 7 reasonable, 8 partial, 3 advisory)
- Discussion Document, 3 reviews
- In Progress, 3 reviews
- Removed - 7 reviews

Governance, Fraud and Corruption:

- Completed - 1 review

Follow Up Reviews:

- Completed - 10 reviews
- In progress - 2 reviews

Update 2016-17

Completed Audit Assignment in the Period

Audit Plan Progress

Special reviews:

- Completed - 2 reviews

School Themes –: SFVS – Schools Financial Value Standard

- Completed, 6 schools (3 partial, 3 reasonable)

Key Control:

- Completed – 7 reviews (2 partial, 5 reasonable)
- Draft Report – 1 reviews

Grants:

- Complete - 4 claims
- Removed - 1 claim

Completed Audit Assignments in the Period

Audit Plan Progress

Audits completed to final report since my last update are:

Operational

- FWI EDRMS/Mosaic Upgrade - Implementation & Assurance – Advisory
- Pre-Paid Cards (Direct Payments) – Partial
- Children Missing Education – Partial
- Concessionary Fares – Partial
- Catering Contract – Advisory
- Looked After Children – Partial
- Early Years Funding – Reasonable
- Midland Heart – Advisory

Key Control

- Accounts Payable – Reasonable
- Main Accounting – Reasonable
- Council Tax - Reasonable
- Payroll - Partial

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee

Report on Significant Findings

Where a review has a status of 'Completed' and has been assessed as 'Partial' or 'No Assurance' or with a 'High' corporate risk, I will provide further detail to inform Members of the key findings (Priority 4 and 5) identified. For the audits completed since my last report, five audits have been assessed as Partial assurance (some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives).

One was assessed to have a 'High' corporate risk. – Pre-Paid Cards (Direct Payments)

The full detail of each significant finding and the agreed management action and implementation is detailed on pages 16-25.

Pre-Paid Cards (Direct Payments) – Partial

In September 2015 the Council introduced pre-paid cards to service users for management of their direct payments in partnership, with a card management provider. Card accounts are set up by the provider, and the Direct Payments Team jointly administers service users' accounts with the social care transactional team on the provider's web-based system.

The use of a pre-paid card is optional for service users; if they prefer, they can still have a standard direct payment whereby the direct payments are made into their bank account. However, the new system of pre-paid cards negates the requirement for service users to submit documentation for review; instead the account can be monitored through the card provider's web-based system. The Direct Payments Team operates a risk-based approach to monitoring of the card accounts via the regular receipt of a variety of exception reports from Aquarium. At the time of the audit there were 220 pre-paid cards in use.

There were two priority 5 findings, two priority 4 findings and five priority 3 findings resulting in the partial assurance opinion.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

The most pressing issue that needs to be addressed is the security of personal and sensitive data managed by the card provider on behalf of the Council. There is the potential for a regulatory breach under the Data Protection Act 1998, with the risk of both financial and reputational risk to the Council through failure to secure personal and sensitive data.

There is currently a lack of control around information security in respect of the use of the card provider and access to service users' sensitive information via use of the web based system and via data transfer by email. The card provider has not implemented the use of any secure form of email or data transfer, putting service users' details at risk of hacking. In addition, from the beginning of 2017, it was planned to roll-out access to the card provider to managed account holders further increasing the risks identified to the Council.

Aside from the card provider information security issues, areas where controls require enhancement consist of streamlining of current monitoring procedures, including a more structured approach to the monitoring of exception reports, and the consistent recording of information on Mosaic. It is recognised that staff have faced challenges of setting up new procedures and controls for administration of new card accounts and with the majority of direct payment service users still having a standard account, this has increased the pressure on the team.

The high corporate risk identified is due to the significant risks identified with regard to the upcoming roll out of access to other, managed account providers. It is imperative that this issue is addressed prior to access to third parties being granted in order to safeguard service users' personal and sensitive information held by the card provider.

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These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

Children Missing Education - Partial

The audit reviewed the adequacy of the controls and procedures in place for Children Missing Education (CME) and attendance, across the Local Authority (LA) and a sample of LA maintained schools, academies and free schools in Herefordshire.

In particular the audit looked at whether:

- the LA has developed strong leadership and corporate culture to ensure that CME and attendance is the responsibility of everyone at all levels within the LA;
- there are robust and accurate data collection systems within schools and the LA, which are rigorously monitored and reported;
- effective communication structures exist between the LA, schools, governing bodies and other agencies;
- the LA's powers are effectively applied by a range of service areas and teams.

The DfE defines CME as children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school. Children missing education are at significant risk of underachieving, being victims of harm, exploitation or radicalisation, and becoming NEET (not in education, employment or training) later in life. LA's have a duty under section 436A of the Education Act 1996 to make arrangements to establish the identities of children in their area who are not registered pupils at a school and are not receiving suitable education otherwise. This duty only relates to children of compulsory school age.

Two significant issues (one priority 4 and one priority 5) were identified. Two out of the four schools tested, were identified as not offering all children a full time timetable, and where part time timetables were in place, these were not suitable i.e. being used on a more long term basis. The Department of Education (DfE) states that all children of compulsory school age must receive an appropriate full time education.

Further to this, coding of the sessions where the children are not timetabled is incorrect. Some of the codes being used are not absence codes and are therefore not included in the absence census data that schools statutorily have to report on. This means that currently the LA do not have true representation of absence rates, for those schools.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

It is the responsibility of the individual schools i.e. Headteachers and Governing Bodies to ensure children receive a suitable education and that part time timetables are used correctly. The LA could increase the quality of the attendance data by reinforcing current guidance, and sharing the results of this report to all schools to promote a more consistent approach. The Head of Additional Needs has commenced work in relation to part time timetables with the Hospital and Home Teaching Team and was aware of the use of part time timetables at one of the schools identified. This school has already implemented plans to ensure all children are now working towards a full time timetable.

There were five priority 3 findings that have all been agreed with Management. The service also demonstrated a number of well controlled areas particularly around safeguarding and the resourcing of Education Welfare Officers.

Looked After Children – Partial

This audit reviewed the new process 'Threshold of Care' introduced in September 2016, to provide assurance that it is working as expected, and that cost effective and appropriate placements are made according to the child's needs. Although the Threshold of Care was only introduced in September 2016, some procedures still require updating. Within our sample of cases, some of the processes documented in the Children's Manual were not consistently being followed with regards to appointing an Independent Reviewing Officer within five days of placement, and a care plan being in place prior to the child being looked after.

A total of seventeen recommendations were made in the previous internal audit report; five have been implemented at the date of this audit, one recommendation was found to be no longer applicable, but the remaining eleven are in progress and are being addressed as part of the current Mosaic improvement project, with a revised implementation date planned for June 2017. Of the eleven that are in progress, three of these are Priority 4 recommendations. This review identified a further eight (Priority 3) recommendations.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

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Report on Significant Findings Continued

The Service is subject to external influences which determine the number of children being referred to the Council. Initiatives have been implemented to improve the placement process, and to provide an intensive placement support service to children with highest needs in a foster care setting.

Although the Service has improvement projects to complete, and some further areas to improve upon, our assessment of each of the three Corporate risks is 'Low'. We fully expect that once the Mosaic improvement project is implemented and that the recommendations within this report have been addressed, that the audit opinion in our next operational review will reflect this.

Concessionary Fares – Partial

A mandatory bus concession for older and disabled people has been in place since 2001. The scheme has gradually been extended since its introduction and since April 2008 has provided free off-peak local bus travel to eligible older and disabled people anywhere in England. Travel Concession Authorities (TCAs) are required to implement the mandatory travel concession as set out in the Transport Act 2000 and the Greater London Authority Act 1999, both of which were amended by the Concessionary Bus Travel Act 2007.

TCAs are required by law to reimburse bus operators for carrying concessionary passengers. In respect of the mandatory concession, TCAs must reimburse bus operators for all concessionary journeys starting within their boundaries, regardless of where the concessionary pass holder making the journey is resident. The aim is not to subsidise bus operators, but to pay for any increased costs that operators have incurred.

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

The Herefordshire Concessionary Travel Scheme 2016-17 follows the reimbursement principles of the guidance provided by the Department for Travel (DfT) relating to the England National Concessionary Travel Scheme (ENCTS). The total amount spent on reimbursements to bus operators in 2015/16 was £1.3million. The audit reviewed the concessionary fares claims from the five largest bus operators to give assurance that the claims are correctly calculated and are legitimate liabilities of the Council. The current processes in place for paying reimbursements to operators, places full reliance on the quality of the data being provided and collated by the bus operators and the External Consultants who have been commissioned by the Council to manage the reimbursements, according to Herefordshire Council’s Travel Scheme.

The Council place reliance on the External consultants to conduct checks on the average fare calculation and the number of concessionary fares. However, the consultants complete these checks by exception and do not check back to the source data for all operators. It is accepted that to check to the source data for each claim would add significantly to the current process and the monitoring of trends is used to highlight any potential anomalies.

The audit review identified the potential for over and under claiming and although the figures are not significant it has highlighted the complexities of the calculations and the need to understand why the claims do not always match to the source data. To address this an overall (priority4) recommendation has been made to introduce formal, regular monitoring and verification processes to review the concessionary fares data provided.

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These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

Payroll – Partial

Payroll is one of the Council’s key financial systems and the purpose of the audit was to assess whether the controls are operating effectively so that accurate payroll payments and deductions are made to employees, in a timely manner. The review also assessed progress against the 21 recommendations in the 2015-16 audit report which was also a partial assurance.

In the 2015-16 report, there were two priority 5, seven priority 4, and twelve priority 3 recommendations. Thirteen of the recommendations have been completed, however one priority 5, five priority 4 and one priority 3 recommendations remain in progress.

This audit identified a further seven recommendations - five significant findings (priority 4) and two priority 3 findings.

There are issues surrounding the notification of leavers and the subsequent processing of notification of leavers when received after employees have left the Council. Late notification of leavers has a domino effect in other teams, notably with the Payroll Team having to calculate and process amendments on Agresso, and raise Debtor accounts to recover the overpayments. Where debts are not repaid, recovery action has to be initiated by the Debtors Team. Evidence has suggested that the issue with regard to late notification of leavers is Council-wide and is therefore a training issue. However, guidance and documentation provided by HR for staff use does not prominently detail the requirement for prompt notification, or the consequences of not notifying HR. The issue has been compounded by the Payroll Team not raising Debtor accounts for the recovery of overpayments to former staff; the identified value of outstanding overpayments was £23,104.89 for a total of 29 overpayments. It should however be stressed that there may be others that have yet to be identified. Testing also found that overpayments have occurred due to late notification of employee career breaks, with four cases having been identified by HR this financial year (total value of overpayments: £9,171.71).

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These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.

Report on Significant Findings Continued

There are also still some issues around the processing of BACS payments that would benefit from the introduction of additional controls, notably evidence of separation of duties.

A further finding was in relation to the appointment of one employee. At the time of the audit the recruitment team were unable to provide any documents to confirm the appointment of one of the employees tested. All information supplied points to official processes not having been followed, as the normal recruitment process was not applied.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Added Value

Primarily, Internal Audit is an assurance function and will remain as such. However, as we complete our audit reviews and through our governance audit programmes across SWAP we seek to bring information and best practice to managers to help support their systems of risk management and control. The SWAP definition of “added value” is “it refers to extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something "more" while adding little or nothing to its cost”.

SWAP has completed the following comparison reviews:

- Housing Benefit Processing Performance - a comparison of Housing Benefits processing performance across SWAP Partners to establish the current processing time, record of performance and if any current initiatives are being used to help with processing times.

Special Reviews

Unplanned work, special reviews or projects carried out on a responsive basis are requested through the Director of Resources (Section 151 Officer).

No further work has been requested since my last update.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Future Planned Work

As new and emerging risks are identified, any changes to the plan will be subject to the agreement of the Director of Resources (Section 151 Officer) with removal or deferral of audits to be formally agreed by the Audit Committee. There have been no changes to the plan since my last update.

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We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Conclusion

Since my last update twelve audits have been completed which includes four key control audits. Where low to medium control or administrative weaknesses are identified normal expectation is for reviewed areas to be assessed into the 'Reasonable' category of assurance. However, where the assessed area falls below 'Reasonable', management is expected to address the risks identified as a matter of priority and monitor their progress against the agreed action plan. Of the twelve audits completed five have been assessed as Partial assurance and the significant findings have been reported in the table below. Four have been assessed as reasonable assurance and three are Advisory reviews.

The five partial audits identified twelve significant findings of which three were assessed as priority 5 findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management. Whilst all recommendations have been accepted by management and target dates agreed for implementation, some of which have been actioned immediately, Members need to have assurance that the remaining significant findings are implemented within the agreed timescales.

Two of the audits (Payroll and looked after Children) reviewed previous recommendations from 2015-16 and this highlighted that nine significant findings (eight priority 4 and one priority 5) were still outstanding. The new process for updating Members on progress against significant findings should provide an update of progress and provide the reason where a recommendation has not been completed in the agreed timescale.

Internal Audit will also complete a follow up review on all Partial assurance audits in 2017-18.

At the end of each audit review, a Customer Satisfaction Questionnaire is sent out to the service manager or nominated officer. The aim of the questionnaire is to gauge satisfaction against timeliness; quality; and professionalism. As part of the Balanced Scorecard presented to the SWAP Management Board, a target of 80% is set where 75% would represent a score of good. The current accumulative feedback for Herefordshire Council is 87%.

High Priority Findings and Recommendations (Priority 4 or 5 only)

Note: Priority scores are how important they are to the service, not at a corporate level.

Weakness Found	Risk Identified	Agreed Outcome	Management's Agreed Action	Agreed Date of Action	Responsible Officer
Pre-Paid Cards – Direct Payments					
<p>32</p> <p>There is currently a lack of control around information security in respect of the use of the card management system and access to service users' sensitive information via use of the web based system and via data transfer by email. The Card Provider has not implemented the use of Egress or any other secure form of email or data transfer, thus putting service users' details at risk of hacking.</p>	<p>There is the potential for a regulatory breach under the Data Protection Act 1998, with the risk of both financial and reputational risk to the Council through failure to secure personal and sensitive data.</p> <p>The Council is subject to both reputational and financial risk if robust controls over access to service users' data on the card management system, and data transferred by email are not drawn up and implemented. Service users' sensitive data including card account details could be subject to unauthorised access.</p>	<p>Priority 5 - The Joint Team Manager - Welfare and Assessment Team has agreed to liaise with the Senior Information Governance Officer and arrange a review of the current agreement with the Card Provider. Where amendments are required over responsibility and liability for information security, this should be discussed with the Card Provider and amended via a change control notice. Any changes should take account of information security requirements for the imminent implementation of system access for the managed account holders, with a robust agreement being in place prior to system access being granted.</p>	<p>The Joint Team Manager has contacted the Senior Information Governance Officer to arrange a review of the Card Provider Agreement. This will take place on 19th January 2017. Where amendments are required these will be recorded via a change control notice in conjunction with the contracts team.</p>	<p>16th January 2017</p>	<p>Joint Team Manager: Welfare and Financial Assessment</p>
<p>See above</p>	<p>See above</p>	<p>Priority 5 - The Joint Team Manager - Welfare and Financial Assessment Team has agreed to liaise with the Senior Information Governance Officer to request a secure method of transferring data</p>	<p>Upon receipt of the draft audit report a review of the requirement for new account information has been undertaken.</p>	<p>16th January 2017</p>	<p>Joint Team Manager: Welfare and Financial Assessment</p>

		be made available to the Direct Payments Team. This should be discussed with the Card Provider first, in order to select a method that is mutually acceptable to both parties.	A solution has been found that negates the need for an e-mail to be sent providing that the new account report within the card management system is updated in real time. The company has been asked to remove the new account e-mail alert with immediate effect.		
8	In addition, from the beginning of 2017, it is planned to roll-out access to the Card Provider to managed account holders further increasing the risks identified to the Council. There is a requirement to review the current agreement with the provider and ensure that robust controls are put in place.	See above	Priority 4 -The Joint Team Manager – Welfare and Assessment has agreed to ensure that the Card Provider system users who leave the Council have their access revoked upon leaving the organisation. With a smaller group of system users, this should now be easier to administer.	Immediate	Joint Team Manager: Welfare and Financial Assessment

			Investigations will be undertaken to see whether system access can be linked to the council network login as an added security measure going forward.		
See above	See above	<p>Priority 4 - The Joint Team Manager – Welfare and Assessment has agreed to liaise with the Senior Information Governance Officer to review the agreements with the managed account providers to ensure that they allow for the strict control of their system users on the card management system when access is rolled out. No access to the card management system should be given to the managed account providers prior to this issue being addressed.</p>	<p>Managed Account Provider Agreements have yet to be drafted. The Direct Payments Team Leader has already scheduled a meeting to discuss implementing card accounts with one of our managed account providers on 23rd January 2017, and the requirement for strict control of system users and provider responsibilities will be covered at the meeting. The Joint Team Manager will ensure the agreement is drafted in conjunction with the Senior Information Governance Officer and that responsibility</p>	28 th February 2017	Joint Team Manager: Welfare and Financial Assessment

			for reporting any changes in staff so that they can be removed promptly is included in the agreement. No access will be given until signed agreements are in place.		
Children Missing Education					
<p>Children are receiving unsuitable part time timetables.</p>	<p>There is a risk that the schools are not complaint with statutory and non-statutory DfE guidance in relation to the use of part time timetables, as a result of this, schools may be acting outside the Education Act (1996).</p> <p>There is a safeguarding risk in regard to the whereabouts of the children when they are not timetabled into school and a risk that children will be at a disadvantage from not receiving a full education.</p>	<p>Priority 5 - The Director of Childrens Wellbeing has agreed to identify to Governing Bodies and Headteachers, for all Schools in Herefordshire, that part time timetables are only to be used in line with statutory and non-statutory guidance. Governing Bodies and Headteachers are to be made aware where a part time timetable is in place:</p> <ul style="list-style-type: none"> • parents’ consent must be sought; • regular documented review and monitoring must take place; and • it must not be used as long term solution 	<p>Agreed. Communication will be sent to all headteachers and chairs of governing bodies reminding them to follow the statutory and non-statutory guidance. The audit report will be included in the communication to raise awareness. The item will be reinforced through Spotlight on Children and a reminder system will be established. An additional communication will be sent asking for details of the current use of part time timetables as set out above. SWAP will be engaged for 2017/18 to carry out 10 audits</p>	<p>31 May 2017</p>	<p>Interim Director of Childrens Wellbeing</p>

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		<p>In addition, the Director of Childrens Wellbeing has agreed to:</p> <ul style="list-style-type: none"> request that schools provide information regarding how many children are currently receiving a part time timetable, how these absences are currently being monitored and what plans are in place to enable appropriate full time education; and ensures that existing guidance in relation to part time timetables and attendance coding is reinforced to schools along with the sharing of the findings identified as part of this audit. <p>This information can be used to provide assurance that the school will implement recommendation if necessary, and will be able to inform further work needed in this area.</p>	<p>of a sample of primary, secondary and special schools to check on the use of part time timetables, planning to achieve full time education, and appropriate coding.</p> <p>The section 157/175 2-year audit programme will include assurance requirements regarding the use of part time timetables.</p>		
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<p>Schools are not correctly coding absences.</p>	<p>There is a risk that the census data showing absence figures is not reflective of the true absence rates, which may mean that the appropriate corrective action has not been identified and implemented.</p>	<p>Priority 4 - The Director of Childrens Wellbeing has agreed to identify to the Governing Bodies and Headteachers of all schools in Herefordshire, and particularly the schools involved as part of this audit, that the correct use of the attendance/absence codes must be used at all times. In particular the correct code, code C, 'Leave of absence authorised by the school' is used for the following types of absence:</p> <ul style="list-style-type: none"> • part time timetables (either due to phased entry or with the support of a pastoral support plan); and • virtual learning, or work taken home. <p>Schools will need to provide a response to the Local Authority including information regarding how many children are currently receiving a part time timetable and how these absences are currently being coded, monitored and what plans are in place to enable appropriate full time education.</p>	<p>Agreed. Contained in response above.</p>	<p>31 May 2017</p>	<p>Interim Director of Childrens Wellbeing</p>
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Concessionary Fares

<p>The Council place reliance on external consultants to conduct checks on the average fare calculation. However, the consultants complete these checks by exception.</p>	<p>The Council may reimburse operators for journeys not undertaken with the current limited controls in place.</p>	<p>Priority 4 - The Passenger Transport Manager, in liaison with the Head of Transport, has agreed to ensure checks and processes are put in place to monitor and verify the accuracy of a percentage of monthly operator Reimbursement Claim Submissions to the operator's original ticket and concessionary journey data.</p>	<p>It is intended to allocate the PT Team Project Officer to ensure checks and processes are put in place to monitor and verify accuracy of 5% of bus operator claims supplied by the external consultant for Reimbursement. This will ensure the matching with a low margin of error source data from bus operators with the amount claimed.</p>	<p>31 July 2017</p>	<p>Passenger Transport Manager</p>
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Payroll

<p>There were no documents to confirm the appointment of one of the employees tested. All information supplied points to official processes not having been followed, as the normal recruitment process was not applied.</p>	<p>There is a risk that the employee is a ghost employee and not a legitimate employee of the Council.</p>	<p>Priority 4 - The Head of HR Organisational Development has agreed to locate and provide the paperwork in respect of the appointment of employee pay number 110613 to ensure it is a valid appointment. Where official channels have not been used for the appointment, this matter should be raised with the Head of Service and Director for Adults and Wellbeing.</p>	<p>Agreed</p>	<p>31 March 2017</p>	<p>Head of HR and Organisational Development</p>
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<p>There are issues surrounding the notification of leavers and the subsequent processing of notification of leavers when received after employees have left the Council.</p>	<p>Late notification of leavers has a domino effect in other teams, notably with the Payroll Team having to calculate and process amendments on Agresso, and raise Debtor accounts to recover the overpayments. Where debts are not repaid, recovery action has to be initiated by the Debtors Team.</p>	<p>Priority 4 - The Head of HR and Organisational Development has agreed to arrange for the update of the Exit Form, "Managing People, Change, and Leaving the Organisation Policy" and Career Break Notification Form in order to make the requirement for managers to notify HR as soon as a member of their staff tenders their resignation or obtains authorisation for a career break more prominent. This should be supplemented by a quarterly communication to all managers reminding them:</p> <ul style="list-style-type: none"> (i) of this requirement to complete the form; (ii) that the form must include all relevant information that will impact on the employee's final pay, such as annual leave details; and (iii) the impact of not completing the form i.e., the additional work involved in recovering overpayments, and the impact on the manager's budget. 	<p>I am happy to arrange for the exit form and career break form to be updated to make it clearer for managers. I do not agree that a quarterly email of the nature suggested to all users is appropriate. This is not how we would communicate with managers on this topic. I will instead suggest that the business partner brings up the issue at DMT meetings to remind managers of their responsibility and an article is placed on core news.</p>	<p>31 May 2017</p>	<p>Head of HR and Organisational Development</p>
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<p>Debtor accounts had not been set up for all overpayments in particular for career breaks.</p>		<p>Priority 4 - The Payroll Manager has agreed to arrange for the immediate set up of debtor accounts for all of the outstanding payroll overpayments. In addition, the overpayments spreadsheet maintained by the Payroll Team should be:</p> <p>(i) reviewed to ensure that the status of each overpayment is recorded correctly, in order to ensure that all required debtor accounts are set up;</p> <p>(ii) amended to allow for details of cheque payments to be recorded in full where a payment has been made directly, following an initial notification to the former employee by Payroll staff. Details should consist of the date and receipt number from the cash receipting system, and the cost code to which it has been paid in.</p> <p>A process for the Payroll Team to set up the overpayments in future on Debtors via self-service should be finalised by the Payroll Manager.</p>	<p>Agreed</p>	<p>31 March 2017</p>	<p>Payroll Manager</p>
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<p>There is still a risk with regard to processing BACS payment runs. There is no confirmation that there is adequate separation of duties for this task. If there were, it would safeguard the interests of the staff involved in the process as well as the Council.</p>	<p>This could potentially impact on the Council's financial resources, if an unauthorised payment were to be processed, as there is no requirement for funds to be transferred from the General Account to the Salaries and Wages account; this is an automatic transfer process controlled by the bank.</p>	<p>Priority 4 - The Head of Management Accounting has agreed to arrange for the removal of the former Revenue and Benefits Manager from the BACS Primary Security contact list. In addition, the Corporate Finance Manager should be removed or suspended from both the Creditors and Payroll (760600) list and the list of administrators while she is on maternity leave, and replaced with a suitable nominated officer.</p>	<p>Will amend this with immediate effect.</p>	<p>Complete</p>	<p>Head of Management Accounting</p>
<p>See above</p>	<p>See above</p>	<p>Priority 4 - The Payroll Manager has agreed to ensure that there is evidence to confirm the involvement of at least two members of staff in the emergency payrun process. Where possible, the BACS file should be created by a separate member of staff to the one who runs the BACS transmission.</p>	<p>Agreed</p>	<p>Immediate</p>	<p>Payroll Manager</p>

Audit Framework Definitions

Control Assurance Definitions

Substantial	▲ ★★★	I am able to offer substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable	▲ ★★	I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	▲ ★	I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None	▲	I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.

Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations (priority 1-5)					
						Total	1	2	3	4	5
*Finance	Grant Certification	Heat Network Delivery Units	April 2016	Removed	-	-	-	-	-	-	-
*Finance	Grant Certification	Redundant Building Grant Scheme - Round 4	April 2016	Completed	Grant Certification	-	-	-	-	-	-
*Adult care services	Operational	Brokerage	April 2016	Completed	Partial	7	0	0	3	4	0
*Adult care services	Operational	Client Finances	April 2016	Completed	Partial	10	0	0	10	0	0
*Finance	Operational	Car Parking Income/Enforcement	April 2016	Completed	Partial	19	0	0	16	2	0
*Finance	Operational	Cash Handling & Collection	April 2016	Completed	Reasonable	9	0	0	8	1	0
*Human resources	Operational	Recruitment - Contracts	April 2016	Completed	Partial	10	0	0	10	0	0
*Information and communication technology	Operational	FWI EDRMS/Mosaic Upgrade - Implementation & Assurance -	April 2016	Completed	Advisory	-	-	-	-	-	-
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Bridstow Primary School	April 2016	Completed	Partial	9	0	0	8	1	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Pembridge CE Primary School	April 2016	Completed	Reasonable	5	0	0	4	1	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Weobley Primary School	April 2016	Completed	Reasonable	9	0	0	9	0	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Ameley Primary School	April 2016	Completed	Reasonable	0	0	0	7	0	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - Peterchurch Primary School	April 2016	Completed	Partial	8	0	0	7	1	0
*Education and skills	School	SFVS (School Financial Value Standard) Governance - St Marys RC High School	April 2016	Completed	Partial	14	0	0	12	2	0
*Finance	Special Review	Link Road Scheme (LEP & HC) (additional work days from Contingency)	April 2016	Completed	Non-Opinion	1	0	0	1	0	0
*Finance	Special Review	Special Review	April 2016	Completed	Non-Opinion	-	-	-	-	-	-
*Information management	Follow Up	Modern Records follow up	July 2016	Completed	Follow Up	-	-	-	-	-	-
*Human resources	Follow Up	Use of Agency	July 2016	Completed	Follow Up	-	-	-	-	-	-
*Finance	Grant Certification	Local Transport Block Funding	July 2016	Completed	Grant Certification	-	-	-	-	-	-
*Adult care services	Operational	Residential & Nursing Care	July 2016	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Deferred Payments	July 2016	Discussion Document							
*Adult care services	Operational	Pre Paid Cards (Direct Payments)	July 2016	Completed	Partial	9	0	0	5	2	2
*Adult care services	Operational	Public Health Contracts	July 2016	Completed	Reasonable	7	0	0	6	1	0
*Children and families services	Operational	Children Missing Education (Safeguarding)	July 2016	Completed	Partial	7	0	0	5	1	1

Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations (priority 1-5)					
						Total	1	2	3	4	5
*Consumer affairs	Operational	Food Safety	July 2016	Completed	Reasonable	7	0	0	7	0	0
*Finance	Operational	Property Services - Accounts Payable (additional work days from Contingency)	July 2016	Completed	Advisory	4	0	0	4	0	0
*Information and communication technology	Operational	Protection from Malicious Code	July 2016	Completed	Reasonable	4	0	0	4	0	0
*Management	Operational	Performance Management Framework - Performance Indicators Corporate	July 2016	Completed	Reasonable	6	0	0	6	0	0
*Planning and building control	Operational	S106 Agreements	July 2016	Completed	Reasonable	7	0	0	7	0	0
*Transport and infrastructure	Operational	Concessionary Fares	July 2016	Completed	Partial	1	0	0	0	1	0
*Consumer affairs	Follow Up	Licensing	October 2016	Completed	Follow Up	-	-	-	-	-	-
*Finance	Follow Up	Treasury Management	October 2016	Completed	Follow up	-	-	-	-	-	-
*Information and communication technology	Follow Up	Changes to Role & Exit - ICT Access Controls	October 2016	Completed	Follow Up	-	-	-	-	-	-
*Transport and infrastructure	Follow Up	Home to School Transport	October 2016	In Progress	Follow Up						
*Finance	Follow Up	NNDR - follow up	October 2016	Completed	Follow Up	-	-	-	-	-	-
*Finance	Governance, Fraud & Corruption	NFI	October 2016	Completed	Advisory	-	-	-	-	-	-
*Finance	Grant Certification	Troubled Families	October 2016	Completed	Substantial	3	0	0	3	0	0
*Finance	Key Control	Accounts Payable	October 2016	Completed	Reasonable	5	0	0	5	0	0
*Finance	Key Control	Accounts Receivable	October 2016	Draft Report	Partial	2	0	0	1	1	0
*Finance	Key Control	Capital Accounting	October 2016	Completed	Reasonable	1	0	0	1	0	0
*Finance	Key Control	Main Accounting	October 2016	Completed	Reasonable	5	0	0	5	0	0
*Finance	Key Control	Council Tax	October 2016	Completed	Reasonable	4	0	0	4	0	0
*Finance	Key Control	Housing & Council Tax Benefits	October 2016	Completed	Partial	7	0	0	7	0	0
*Finance	Key Control	Payroll	October 2016	Completed	Partial	7	0	0	2	5	0
*Finance	Key Control	Pensions - Auto enrolment	October 2016	Completed	Reasonable	2	0	0	2	0	0
Procurement	Operational	Catering Contract (additional work days from Contingency)	October 2016	Completed	Advisory	-	-	-	-	-	-
*Information and communication technology	Operational	Public Services Network Submission Assurance	October 2016	Completed	Substantial	1	0	0	1	0	0
*Adult care services	Follow Up	Financial Assessments	January 2017	In Progress	Follow Up						
Information and Communication technology	Follow up	Mobile Phone Usage and Strategy	January 2017	Completed	Follow Up	-	-	-	-	-	-
*Adult care services	Follow Up	Midland Heart	January 2017	Completed	Advisory						

Herefordshire Council 2016-17 Audit Plan Progress

Directorate/Service	Audit Type	Audit Name	Quarter	Status	Opinion	No. of recommendations (priority 1-5)					
						Total	1	2	3	4	5
Information and Communication technology	Follow Up	PCI Data Security Standard Compliance	January 2017	Completed	Follow Up	-	-	-	-	-	-
*Adult care services	Follow up	Direct Payments (Adults)	January 2017	Completed	Follow Up	-	-	-	-	-	-
*Finance	Grant Certification	Troubled Families	January 2017	Completed	Grant Certification	-	-	-	-	-	-
*Adult care services	Operational	Better Care Fund	January 2017	In Progress							
*Adult care services	Operational	Contracts & Contract Management	January 2017	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Hospital Discharges	January 2017	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Telecare - Living Aids & Equipment	January 2017	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Transitions	January 2017	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Complex Care (LD)	January 2017	Removed	-	-	-	-	-	-	-
*Children and families services	Operational	Looked After Children	January 2017	Completed	Partial						
*Children and families services	Operational	Early Years Funding	January 2017	Completed	Reasonable						
*Children and families services	Operational	Direct Payment/Personal Budgets (Children's) - HC	January 2017	In Progress							
*Information and communication technology	Operational	Business Continuity/Disaster Recovery Processes - Data Centre	January 2017	Discussion Document							
*Procurement	Operational	Nottingham Rehab Contract Review	January 2017	Removed	-	-	-	-	-	-	-
*Adult care services	Operational	Continuing Healthcare Funding	January 2017	Discussion Document							
*Adult care services	Operational	Integrated Short Term Support and Care Pathway	January 2017	In Progress							



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Tracking of internal audit recommendations
Report by:	Directorate service team leader

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To review progress in implementation of audit recommendations.

Recommendation(s)

THAT:

- (a) the status of the current audit recommendations be reviewed and the committee determine any recommendations it wishes to make in order to provide further assurance that risks identified by audit activity are being actively managed.**

Alternative options

- 1 Although we could choose to ‘not monitor’, this would not be recommended as this would not provide assurance that actions arising from internal audits were being implemented.

Reasons for recommendations

- 2 One of the functions of the audit and governance committee as set out in the audit and governance code within the council’s constitution is to seek assurance that action is taken on risk related issues identified by auditors and inspectors. The recommendations provide a process by which such actions can be monitored, and committee can assure itself that appropriate and timely action is taken in respect of audit recommendations made by our auditors, South West Audit Partnership Limited (SWAP).

Key considerations

- 3 SWAP provides the internal audit service for Herefordshire Council. SWAP is required to deliver an annual audit plan of work, which is scoped using a risk-based assessment of council activities. Additional reviews are added to the plan where considered necessary to address any emerging risks and issues identified during the year.
- 4 Upon completion of each audit review, a formal report is drafted for discussion with service managers. Such audit reports detail the main conclusions of the review, including the opinion, individual findings, as well as the potential risk exposure and an action plan for addressing the risk.
- 5 Management responses to each audit recommendation are obtained and recorded, along with details of the person responsible and the target date for implementation that has been agreed by management.
- 6 A report was presented to Audit and Governance Committee (A&GC) last September updating them on progress against the highest priority recommendations (4s and 5s) made during 2014/15 and 2015/16. It was agreed at A&GC that all outstanding priority 4 and 5 recommendations be reported back twice a year, along with all priority 3 recommendations made since April 2016.
- 7 All managers within the council directorates, responsible for audit recommendations, have been contacted to review progress on the implementation of these 187 recommendations. Managers were asked to ‘self-certify’ the action which had been taken in respect of Internal Audit’s recommendations.
- 8 The following table provides an update (as at 31 March) as to the current status of priority 4 and 5 recommendations, as well as priority 3 recommendations from 2016/17 onwards. Further detail can be found in appendix 1. The table is presented as a total and then broken down by directorate:

Total			
	Complete	In Progress	Not Complete
Priority 3	33	8	-
Priority 4	122	10	4

Further information on the subject of this report is available from Steve Hodges, directorate services team leader on Tel (01432) 261923

Priority 5	7	1	2
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AWB			
	Complete	In Progress	Not Complete
Priority 3	10	-	-
Priority 4	37	6	4
Priority 5	1	1	2

CWB			
	Complete	In Progress	Not Complete
Priority 3	3	-	-
Priority 4	26	-	-
Priority 5	2	-	-

The recommendations for CWB have been implemented.

Progress of school audits are not included in this report; they are the responsibility of the schools governing body.

ECC			
	Complete	In Progress	Not Complete
Priority 3	20	8	-
Priority 4	59	4	-
Priority 5	4	-	-

Of the 12 outstanding recommendations for ECC, 7 will be completed if the contract and financial procedure rules which appear elsewhere on the committee agenda are approved.

Community impact

- 9 By monitoring the implementation of audit recommendations, assurance is given that risks are being managed effectively, and that the council is taking action to meet its corporate plan priority to secure better services, quality of life and value for money.

Equality duty

- 10 None.

Financial implications

- 11 There are no specific financial implications associated with the recommendations.

Legal implications

- 12 There are no legal implications associated with the recommendations.

Risk management

- 13 If internal audit recommendations are not implemented, the council will be exposed to the risks set out in the relevant detailed internal audit reports. Internal audit recommendations are raised as a result of control gaps or deficiencies identified during reviews therefore overdue items inherently impact upon compliance and governance.

Consultees

- 14 None.

Appendices

Appendix 1 Overdue recommendations

Background papers

- None identified.

Audit	Recommendation	Priority	Target Date	Latest Update	Status
AWB					
Financial Assessments under FACS	I recommend that the Director of Adults Wellbeing documents and endorses the Council's approach to discretionary payment adjustments, if any; ensures that staff have the necessary authority to make discretionary payment decisions; and ensures that staff are aware of any changes to procedure.	4	30/11/2015 Revised to: 31/05/2017	Paper taken to DLT in February, seeking approval for appeals, waivers and write-offs. Minor amends required (waiting clarification)	In Progress
Financial Assessments under FACS	Recommendation carried forward from KPMG review 205/2013-14: I recommend that the Director of Adults Wellbeing liaises with all suppliers that are not regularly notifying the Council of their agreement of the remittance, and remind them of their responsibilities	4	31/12/2015 Revised to: 31/05/2017	Implementation of the new unified contract has been delayed. New contract arrangements are due to be in place for 3rd April 2017. The remittance content has been revised in line with the new contract and providers are no longer required to send back the remittance slip unless it is incorrect.	In Progress
Public Health Investment and Outcomes	The Director of Public Health has agreed to ensure a strategic commissioning plan to distribute public health funds to various service areas and cost centres is agreed by the Director of Adults Wellbeing and Management Board prior to each financial year as part of the budget setting process. The Strategic Plan to align with the Council's 4-year Medium Term Financial Strategy, and direct activity within public health and internal departments.	4	30/10/2016 Revised to: 31/05/2017	A strategic plan has produced and is due to go to Cabinet in February. This was originally planned to go to October's cabinet, however was it delayed in order to align to other AWB strategic documentation.	In Progress
Midland Heart Care Provision	The Joint Commissioning LD & MH Manager has agreed to ensure that provision for spot purchasing is included in the retendering of care services due in the Summer of 2016.	4	31/07/2017	Action remains outstanding, but is potentially to be picked up as part of the follow up audit	In Progress
Deprivation of Liberty (DOLs) – HC	The Assistant Director - Operations has agreed to consider the option of proof reading of Form 5s being carried out as part of the administration function, if changes in the team's establishment make this possible.	4	31/01/2017 Revised to: 01/07/2017	Work to review business support will align to pathway development work. Process of change expected to be completed July 17. New BS manager starts 01/03, who will lead on review of current functions and future need	Not Complete

Audit	Recommendation	Priority	Target Date	Latest Update	Status
Deprivation of Liberty (DOLs) - HC	The DoLS Lead, in conjunction with the Assistant Director - Operations, has agreed to assess what tools are required to manage the service on a day to day basis, and to report on performance to senior management.	4	31/01/2017 Revised to: 31/12/2017	Basic performance information available, in respect of numbers backlog and staff output. Mosaic development is now likely at end of 2017, due to other priorities	Not Complete
Deprivation of Liberty (DOLs) - HC	The Assistant Director - Operations has agreed to review the resource level with regard to the administrative function within the DoLS team to assess whether it is adequate.	4	31/01/2017 Revised to: 01/07/2017	Work to review business support will align to pathway development work. Process of change expected to be completed July 17. New BS manager starts 01/03, who will lead on review of current functions and future need	Not Complete
Direct Payments	I recommend that the Joint Team Leader develops and implements documented procedures to set out the timescales and procedures for recovering surplus funds. These must be in accordance with the Financial Procedures Rules requirements to bill for necessary income promptly, ensure service users are treated consistently, and ensure that the Council central finance team have correct oversight of funds owed to the Council.	4	30/09/2016 Revised to: 31/05/2017	Documented procedures for recalling surplus funds are in place. Further development to the Mosaic system is required to enable invoices to be automatically raised through an AR interface to Agresso. However the current priority is to test the Mosaic AR interface for implementation of client billing for care home fees due to go live April 2017. Further development of mosaic for direct payment surplus invoices through a purchasing step will be undertaken after all current priority work on the unified contract and rate uplifts for Home Care are complete. Due date 31/05/2017.	In Progress
Purchasing Strategy and Market Management - Care service	The Assistant Director: Commissioning (AWB) has agreed to arrange for a bad debt provision to be set up in the Service's accounts to cover non-payment of third party top up debt, thus making such cases easily identifiable against the service budget	5	30/09/2016 Revised to: 31/05/2017	The issue on third party top up debt has been resolved from the 3 April 2017 with the new unified contract as the council will be responsible for collecting this. Corporate finance are implementing monitoring processes as a result of these changes	In Progress

Audit	Recommendation	Priority	Target Date	Latest Update	Status
Purchasing Strategy and Market Management - Care service	The Contracts Quality and Review Lead and the Brokerage Acting Team Leader have agreed to work together to compile a current list of care home charges (usual rates for older people) and that a legal agreement for requesting, actioning and monitoring future rate increase requests by care homes in respect of Learning Disabilities and Mental Health placements is formalised.	4	31/10/2016 Revised to: 31/05/2017	The charges for each home will now be requested annually as part of the self-assessment returns to the quality and review team, this will be captured on the dashboard as well as requests for uplift. All uplift requests are collated with the contracts team and information used to inform any revisions to usual rates. All care homes from the 03 April 2017 will be subject to the same terms and conditions which specify that rates will be reviewed annually and therefore the annual rate increase will apply to both Learning Disabilities and Mental health placements as well as older persons which was previously was not the case. All Providers can at any point ask for fees to be reviewed if the needs of an individual has changed and this is made clear in the contract.	In Progress
Purchasing Strategy and Market Management - Care service	The Adults and Wellbeing Director has agreed to set a cut-off date for care homes to notify the Council of outstanding client contributions and third party top up debts as a matter of urgency.	4	30/09/2016 Revised to: 31/05/2017	Providers have all been informed in communications to the market that the council will not be held responsible for any outstanding debt from the 03 April 2017	In Progress
Purchasing Strategy and Market Management - Care service	The Assistant Director: Commissioning has agreed to, in conjunction with the Contracts Quality and Review Lead and the Performance Service Manager Adults and Wellbeing Directorate, review and increase the current level of reporting to Senior Management to include: number and value of third party top ups per home; changes in provider charges and impact on placements; non-payment of third party top ups, to include number of cases and level of individual debt.	5	31/12/2016 Revised to: 31/05/2017	Commissioning dashboard is being developed in key service areas, providing the commissioning team and managers with a single point for information on service use, trends and quality information.	In Progress

Audit	Recommendation	Priority	Target Date	Latest Update	Status
Social Care – Financial Practices	The Welfare and Financial Assessment Team Manager has agreed to ensure a robust process is in place to raise the client contribution debts to service users when the new process of paying providers gross is implemented in January 2017. Additionally the Transactional Support Team Leader needs to ensure that all client contributions that have been paid to providers are identified, and confirm that invoices have been raised in each instance and that the Welfare and Financial Assessment Team has been alerted to assist the Revenues Team with recovery action where the debt remains unpaid. The debts that have been identified as a result of this audit need to be formally raised to the client with an explanatory letter regarding the situation.	4	31/01/2017 Revised to: 31/05/2017	Payment to providers on a gross basis through the unified contract is now due to be implemented from 3rd April 2017, so client billing will commence 4 weeks later (as invoices are raised 4 weeks in arrears). The new process for billing is scheduled to be in place by 1st May 2017.	In Progress
ECC					
HC Procurement	I recommend that the Head of Commercial Services reminds contract managers of the need to retain contract documentation within their team in accordance with document retention guidelines. In the event of staff changes, this documentation needs to be handed over to other staff within the team to ensure compliance with this guidance, and to make it available to managers for the purpose of contract renegotiation, or queries / disputes on current works.	4	28/02/2015 Revised to: 10/05/2017	Subject to approval of revised Contract Procedure Rules by A&GC in May	In Progress
Use of Agency Staff 2015-16	I recommend that the Head of Commercial Services includes the date a contract has been signed in the Council's contract register and undertakes regular checks to ensure all contracts are signed promptly.	4	03/12/2015 Revised to: 31/05/2017	The contract register is being developed on Sharepoint to allow the Contract Managers in the service areas to update their relevant sections, and that Contract Managers would be able to upload, onto the contract register, signed copies of the contract. Regular reviews of the contract register will highlight where signed contracts have not been appended. <i>The extended timescale will allow for system testing, issuing procedures and training workshops to include</i>	In Progress

Audit	Recommendation	Priority	Target Date	Latest Update	Status
				<i>Legal Services officers and Contract Managers.</i>	
Licensing (HC)	I recommend that the Solicitor to the Council - People and Regulatory provides guidance to the service areas affected by the Openness of Local Government Bodies Regulations 2014 on how to meet the requirements of the regulations, and ensures that service areas are publishing the required information in accordance with that guidance.	4	31/07/2016 Revised to: 31/05/2017	The Head of Corporate Governance confirmed that the Constitution was approved in December 2016 and it is anticipated for the relevant systems and processes to be put in place between January and May 2017, to enable the publication of the officer decisions.	In Progress
Commissioning & Procurement	The Head of Law and Governance, in liaison with the Assistant Director of Communities has agreed to commission a review of procurement arrangements and systems, to document best practice, address procurement training needs, and provide clarity on commissioning responsibilities.	4	30/01/2017 Revised to: 10/05/2017	Subject to approval of revised Contract Procedure Rules by A&GC in May	In Progress
Cash Handling & Collection - Corporate - HC	The Head of Corporate Finance has agreed to ensure that cash is banked in line with the Council's Financial Procedure Rules, and that the word 'immediately' is replaced with a defined period, in which cash should be banked.	3	29/04/2017 Revised to: 10/05/2017	Subject to approval of revised Financial Procedure Rules by A&GC in May	In Progress
Cash Handling & Collection - Corporate - HC	The Finance Transactional Support Officer (Hoople Ltd), in liaison with the Head of Corporate Finance, has agreed to check petty cash claims, for correct authorisation, supporting receipts and rejects any claims not properly authorised.	3	30/11/2016 Revised to: 10/05/2017	Subject to approval of revised Financial Procedure Rules by A&GC in May	In Progress
Cash Handling & Collection - Corporate - HC	The Head of Corporate Finance has agreed to provide guidance and training to officers responsible for petty cash floats, to ensure claims are fully supported by authorised receipts.	3	30/11/2016 Revised to: 10/05/2017	Subject to approval of revised Financial Procedure Rules by A&GC in May	In Progress
Cash Handling & Collection - Corporate - HC	The Head of Corporate Finance has agreed to remind staff that expenses should be properly authorised and reimbursed through the staff expenses system, rather than through petty cash reimbursements.	3	30/11/2016 Revised to: 10/05/2017	Subject to approval of revised Financial Procedure Rules by A&GC in May	In Progress
Cash Handling & Collection - Corporate - HC	The Head of Corporate Finance has agreed to provide guidance to managers to cover required procedures for cash collection, receipting of income, cash handling, banking, and segregation of duties, authorisation and security of cash.	3	30/11/2016 Revised to: 10/05/2017	Subject to approval of revised Financial Procedure Rules by A&GC in May	In Progress

Audit	Recommendation	Priority	Target Date	Latest Update	Status
Property Services - Accounts Payable - HC	<p>The Director of Resources has agreed to ensure future procurements include the following where reasonable and relevant:</p> <ul style="list-style-type: none"> • IT requirements for data submissions are made clear and are compatible with the Council's Financial Management System • the Output Specification details maintenance costs for properties • an agreed annual maintenance plan 	3	31/12/2016 Revised to: 31/05/2017	Currently identifying sufficient resource.	In Progress
Property Services - Accounts Payable - HC	The Director of Resources has agreed to put sufficient plans in place to address the issue of staff resilience with regards to the checking and processing of the Integral application invoices.	3	28/02/2017 Revised to: 31/05/2017	Currently identifying sufficient resource.	In Progress
Car Parking Income/Enforcement - HC	The Parking Services Manager has agreed to ensure the Persistent Evaders policy is reviewed; approved and implemented promptly.	3	01/01/2017 Revised to: 30/09/2017	Rather than have separate procedures such as appeals, enforcement, persistent evaders, all are going to be reviewed, revised where necessary and detailed into one single document. This is a large piece of work but has been started and will involve an internal and external consultation and going through the councils governance process	In Progress



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Corporate risk register
Report by:	Directorate services team leader

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To consider the status of the council's 2016/17 corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework.

Recommendation(s)

THAT:

- (a) the committee determine whether, in light of the information contained within the corporate risk register, it wishes to make any recommendations to improve effective risk management.**

Alternative options

- 1 The committee could choose not to monitor the risk register; this would not be recommended as this would not provide assurance that risk was being managed effectively within the council.

Reasons for recommendations

- 2 To enable the committee to be assured that the council is managing its risk appropriately, in line with its performance, risk and opportunity management framework.

Key considerations

- 3 The corporate risk register is compiled from risks identified at directorate level, which have been escalated along with high-level generic risks, which require strategic management. Entries within the corporate risk register reflect those risks identified by management board and endorsed by cabinet, thereby strengthening their strategic perspective, management response and controls.
- 4 The inclusion of risks within any level of risk register does not necessarily mean there is a problem; it reflects the fact that officers are aware of potential risks and have devised strategies for the implementation of mitigating controls.
- 5 Each entry within the register is scored to provide an assessment of the residual level of risk. All risks have been scored based on an assessment of their impact and likelihood, adopting the scoring criteria within the performance, risk and opportunity management framework. These assessments are made at two points, before any actions are in place (inherent risk) and after identified controls are in place (residual risk).
- 6 Whatever level of residual risk remains, it is essential that the controls identified are appropriate, working effectively and kept under review.
- 7 The risks that children's wellbeing have removed from the corporate risk register have been deemed by their directorate leadership team as either being risks that can now be managed within the directorate; or are no longer seen as a risk to the authority and have therefore been removed completely.
- 8 At its meeting of 23 January, this committee sought assurance that the ratings after controls were appropriate for a number of risks:
 - Economic resilience – the ratings for this risk have reduced from 16 to 12 after controls; whilst the impact has remained the same (major), it is considered that the controls put in place, which include development and implementation of Invest Herefordshire, delivery of the Fastershire project and continued external funding being secured, are sufficient to have reduced the likelihood of the risk (from likely to possible).
 - Short breaks and system resilience – after consideration of each, the children's wellbeing and the adults and wellbeing directorates are content that the controls currently in place are adequate to manage the risk and that the ratings applied represent the level of risk.

- 9 The committee also asked for consideration to be given to a number of risks being added to the corporate risk register:
- Water quality issues – members were invited to a nutrient management plan seminar on 7 March where phosphate levels in the rivers Lugg and Wye were discussed. The council operates within guidance of the National Planning Policy Framework (NPPF) and continues to monitor water quality within the county. Based on current levels in the county, and the management plans in place locally, it is not considered necessary to enter this as a corporate risk.
 - Fracking – in considering planning applications for fracking the council would be required to have regard to existing environmental policies contained within the adopted core strategy, the saved minerals policies from the unitary development Plan and national policy as set out in the NPPF. However, the emerging minerals and waste plan, expected to be adopted towards the end of 2018 will consider the need for a policy framework for fracking proposals alongside other matters relating to minerals and related extraction. It is important to note that the licensing opportunities which came up in the south of Herefordshire were not taken up and any changes to that position will be monitored and reported. Based on the level of interest in the opportunities that were available in South Herefordshire, this is not viewed as a corporate risk at present. The situation will continue to be observed and escalated if considered necessary.
 - Flood alleviation – local flood risk management and land drainage forms part of the Herefordshire Council and Balfour Beatty Living Places (BBLP) annual plan. BBLP's work programme for 2017/18 has recently been finalised and this includes undertaking studies to enable funding grants to be accessed for flood alleviation. Our risk-based approach targets resources and funding at those parts of the county that are most susceptible to flooding. The local flood risk management strategy is an important document for the on-going management of flood risk throughout the county and is expected to be adopted towards the end of 2017. The council does acknowledge the risk of flooding and this is reflected in a service level risk. Based on the activity already underway, flood alleviation is not considered to be a corporate risk.

Community impact

- 10 Risk management underpins all aspects of the council's strategic aims.
- 11 The risks within the registers are linked to the projects that are in place to deliver the council's priorities.
- 12 Risk management is an internal management process that is open to scrutiny from councillors and the public at the council's audit and governance committee meetings.

Equality duty

- 13 There are no equality duty implications arising from this report.

Financial implications

- 14 There are no financial implications associated with the recommendations.

Further information on the subject of this report is available from
Steve Hodges, directorate services team leader on Tel (01432) 261923

Legal implications

15 There are no legal implications associated with the recommendations.

Risk management

16 There are no risks arising directly from the report. By reviewing the corporate risk register greater assurance is given that the council is managing its risks appropriately.

Consultees

17 Cabinet considered the end of January corporate risk register as part of the corporate performance and budget report at its meeting of 9 March 2017.

Appendices

Appendix A End of January corporate risk register

Background papers

- None identified.

Risk Reference	Risk Description	Opened	Risk score before controls	Existing Controls in Place	Risk score after controls	Risk Owner (Name & Title)
CR.001	Emergency events IF/AS: Significant events happen (e.g. severe weather, major flooding, terrorism and/or influenza pandemic risks) THEN: there could be a significant cost implication to the Council and it may be necessitate staff redeployment to backfill and maintain critical services. Failing to respond effectively to major emergencies/incidents could result in a loss of public confidence through adverse publicity, loss of life to public or council employees, loss of service, economic damage or environmental impacts. Lack of trained staff (deployed or other) means we may not respond as quickly/effectively as we should.	Apr 11	16	Council and multi-agency plans reviewed as part of wider WM Local Resilience Forum objectives. Resilience Direct (cabinet officer system) to progress information sharing, planning and response mechanisms and data. Council Business Continuity Management System in place. Rest Centre training and provision for 200 people at Three Elms Unit.	12	Equality, Resilience, Information and Records Manager.
CR.002	Health & Safety IF: Herefordshire Council doesn't comply with Health and Safety legislation THEN there is an increased risk of: employees injured through work activity; council prosecuted by HSE for breaches of legislation; increased insurance claims and insurance premiums; member of public, contractor or employee killed at work, possible corporate manslaughter, loss of reputation and financial costs to the council; sickness rates increase because of lack of compliance with good health, safety and wellbeing practice; increased employer/employee litigation through inconsistent approach to managing health and safety in the workplace; unable to defend H&S claims or disputes; and, fire damage and financial and reputational costs to the council through fire at a council owned building.	May 11	16	Strategy – Strategy/project plan in place to achieve full compliance with H&S legislation, prioritised by high risk activities; H&S policy current and reviewed each year. Cultural – Sharepoint H&S tool box available via front page of intranet; H&S and Fire Safety part of existing mandatory training; some improvement has been made in last period with wider engagement from employees with H&S systems (when things have gone wrong); employees consulted about H&S issues through 'house' meetings. Systems – Accident reporting/investigation and work based ill health in place; mandatory training; first aid/fire warden training in place; some systems updated (focused on high risk areas); employers liability insurance; Directorate H&S reps kept up to date with current risks and good practice control measures.	12	Health and Safety Advisor
CR.003	Medium Term Financial Strategy IF: we do not have a sustainable Medium Term Financial Plan THEN: we will not achieve a balanced budget, risk serious service failure	Aug 12	20	- MTFS to 19/20 approved by Council in Feb. All savings RAG rated and reviewed. Majority green for 17/18 * MTFS linked to Corporate Priorities * MTFS to 19/20 published	3	Director of Resources
CR.006	Fastershire IF: Expectations not met through the Fastershire Broadband Project, Business Case Failure and / or failure to meet State Aid requirements and the supplier fails to provide an acceptable baseline of deployment from which to deviate or monitor change. THEN: Areas identified as modelled to receive NGA may slip out of programme; There may be slippage in delivery timescales and ultimately the constituent experience of retail services may reflect badly on the council's support for a wholesale solution; BT could deliver to ineligible areas and low take up and optimisation could undermine the original investment case.	Apr 13	15	The contract includes significant controls to manage slippage and NGA coverage reductions and will deliver 100% of premises at 2Mbps. However, the controls in place lead directly to default and compensation which is not necessarily in the authorities interest. Agree via Cabinet Member decision to extend time-lines. BT are required to certify payment eligibility and will be subject to audit. The Fastershire Broadband Strategy 2014-18 has been adopted by the Authorities to address next stage in delivery with progress on that strategy. This strategy was updated and adopted by Cabinet in December. The business support programme and Digital Inclusion activity will aim to increase take up and optimisation and ultimately prove the business case. Full risk register reported to the Fastershire Board	10	Assistant Director, Communities
CR.007	Litigation IF/AS: Litigation claims against Herefordshire Council are successful THEN: this may expose the Council to significant unbudgeted costs and reputational damage		20	Compliance with the Contracts dispute resolution procedure. Legal and commercial opinion has been sought in support of Herefordshire's case. Structured dispute resolution processes are being taken forward including negotiation, adjudication and formal mediation. Litigation may be required to resolve high value matters. Effective legal case management is now in place to increase Council's likelihood of defending any claim. Additionally, S151 Officer is made aware of pending financial claims against Council at earliest opportunity. For ongoing cases, an appropriate base line budget (from which to operate and deliver an effective legal service and to increase chances of Council losing litigation cases) has been provided.	8	Director of Economy, Communities and Corporate Assistant Director, Communities
CR.008	Information governance IF: Staff do not treat the information they access appropriately THEN: this may lead to the risk of referral to the Information Commissioner and/or legal challenge with resultant unbudgeted costs and reputational damage for the Council.	Feb 14	16	A series of mandatory online training modules have been introduced (including Data Protection, Environmental Information Regulations, Freedom of Information, Information Security). All employees must also complete a staff confidentiality agreement in order to acknowledge that they agree to abide by the council's information governance policies.	8	Assistant Director, Communities
CR.011	ICT Platforms IF: The technology ICT systems/platforms are not appropriate or used to their full effect THEN: We fail to transform our services and cost the organisation more money	Apr 14	16	Programme Boards for major systems improvements, FWI, Adult Care,	6	Director of Resources

Risk Reference	Risk Description	Opened	Risk score before controls	Existing Controls in Place	Risk score after controls	Risk Owner (Name & Title)
CR.015	Deprivation of Liberty The authority does not meet the statutory requirements for Deprivation of Liberty and individuals are unlawfully deprived of their liberty An increasing number of cases already subject to DoLS are being taken to the Court of protection, increasing the risk of Costs and Financial penalties for the Local Authority	Oct-14	20	Additional investment into DOL's has been made, and weekly performance management of waiting list is in place. Regular reporting and review up to Director Level and to Safeguarding Adults Executive Group. Working with external Best Interest Assessors. DoLS team are checking all referrals for DoLS against list of open safeguarding referrals to ensure these cases are prioritised in terms of implementing DoLS. Other triage criteria are also followed to identify cases where there is a high risk to the individual and a high risk to the Council of litigation. Two full time BIA posts have been created and filled on a one year secondment basis	12	Assistant Director of Operations AWB
CR.016	Safeguarding Individuals at risk of abuse are not protected	Oct-14	16	A Safeguarding Improvement Programme has implemented a new process to embed the principles of Making Safeguarding Personal. This has included changes to the current processes, an improved performance framework and a new audit tool. Progress will continue to be monitored going forward and be fed into DLT, AD Operations and monthly report to DASS and HSAB. Peer challenge including independent auditing has taken place, recommended system and practice actions are included in the MSP review. Processes for identifying learning from AWB case audits and audits undertaken through HSAB PAQA as well as SAR are now in place and monitored through single agency board (DLT) and HSAB.	12	Assistant Director of Operations AWB
CR.017	Demographic Pressures Continued demographic pressures require significant savings to be made or reductions in levels of dependency to manage rising levels of demand across council services	Oct-14	25	Range of primary and secondary preventative services commissioned including Information, Advice, Signposting, Reablement, Telecare, Rapid Response. Communications strategy and proactive media briefing advising on ASC LA services focus. Proactive screening of cases that are not eligible through reviews and diversion to other services	16	Director Adults & Wellbeing
CR.020	Economic Resilience IF: The Herefordshire economic position does not improve THEN: the county will continue to underperform economically and suffer from low wage levels, low educational attainment, low number of skilled jobs, and a general low market attractiveness.	Jun 15	16	Implementation of the Economic Development Strategy. Economic Masterplan being developed. Delivery of the Fastershire project. Delivering and promoting the Local Development Framework. Implementing the delivery of the Enterprise Zone. Securing external funding.	12	Assistant Director, Growth
CR.021	Welfare Reform Impact of further welfare reform is currently not able to be quantified in terms of financial impact on Herefordshire residents with subsequent reduction in payment of council tax, other financial liabilities to the council and increasing pressure for local support to be met by the council	Jun-15	20	Welfare Rights service in place, IAS service will support individuals into community capacity that gives specialist advice on welfare issues	12	Director Adults & Wellbeing
CR.022	Integration The scale and pace of integration work required internally to the council and across health and social care proves to be undeliverable and a new model for integrated and financially viable health and social care pathways does not emerge	Jun-15	25	Transformation Board and Joint Commissioning Board in place underpinned by refreshed Health and Well Being strategy	16	Director Adults & Wellbeing
CR.023	Council Redesign/Resources Reducing resources in the form of grant, uncertainty and the requirement to deliver transformation at speed combine to increase risk of failure to meet statutory and/or legal duties and powers		25	Transformation programme within each director, corporate plan, refreshed governance and constitution, quarterly performance management reporting and director performance management through appraisal system	12	Chief Executive
CR.024	System resilience and urgent care The role and responsibility of adult social care alongside system and process is not clearly set out in relation to system resilience and urgent care		16	Social care pathway for prevention of hospital admission and discharge is aligned with WVT. Joint post funded through SRG to manage interface is in place, number of schemes funded through BCF to support urgent care - however this post has now ceased. On call arrangements in place and AMPH/EDT rota is in place.Senior Management attend operational and strategic SRG	16	Assistant Director of Operations
CR.028	Accommodation Strategy IF: the Programme is not managed to time and budget THEN: there will be significant risks to service delivery and savings plans	Mar 16	12	Accommodation Board	4	Head of Corporate Asset Management
CR.031	BREXIT IF: Negotiating leaving the European Union is yet to commence and will take 2 years THEN: in the interim there is expected to be volatility and uncertainties to affect businesses individuals and funding opportunities	Jul-16	20	Yet to be established formally	12	Director of Resources
CR.032	Pensions re-evaluation AS: A revaluation is due in the summer of 2016 based on the portfolio position as at 31 March 2016, market conditions and valuation assumptions have a major impact on the valuation of the deficit THEN: A pensions working group, national guidelines and valuation experts work together to establish an agreed approach and deficit estimate. Changes in assumptions could result in a need to refresh the MTFS with additional savings to fund	Jul-16	12	WCC, Mercer, Grant Thornton and pension board representatives	9	Director of Resources

Risk Reference	Risk Description	Opened	Risk score before controls	Existing Controls in Place	Risk score after controls	Risk Owner (Name & Title)
CR.034	Short Breaks Recommissioning IF/AS: Short breaks recommissioning is delayed THEN: Significant reputational damage may be caused	Jul-14	16	DLT have been made aware of this situation. There will always be searches of this nature; and contract compliance visits are required to be completed. There are due to be staffing changes with new roles being created out of the existing post.	12	Childrens Joint Commissioning Manager
CR.035 NEW	Early Help IF/AS: The new early help strategy is not implemented quickly and effectively THEN: The child protection system will come under pressure again; OR children and their families will be waiting for support which if not available within a reasonable time, may lead to an increase in risk of harm.	Dec-16	16	Implementation programme under development	12	HoS Education Development

The following risks have been reduced to directorate / service risks

Risk Reference	Risk Description	Opened	Risk score before controls	Existing Controls in Place	Risk score after controls	Risk Owner (Name & Title)
CR.005	School assets IF/AS: Insufficient condition oversight of school assets is not in place THEN: There may be an increase in costs due to unplanned significant spend	Apr-14	25	Education assets condition surveys to be completed and school capital investment strategy being developed.	16	Cabinet / DLT/ SMT
CR.010	Staff recruitment/retention IF/AS: We are unable to recruit / retain permanent members of staff across the directorate to undertake key roles and therefore continue to over rely on agency staff THEN: The costs will continue to be excessive and change will not be driven through	01/04/2014	16	Workforce strategy for social care is in place to ensure that where possible we recruit to roles on a permanent basis, and grow our own. Involvement in regional workforce development and agency market management.	9	DCS/DLT/SMT
CR.012	Education Outcomes IF / AS: Sufficient Improvement is not made to education outcomes through education strategy Then : Schools are likely to be judged inadequate and require intervention	Jun-14	16	Education Strategic plan, improvement partnership	9	HOS Additional Needs
CR.013	Children's and Families Act IF/AS: The Childrens & Families Act legislation raises awareness with the residents of Herefordshire of entitlement to services. THEN: We may be unable to meet requirements from within existing resources, will suffer reputational damage and may face legal challenge through tribunal /judicial review	Sep-14	20	Children and Young People's Partnership, Development and implementation of CYP Plan, Implementation of CWD Strategy	12	Children with Disabilities Strategy Group / EAC SMT
CR.029	Education Funding IF the national funding formula for education removes significant funding without removing statutory responsibilities THEN the local authority may not be able to carry out its duties effectively, funding pressure will result, the effectiveness of some schools and outcomes for children will decline	Apr-16	20	Management Board and Leader's briefing aware of implications. Working group established to develop Herefordshire's approach	16	Assistant Director Education and Commissioning
CR.030	White Paper - Educational Excellence Everywhere IF schools and the local authority focus solely on the possible implications of the White Paper Educational Excellence Everywhere THEN focus will lessen on improving pupil outcomes, particularly the most vulnerable, and on budget control at a time of increasing pressures	Apr-16	20	Local authority establishing a way forward with schools. Working group led by the Director of Children's Wellbeing. Management Board and Leader's briefing aware of implications. Working group established to develop Herefordshire's approach. Continued implementation of the HSIP Framework via Learning and Achievement and a focus on vulnerable groups including implementing work to address closing the gap. Work to be reviewed via Strategic Education Board and HSIP	16	Assistant Director Education and Commissioning
CR.033	Families First (Troubled Families) IF/AS: Families First (Troubled Families) Programme does not deliver THEN: Families outcomes will not improve, savings / efficiencies will not be realised and TF grant will not be paid	Jul-14	16	Continue to develop the Intelligence Hub with Data Analyst and discussion with Family Support team to deliver on planned work. ICT solution has progressed with provider appointed. system is being implemented over the summer 2016 and scheduled to go live in the Autumn 2016 Commissioned Services and internal service spec on requirements of family support/direct work services to work with these families and match outcomes to TF targets.	16	Head of Service Commissioning



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	2017/18 external audit plan and fee
Report by:	Chief finance officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To approve the 2017/18 external audit work and fee.

Recommendation

THAT:

- (a) subject to the decision to appoint an external auditor, the external audit plan and associated fee for 2017/18 as set out in appendix A be approved.**

Alternative options

- 1 None, the proposed plan and fee is a statutory requirement.

Reasons for recommendations

- 2 For the committee to ensure that the council has effective statutory external audit arrangements in place for 2017/18 as required in the council's constitution.

Further information on the subject of this report is available from
Andrew Lovegrove, chief finance officer on Tel (01432) 383519

Key considerations

- 3 The council's external auditor is Grant Thornton, this appointment having been made under a contract let by the Audit Commission. Following closure of the Audit Commission the contract is currently managed by Public Sector Audit Appointments Limited (PSAA), the transitional body set up by the Local Government Association (LGA) with delegated authority from the Secretary of State for Communities and Local Government. Over recent years the council has benefited from a reduction in fees in the order of 50% compared with historic levels. The current transitional arrangements come to an end on 31 March 2018.
- 4 Appendix A details Grant Thornton's proposed fee and outputs for external audit work to be completed in 2017/18. The proposed external audit fee for 2017/18 of £124k is based on the same scale fee applied in 2016/17 as proposed by the PSAA.
- 5 The scale fee covers the audit of the statement of accounts, value for money conclusion and review of the whole of government accounts.
- 6 On 16 December 2016 council approved opting-in to the national sector led body for the procurement of external auditors led by the LGA. The conclusion of the framework arrangements will be reported to audit and governance committee before the commencement of the 2017/18 external audit.

Community impact

- 7 An efficient and effective audit service supports the council in demonstrating compliance with its code of corporate governance and its corporate plan priority to secure better services, quality of life and value for money

Equality duty

- 8 None.

Financial implications

- 9 Provision has been made in the 2017/18 budget to cover the proposed fee of £124k. The fee excludes any additional work beyond that set out in the letter at appendix A.
- 10 A separate decision will be made about any additional work, including the housing benefit certification.

Legal implications

- 11 The Local Audit and Accountability Act 2014 states that the accounts of a relevant authority for a financial year must be audited:
 - (a) in accordance with the Act and provision made under it, and
 - (b) by an auditor (a "local auditor") appointed in accordance with the Act or provision made under it.
- 12 A local auditor must, in carrying out the auditor's functions in relation to the accounts,

Further information on the subject of this report is available from
Andrew Lovegrove, chief finance officer on Tel (01432) 383519

comply with the code of audit practice applicable to the council that is for the time being in force. The current code of practice for UK Local Government is the Code of Audit Practice issued by the National Audit Office in April 2015.

- 13 The code requires under section 1.17 that the auditor should share and discuss their audit plan at an early stage with the audited body.

Risk management

- 14 The proposed fee is set independently and levied under our existing contract with Grant Thornton.

Consultees

- 15 None.

Appendices

Appendix A - 2017/18 external audit fee letter

Background papers

None identified

Andrew Lovegrove.
Chief Finance Officer
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Grant Thornton UK LLP
Colmore Plaza
20 Colmore Circus
BIRMINGHAM
West Midlands
B4 6AT

T +44 (0)121 212 4000

www.grant-thornton.co.uk

12 April 2017

Dear Andrew

Planned audit fee for 2017/18

The Local Audit and Accountability Act 2014 provides the framework for local public audit. Under these provisions the Secretary of State for Communities and Local Government delegated some statutory functions from the Audit Commission Act 1998 to Public Sector Audit Appointments Limited (PSAA) on a transitional basis.

PSAA will oversee the Audit Commission's audit contracts for local government bodies until they end in 2018, following the announcement by the Department for Communities and Local Government (DCLG) that it will extend transitional arrangements until 2017/18. PSAA's responsibilities include setting fees, appointing auditors and monitoring the quality of auditors' work. Further information on PSAA and its responsibilities are available on the [PSAA website](#).

From 2018/19 PSAA has been specified by the Secretary of State as an appointing person for principal local government and police bodies, and will make auditor appointments and set fees for bodies that have opted into the national auditor appointment scheme it is developing.

Scale fee

PSAA prescribes that 'scale fees are based on the expectation that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timescales'.

There are no changes to the overall work programme for local government audited bodies for 2017/18, following the recent CIPFA/LASAAC announcement that their planned introduction of the Highways Network Asset Code into the financial reporting requirements for local authorities in 2017/18 will no longer proceed. PSAA have therefore set the 2017/18 scale audit fees at the same level as the scale fees applicable for 2016/17. The Council's scale fee for 2017/18 has been set by PSAA at £124,405.

The audit planning process for 2017/18, 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

Under the provisions of the Local Audit and Accountability Act 2014, the National Audit Office (NAO) is responsible for publishing the statutory Code of Audit Practice and guidance for auditors from April 2015. Audits of the accounts for 2017/18 will be undertaken

under this Code, on the basis of the [2017/18 work-programme and scales of fees](#) set out on the PSAA website. Further information on the NAO Code and guidance is available on the [NAO website](#).

The scale fee covers:

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

PSAA will agree fees for considering objections from the point at which auditors accept an objection as valid, or any special investigations, as a variation to the scale fee.

Value for Money conclusion

The Code requires us to consider whether the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.

The NAO issued its guidance for auditors on value for money work in November 2016. The guidance states that for local government bodies, auditors are required to give a conclusion on whether the Council has put proper arrangements in place.

The NAO guidance identifies one single criterion for auditors to evaluate:

In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

Certification of grant claims and returns

At the request of the Department for Work and Pensions, auditors appointed by PSAA will continue to certify local authority claims for housing benefit subsidy for 2017/18.

The Council's indicative fee for this certification work has yet to be set by PSAA. We will write to you to confirm the fee when this has been confirmed.

Assurance engagements for other schemes will be subject to separate arrangements and fees agreed between the grant-paying body, the Council and ourselves.

Billing schedule

Fees will be billed as follows:

Main Audit fee	£
September 2017	31,101.25
December 2017	31,101.25
March 2018	31,101.25
June 2018	31,101.25
Total	124,405
Housing Benefit Certification	
March 2018	tbc

Outline audit timetable

We will undertake our audit planning and interim audit procedures in December to March 2018. Upon completion of this phase of our work we will issue a 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 May 2018 and work on the whole of government accounts return in July 2018.

Phase of work	Timing	Outputs	Comments
Audit planning and interim audit	December to March 2018	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	May- July 2018	Audit Findings (Report to those charged with governance)	This report sets out the findings of our accounts audit and VfM work for the consideration of those charged with governance.
VfM conclusion	July 2018	Audit Findings (Report to those charged with governance)	As above
Whole of government accounts	July 2018	Opinion on the WGA return	This work will be completed alongside the accounts audit.
Annual audit letter	September 2018	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.
Grant certification	By November 2018	Grant certification report	A report summarising the findings of our housing benefit certification work

Our team

The key members of the audit team for 2017/18 are:

	Name	Phone Number	E-mail
Engagement Lead	Phil Jones	0121 232 5232	phil.w.jones@uk.gt.com
Engagement Manager	Zoe Thomas	0121 232 5277	zoe.thomas@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 Mark Stocks, our Public Sector Assurance regional lead partner, via mark.c.stocks@uk.gt.com.

Yours sincerely

Phil Jones

Engagement Lead

For Grant Thornton UK LLP



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Housing benefit grant certification
Report by:	Chief finance officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To review the external auditors certification letter in relation to the housing benefit subsidy claim for 2015/16 as submitted by Herefordshire Council.

Recommendations

THAT:

- (a) **The committee review the external auditors' certification letter for the housing benefit subsidy claim submitted by Herefordshire Council and attached at appendix A.**

Alternative options

- 1 There are no alternative options, the external audit recommendations are in accordance with auditing standards.

Further information on the subject of this report is available from
Andrew Lovegrove, chief finance officer on Tel (01432) 383519

Reasons for recommendations

- 2 The constitution provides that the audit and governance committee will:
- ensure there are effective relationships between external and internal audit, inspection agencies and other relevant bodies by reviewing and agreeing the external auditor's annual audit plan and receiving regular update reports on progress from the external auditor; and
 - satisfy themselves that the council's assurance statements properly reflect the risk environment

Key considerations

Certification work

- 3 Appendix A sets out the certification letter from Grant Thornton on the housing benefit subsidy claim submitted by Herefordshire Council. The letter notes a fee variation of £2,544 for the completion of additional documentations required by DWP. The letter provides details of the claims and returns certified for 2015/16. The audit findings are comparable with previous years and the recommendations have been agreed.
- 4 There were no significant matters arising from the certification work. The auditors are satisfied that the council had in place appropriate arrangements to compile complete, accurate and timely claims/returns for audit certification.

Community impact

- 5 Effective audit helps ensure the council is transparent about the way in which it conducts business and that it does so efficiently and effectively in line with the values of the council and the corporate plan priority to secure better services, quality of life and value for money.

Equality duty

- 6 None.

Financial implications

- 7 None, the additional external audit fee referred to in appendix A is as approved in previous reports.

Legal implications

- 8 External audit is a legal requirement; this report provides an update on the approach being taken in line with legislative requirements.

Risk management

- 9 The work did not identify any significant risks. Some minor improvements in working practice to minimise future fee costs are being actioned.

Consultees

10 None.

Appendices

Appendix A – certification letter

Background papers

None

Further information on the subject of this report is available from
Andrew Lovegrove, chief finance officer on Tel (01432) 383519



Grant Thornton

An instinct for growth™

Mark Taylor
Interim Section 151 Officer and Director of Resources.
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Grant Thornton UK LLP
The Colmore Building
20 Colmore Circus
BIRMINGHAM
West Midlands
B4 6AT

2 March 2017

Dear Mark

Certification work for Herefordshire Council for year ended 31 March 2016

We are required to certify the Housing Benefit subsidy claim submitted by Herefordshire Council ('the Council'). This certification typically takes place six to nine months after the claim period and represents a final but important part of the process to confirm the Council's entitlement to funding.

The Local Audit and Accountability Act 2014 gave the Secretary of State power to transfer Audit Commission responsibilities to other bodies. Public Sector Audit Appointments (PSAA) have taken on the transitional responsibilities for HB COUNT issued by the Audit Commission in February 2015

We have certified the Housing Benefit subsidy claim for the financial year 2015/16 relating to expenditure of £48.4 million. Further details of the claims certified are set out in Appendix A.

There were no significant matters arising from our certification work. We are satisfied that the Council had in appropriate arrangements to compile complete, accurate and timely claims/returns for audit certification.

However there has been some turnover of staff in your team and this resulted in some inconsistencies in the quality of the working papers to support the claim and some delays in the agreed procedures being completed. Some additional work was required by our team to complete the documentations to the required DWP standard. We therefore requested a small fee variation.

The indicative fee for 2015/16 for the Council is based on the final 2013/14 certification fees, reflecting the amount of work required by the auditor to certify the Housing Benefit subsidy claim that year. The indicative scale fee set by the Audit Commission for the Council for 2015/16 is £4,571. We requested a variation of £2,544 from the indicative fee and this was agreed with management. This fee variation is subject to ratification by Public Sector Audit Appointments Ltd. This is set out in more detail in Appendix B.

A new member of staff having responsibility for subsidy has recently joined your team. We are currently discussing with your team the approach to be adopted for the 2016/17 audit.

Other Claims and Returns

You also asked us to complete the audit on two other returns; Teacher's pension and Skills Funding Agency. The work was completed in line with published certification instructions. No significant matters arose from that work. Further details are contained in Appendix B

Yours sincerely

Phil Jones

For Grant Thornton UK LLP

Appendix A - Details of claims and returns certified for 2015/16

Claim or return	Value	Amended?	Amendment (£)	Qualified?	Comments
Housing benefits subsidy claim	£48.4m	No	N/A	Yes	<p>We identified a small number of errors in the benefits claim. As a result we issued a qualification letter. The errors were relatively minor, trivial when extrapolated over the value of the claim and consistent with the type of errors identified at similar councils.</p> <p>We agreed a fee variation for two main reasons:</p> <p>The fee was agreed to be low relative to the value of the claim and relative to the volume of work that we are required to undertake to certify a return of this value.</p> <p>Your finance team supported the audit by completing a number of the workbooks, an approach consistent with previous years. The work was not completed to the required DWP standard and additional work was required by our team to complete these workbooks.</p>

Appendix B: Fees for 2015/16 certification work

Claim or return	2014/15 final fee (£)	2015/16 indicative fee (£)	2015/16 actual fee (£)	Variance (£)	Explanation for variances
Housing benefits subsidy claim (BEN01)	£7,320	£4,571	7,115	£2,544	see comments above
Total	£7,320	£4,571	£7,115	£2,544	

Other claims and returns

Claim or return	2014/15 fee (£)	2015/16 fee (£)	comments
Teacher's pension	£4,200	£4,200	fee agreed with officers
Skills funding agency	n/a	£3,000	2,544



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Annual governance statement
Report by:	Chief finance officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To approve the draft annual governance statement for 2016/17 prior to publication with the draft accounts.

Recommendation(s)

THAT:

- (a) the draft 2016/17 annual governance statement (at appendix A) be approved; and
- (b) the draft code of corporate governance (at appendix B) be recommended to full Council for adoption within the council's constitution.

Alternative options

- 1 It is open to the committee to propose amendments to the draft statement or action plan to address any identified weaknesses in the control environment.

Reasons for recommendations

- 2 To inform development of the annual governance statement.

Further information on the subject of this report is available from Annie Brookes, head of corporate governance on Tel (01432) 260605

Key considerations

- 3 The council has a responsibility for conducting at least annually a review of the effectiveness of the governance framework including the system of internal control. This is reported through the annual governance statement for approval by the committee and will be published as an appendix to the annual statement of accounts.
- 4 The annual governance statement also provides commentary on how the council's governance framework including the system of internal control can be improved. Whilst the statement by its nature is only signed off once a year, the process of review is continuous. Reports presented to the audit and governance committee inform the development of the annual governance statement, and the committee receives a half year progress report on implementation of the action plan supporting the annual governance statement.
- 5 The preparation and publication of the annual governance statement has been carried out in accordance with the guidance produced by the Chartered Institute of Public Finance and Accountancy: 'Delivering Good Governance in Local Government'. The council's code of corporate governance has also been reviewed in light of this guidance. As the code forms part of the constitution the revised draft has been considered by the governance improvement working group who recommended the draft (at appendix B) for adoption.
- 6 The draft statement is attached at appendix A, which includes an action plan to secure improvement. Also attached for information, at appendix C, is the previous year's action plan with progress updates shown using tracked changes.

Community impact

- 7 The council is responsible for ensuring that appropriate safeguards are in place to ensure that it operates effective governance arrangements and internal controls. The decisions the council makes have direct impact on the lives of residents of the county and therefore it is essential that the council have appropriate governance arrangements in place.

Equality duty

- 8 A public authority must, in the exercise of its functions, have due regard to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under the act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9 Effective governance arrangements ensure that due consideration is given to the exercise of this duty in the decision-making and actions of the council.

Financial implications

- 10 None arising directly from this report.

Further information on the subject of this report is available from
Annie Brookes, head of corporate governance on Tel (01432) 260605

Legal implications

- 11 The Accounts and Audit Regulations 2015 include a requirement for all councils to produce an annual governance statement, and set out the timescales by which they must be published.

Risk management

- 12 The statement itself identifies any significant governance risks and the action plan provides mitigation to those risks.

Consultees

- 13 The governance improvement working group reviewed the draft code of corporate governance and requested changes to the diagram within the document to ensure it was accessible by visually impaired readers, and suggested some amendments to the layout of the document; all recommended changes have been made.

Appendices

Appendix A – draft annual governance statement 2016/17

Appendix B – progress re action plan 2016/17

Appendix C – draft code of corporate governance.

Background papers

- None identified.

Annual governance statement 2016/17

Scope of responsibility

1. Herefordshire Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. The council also has a duty under the Local Government Act 1999 to continually review and improve the way we work, while at the same time offering value for money and efficient and effective services.
2. To meet these responsibilities the council has put in place proper arrangements for overseeing what we do. These arrangements are intended to make sure that we have the right people, doing the right things, at the right time, for the right reasons, and in the right way in an open, inclusive and accountable manner.
3. The council has adopted a code of corporate governance that is consistent with the principles of the Chartered Institute of Public Finance and Accountancy (“CIPFA”)/Society of Local Authority Chief Executives (“SOLACE”) framework for delivering good governance in local government. For ease of reference the table at appendix 1 shows how the council’s principles map to the CIPFA framework principles. The council’s code is available on the website at: [Code](#) . As part of the review of the council’s constitution and having regard to the revised framework for delivering good governance in local government the code of corporate governance has been revised and will be considered for adoption by full Council on 19 May 2017.
4. This statement explains how the council has complied with its current code and meets the requirements the Accounts and Audit Regulations 2015.

The purpose of the governance framework

5. The governance framework comprises the systems, processes, culture and values by which the council is controlled, and also sets out how the council accounts to, engages with and leads the community.
6. The governance framework enables the council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate and cost-effective services.
7. The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failing to achieve our policies, aims and objectives; it can only offer reasonable rather than absolute assurance of effectiveness.
8. The system of internal control is based on an ongoing process designed to:
 - identify and prioritise the risks to the achievement of the council’s policies, aims and objectives;
 - assess the likelihood and impact of the risks should they be realised; and
 - manage the risks efficiently, effectively and economically.

The governance framework

9. The framework we have in place to ensure adherence to the code is described in more detail below.

Principle 1 – Provide the best possible service to the people of Herefordshire

10. Herefordshire Council's priorities for the county are set out in the corporate plan approved by full Council. An annual delivery plan is approved by cabinet and funding to carry out these activities is agreed through the medium term financial strategy (MTFS). Both the corporate plan and MTFS cover the period to 2019/20 and were reviewed during the autumn of 2016 to ensure they remained aligned to residents' priorities and fit for purpose to meet the financial challenges facing public services. A revised MTFS was adopted by full Council in February 2017 and cabinet approve an annual corporate delivery plan demonstrating the key activity planned in order to achieve the corporate plan priorities. The council currently has a number of strategic visions associated with various strategies and plans which presents a risk that the overall vision and priorities are not able to be communicated effectively or used to inform courses of action for the council and its partnerships. Actions to mitigate this risk are included in the action plan for the coming year.
11. During 2016/17 the council delivered a balanced budget and continues to closely monitor, through the performance monitoring process, delivery of service transformation and implementation of savings plans.
12. Overall performance has been reported to cabinet on a quarterly basis together with financial outturn reports. During the year these quarterly reports have been supplemented by periodic performance reviews which have taken place led by senior management and providing the opportunity for members of the executive, overview and scrutiny chairs and group leaders to participate. These reviews are directorate based and cover all areas of the council's operations.
13. In addition cabinet receives an annual report on performance and financial outturn. It also receives a summary of the evidence base captured in 'Understanding Herefordshire' which incorporates the joint strategic needs assessment for the county, and summarises the input received from residents through consultations completed during the year. All these documents are available on the council's website.
14. The council aims to have good governance arrangements in respect of partnerships, and has developed protocols for working with particular sectors such as local councils and the voluntary and community sector. More formal partnership arrangements with other councils, such as the Marches Local Enterprise Partnership, have been established as joint executive committees which themselves are subject to the relevant statutory requirements for open and accountable decision-making. During 2016/17 a framework for partnerships governance was adopted and a register of significant partnerships will be maintained on the council's website. Initial risk assessments of significant partnerships' governance arrangements are being undertaken and will inform improvement action.
15. The council has a commercial and commissioning strategy which sets out the council's approach to commissioning, procurement and contract management and our future strategic commissioning and commercial objectives to support the delivery of the corporate plan priorities. However the strategy is now out of date and there is a need to ensure the strategy effectively supports achievement of the corporate plan priorities and adequately ensures that any such arrangements demonstrate compliance with the code of corporate governance. The action plan for the coming year includes actions to address this.
16. Continued financial pressures on health and social care services together with changing national policies affecting NHS organisations and local government present continuing governance challenges to the council. We must ensure that the resources we have available are transparently used to best effect, that partnerships we engage in uphold the values of the council, and that arrangements we make for the future delivery of services remain flexible to respond to further change.

Principle 2 – Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness

17. The constitution sets out transparently and comprehensively the rules controlling our business including the council's executive arrangements, committee structure, codes of conduct, contract and financial procedure rules and schemes of delegation. A review of the constitution, led by elected members, was in large part completed in 2016 and a revised constitution adopted by full Council in December 2016 having regard to the following design principles:
- Members and officers perform effectively in clearly defined functions and roles
 - Maximise member engagement and participation, including the involvement of all members in the development of key policies
 - Decision making is informed, transparent and efficient
 - The council welcomes public engagement and makes accountability real

An implementation date of 19 May 2017 was agreed to enable outstanding work to be completed in relation to the codes and the finance and contract procedure rules and to enable a training and development programme for both members and employees to be put in place to support effective communication of the new constitution.

18. The council publishes an annual pay policy statement setting out arrangements for employee remuneration.
19. There is a formal staff performance review requirement for all employees; personal performance development plan and quarterly review compliance is monitored by directors.
20. An independent remuneration panel is established which makes recommendations to full Council regarding member allowances; the panel's last report was considered by full Council in May 2015 and is available at: [panel report 2015](#). Following the completion of the review of the constitution the panel has been asked to undertake a more fundamental review of allowances and their recommendations will be considered by full Council in May 2017.
21. A member development and training working group has been established, reporting to the cabinet member health and wellbeing (deputy leader), to review ongoing training and development needs and make recommendations for future training and development programmes.
22. Internal audit reports include specific agreed action plans to implement improvements identified, these inform the annual internal audit report to the audit and governance committee. The audit and governance committee has led the implementation of a system of tracking implementation of audit recommendations to strengthen assurance in this area.
23. The council has in place a range of policies and mandatory training for employees to aid and enhance their effectiveness. Compliance monitoring and some internal audit findings have identified that there is some inconsistency in compliance and actions to secure improvement are included in the 2017/18 action plan.

Principle 3 – Require high standards of conduct

24. The council has agreed values, which act as a guide for decision-making and a basis for developing positive relationships and trust both within the council and between the council and its partners. The council follows CIPFA recommended financial management arrangements; the s151 role is fulfilled by the chief finance officer.

Although this is not a director-level post, the post has direct lines of accountability to the chief executive, is a member of the senior management team, and is entitled to attend or send a representative to meetings of the council and cabinet in relation to any item which he considers raises financial issues. The s151 officer has appointed a deputy. The chief finance officer is also responsible for maintaining an effective internal audit service and does so through the South West Audit Partnership. A self-assessment against the governance arrangements in the CIPFA statement on the role of head of internal audit has been undertaken and no significant weaknesses have been identified.

25. The council has an anti-fraud and corruption policy. The council has also undertaken the CIPFA counter fraud self-assessment which has informed the action plan for the coming year.
26. The solicitor to the council fulfils the role of monitoring officer and has arrangements in place to ensure compliance with legislation, corporate policies and procedures. The monitoring officer is a member of the senior management team and is entitled to attend, or send a representative to meetings of the council and cabinet. A regular programme of member training has been delivered and induction provided for new members. Refresher briefing sessions on the code of conduct are usually held annually both for Herefordshire Council members and for parish and town councillors; the refresher training in 2016 has been deferred pending adoption of a revised code of conduct scheduled for 19 May 2017. The monitoring officer and her deputy are available to provide advice and guidance on matters of conduct. The annual report of the monitoring officer includes performance information regarding standards cases, whistleblowing incidents, complaints and ombudsmen findings, and informs the development of any improvement actions.
27. The chief executive fulfils the responsibilities of head of paid service. Managers are responsible for making sure employees keep to policies, procedures, laws and regulations. There is an employee code of conduct setting out clear expectations and standards; this is supported by employee policies such as whistleblowing, grievance, bullying and harassment, and member and officer relations; these have been reviewed as part of the review of the constitution to ensure they remain relevant and fit for purpose. Regular employee opinion surveys are undertaken to inform the focus for improvement. The chief executive has established an internal health, safety, wellbeing and equality board to ensure that the culture of the organisation is one that listens to concerns and responds to them effectively and efficiently.
28. The council's member code of conduct and employee code of conduct have not been reviewed since 2012, and there is a lack of clarity regarding the types of interest to be declared by members and the processes for declarations amongst employees. During the year a review of both codes has been undertaken and revised codes will be reported to council in May 2017 for adoption within the council's constitution.

Principle 4 – Take sound decisions on the basis of good information

29. The council ensures its constitutional arrangements provide for effective council and executive decision-making with clearly defined roles for members and officers. Processes are in place to ensure that decision makers are provided with complete information necessary for them to take balanced and informed decisions in compliance with the principles of good decision making.
30. During 2016/17 some weaknesses were identified in relation to the quality assurance of financial tables printed in reports and in relation to the ease of use of capital financial reports. Both internal and external audit confirmed that these weaknesses did not

affect the financial statements or decision-making but improvement action has been identified in this area.

Principle 5 – Be transparent and open: responsive to Herefordshire’s needs and accountable to its people

31. All meetings are held in public unless there are clear reasons for the exclusion of the public. All executive decisions, including those taken by officers under delegated authority, are available on the council’s website, unless there are clearly stated reasons for not doing so.
32. Public participation through submission of questions to public meetings of full Council is encouraged; during the year a review of the council’s constitution identified the benefits of extending this to a wider range of public meetings of the council which will come into effect in May 2017, and the newly adopted constitution includes a guide to public participation.
33. The council has strategies which support engagement; promote the use of digital technology to increase engagement and self-service; and respond to customer concerns if expectations are not met. However there are not consistent standards being applied across the council in relation to consultation and engagement and this will be included in the action plan for the coming year.
34. The council has designated the democratic services manager as statutory scrutiny officer and ensures the overview and scrutiny committees are provided with the support necessary to enable them to perform all statutory duties required of them. In reviewing the constitution members expressed a clear wish to strengthen the effectiveness of the scrutiny function and have made changes to the committee structure to facilitate this.
35. The council has approved a revised communications strategy and protocols in 2016/17 and the communications team help the council to communicate with all sections of the community in Herefordshire via the media, marketing and through digital channels. Services are making increasing use of social media and the council’s website has been redesigned to improve user experience.
36. The council meets its statutory responsibilities regarding data transparency. The council is firmly committed to openness, transparency and acting in the public interest. Whilst the council determines to exclude the public from very few of its meetings and provides access to decision making records unless there are legal reasons not to do so, the information within decision reports is not always as accessible or clear as it could be and does not always demonstrate the how the council is having regard to the public interest when determining whether information should be withheld. The council’s new website makes it easier to find information about forthcoming decisions and those that have been taken, and actions to secure further improvement are included in the action plan

Review of effectiveness

37. Herefordshire Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework, including the following key systems of control: risk management, procurement, the whistle blowing policy, the control environment and associated counter fraud and corruption arrangements, and the complaints process.
38. The review of effectiveness, jointly led by the section 151 officer and the monitoring officer, is informed by reports from external agencies including internal and external

audit, risk and performance reports, analysis of complaints and standards issues through the year, assurance reviews completed by managers and progress against actions identified in the previous year's annual governance statement. The review has considered the effectiveness of the council's governance arrangements against the principles set out in the revised CIPFA framework for delivering good governance in local government.

39. Herefordshire Council has not experienced any significant governance failures during the last year. The results of the review were provided to senior management to consider, and an action plan has been drawn up (at appendix 2) to address the key issues identified and ensure continuous improvement.

Signed:

Leader of the council

Date:

Chief executive

Date:

Appendix 1 Council governance principles mapped to CIPFA framework principles.

CIPFA principle	Council principle
Behaving with integrity, demonstrating strong commitment to ethical values, and respecting rule of law	<ul style="list-style-type: none"> • Require high standards of conduct
Ensuring openness and comprehensive stakeholder engagement	<ul style="list-style-type: none"> • Be transparent and open, responsive to Herefordshire's needs and accountable to its people • Take sound decisions on the basis of good information
Defining outcomes in terms of sustainable economic, social and environmental benefits	<ul style="list-style-type: none"> • Provide the best possible service to the people of Herefordshire • Take sound decisions on the basis of good information
Determining the interventions necessary to optimise the achievement of intended outcomes	<ul style="list-style-type: none"> • Provide the best possible service to the people of Herefordshire • Take sound decisions on the basis of good information
Developing the council's capacity including the capability of its leadership and the individuals within it	<ul style="list-style-type: none"> • Define the roles of councillors and officers, ensuring that they work together constructively, and improving their effectiveness
Managing risks and performance through robust internal control and strong public financial management	<ul style="list-style-type: none"> • Take sound decisions on the basis of good information
Implementing good practices in transparency, reporting, and audit to deliver effective accountability	<ul style="list-style-type: none"> • Be transparent and open, responsive to Herefordshire's needs and accountable to its people • Take sound decisions on the basis of good information

	Improvement required	Action planned	By when	Owner	Progress
1.	Members and officers modelling the values and behaviours expected and clear about the processes to follow if they have concerns.	Supporting implementation of the revised constitution and codes which provide clearer information, a communication and training programme will be delivered for both members and officers.	End July 17	CW	
2.	The council's commitment to openness and the public interest is not always clear in its decision-making.	New guidance on access to information is included in the revised constitution.	19/05/7	CW	
		Guidance on public interest will form part of training to report authors and decision-makers	End July 17	AB	
		Guidance on report writing will provide clarity on expected report content and the requirements for compliance with all the principles of good decision making to be demonstrated	End July 17	AB	
3.	Channels of communication with the community and stakeholders are not always clear and there are inconsistent approaches to consultation.	Supporting the communication strategy and protocols, consultation and engagement standards will be established	End Nov 17	DE	
		Communications training for staff and members delivered	End March 2018 (ongoing)	NS	
4.	Links between the various visions, budget and service planning and commissioning, risk management, performance and value for money are not consistently demonstrated or measured	Seek to agree consolidated vision through development of corporate delivery plan 2018/19 (test through budget consultation?)	March 18	AN	
		Supplement the performance, risk and opportunity management framework with some clearer guidance on service and project planning to ensure these links are made effectively and consistently; to ensure risk is consistently recorded and used to inform decision making; and to ensure outcomes are measured and reported	Sept 17	RB	
		End of year/annual report to highlight the impact of activities	July 17	RB	

		Revised commercial and commissioning strategy adopted, communicated and monitored to ensure contractual arrangements reflect the council's priorities and can demonstrate value for money.	Sept 17	NS	
		Options appraisal to establish whether a course of action represents best use of resources, to be a consistent element of business cases informing decisions	Sept 17	AL	
5.	The level of awareness of fraud risk and potential mitigation is low in areas outside of financial transaction service areas.	The anti-fraud and corruption policy will be reviewed and refreshed	July 17	AL	
		Communication and training of the revised policy will be delivered	Dec 17	AL	
6.	There is some evidence from internal audit findings that policies and procedures are not always understood/followed.	Establish a register of policies and procedures which identifies the policy/procedure, policy owner, scope of policy, approval date, review date, and monitoring arrangement.	Dec 17	CT	
		Following above action, establish programme to review all policies and procedures to ensure they are relevant, have clear processes for communication to employees, and compliance is monitored appropriately	March 18	CT	
7.	There is a risk that partnerships' governance arrangements don't fully reflect the principles of the revised code of corporate governance.	Significant partnerships have been identified and initial self-assessments undertaken. These will be discussed with the relevant partners and, as part of those discussions improvement actions to mitigate any risks identified will be agreed. This review process will become business as usual going forward.	Ongoing	AB	

Action owners:

RB – Assistant director environment and place

AB – Head of corporate governance

DE – Interim assistant director commissioning and transformation

AN – Chief executive

NS – Assistant director communities

CT – Equality, resilience and information compliance manager

CW – Solicitor to the council

Code of corporate governance

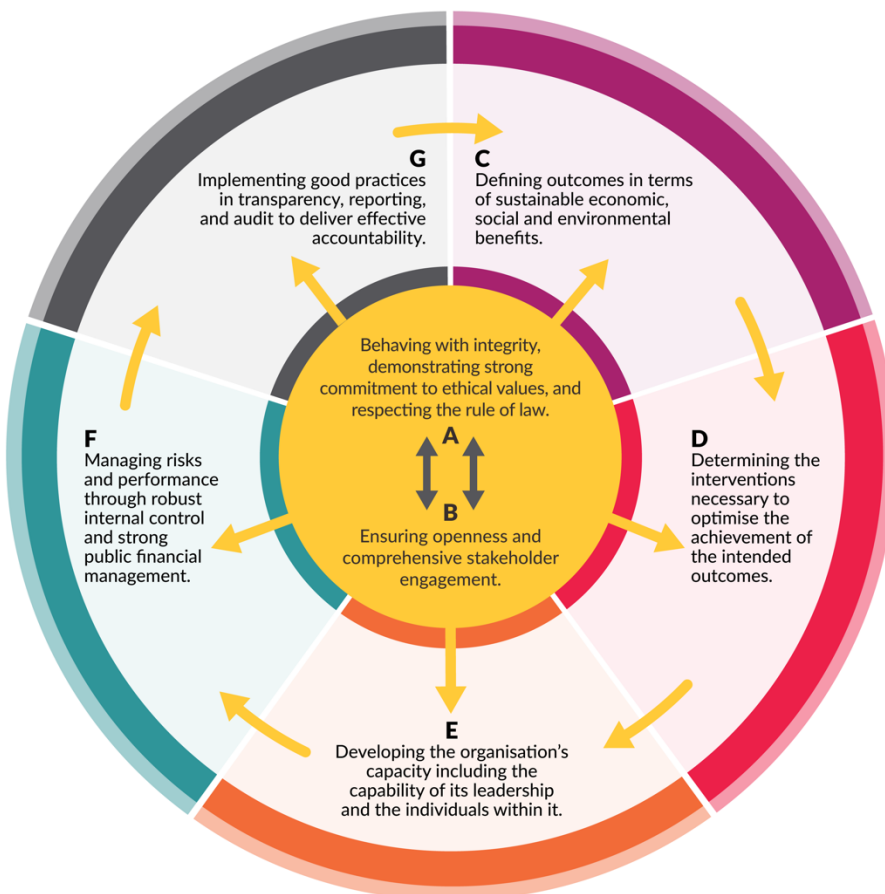
Introduction

Corporate governance is the term used to describe the systems, processes, culture and values Herefordshire Council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance encourages better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk.

This code sets out the framework for maintaining high standards of corporate governance in order to achieve the council’s vision of “people, organisations and businesses working together to bring sustainable prosperity and well-being for all, in the outstanding natural environment of Herefordshire.”

Principles

Herefordshire Council has adopted seven principles to underpin its governance which interact as shown below:



These principles are explained below:

- a) **Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.**

Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an

overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law.

b) **Ensuring openness and comprehensive stakeholder engagement.**

Herefordshire Council is run for the public good and therefore should encourage openness in its activities. Clear trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders

c) **Defining outcomes in terms of sustainable economic, social and environmental benefits.**

The long-term nature of many of Herefordshire Council's responsibilities mean that we should define and plan outcomes and that these should be sustainable. Decisions should further the council's purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources. Input from all groups of stakeholders is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.

d) **Determining the interventions necessary to optimise the achievement of the intended outcomes.**

Herefordshire Council achieves its intended outcomes by providing a mixture of legal, regulatory and practical interventions. Determining the right mix of these is an important strategic choice to make to ensure intended outcomes are achieved. The council needs robust decision-making mechanisms to ensure our outcomes can be achieved in a way that provides the best use of resources while still enable efficient and effective operations. Decisions made need to be reviewed periodically to ensure that achievement of outcomes is optimised.

e) **Developing the organisation's capacity including the capability of its leadership and the individuals within it.**

Herefordshire Council needs appropriate structures and leadership, as well as people with the right skills, qualifications and mindset, to operate efficiently and effectively. Because individuals and external factors will change over time the council will continue to need to develop its capacity as a whole as well as that of individuals. Leadership is strengthened by the participation of people with different types of backgrounds reflecting the diversity of our community.

f) **Managing risks and performance through robust internal control and strong public financial management.**

Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system. Herefordshire Council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development, and review.

g) **Implementing good practices in transparency, reporting, and audit to deliver effective accountability.**

Herefordshire Council must ensure that those making decisions and delivering services are accountable for them. To support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner. External and internal audit contribute to effective accountability.

Compliance

The monitoring officer monitors compliance with established policies, procedures, laws and regulations. The section 151 officer advises on financial matters, is responsible for keeping proper financial records, and for maintaining a sound system of internal control.

To assess compliance, the council conducts an annual review of the effectiveness of its governance framework and system of internal control. The results of this review, carried out in accordance with the principles of this code, inform the production of the annual governance statements presented as part of the statement of accounts.

Governance arrangements

The council's governance arrangements are found in the following:

Constitution	<ul style="list-style-type: none"> ➤ Establishes the values of the council and sets of the policy setting and decision making processes ➤ Defines roles and responsibilities ➤ Details the internal financial control framework through financial and contracts procedure rules and schemes of delegation. ➤ Sets out the standards of behaviour for elected members and employees
Corporate plan, medium term financial strategy, and corporate delivery plan	<ul style="list-style-type: none"> ➤ Sets out the vision for intended outcomes for the county and its residents ➤ Informs planning and resource allocation ➤ Translates the vision into courses of action
Performance, risk and opportunity management framework, and performance reports	<ul style="list-style-type: none"> ➤ Provides the framework for measuring the performance of services and projects ensuring they deliver defined outcomes and represent value for money ➤ Sets out how the council will understand and manage risk
Partnerships' governance framework and register	<ul style="list-style-type: none"> ➤ Provides the framework for measuring the effectiveness of the council's partnership arrangements ➤ Ensures risks associated with working in partnership are understood and managed ➤ Ensures the principles of good governance are incorporated into the council's partnership arrangements
Internal and external audit reports	<ul style="list-style-type: none"> ➤ Provide assurance that the councils control arrangements are operating effectively ➤ Inform improvement ➤ Support effective management of risk
Whistleblowing policy, complaints procedure and reports, Local Government Ombudsmen reports	<ul style="list-style-type: none"> ➤ Ensure communication channels are open so that concerns may be raised and acted upon
Communications strategy and protocols	<ul style="list-style-type: none"> ➤ Sets the framework for the council to communicate effectively with stakeholders
Information governance policies	<ul style="list-style-type: none"> ➤ Ensure data held by the council is managed safely and effectively ➤ Ensure that the quality of data used is robust
Anti-fraud and corruption policy	<ul style="list-style-type: none"> ➤ Sets out the councils arrangements for mitigating the risks of fraud and corruption
Overview and scrutiny reports	<ul style="list-style-type: none"> ➤ Provide transparent accountability

1.	Improvement area: Being clear how we do business			
	Improvement outcome/evidence base: There are clear and accessible documents setting out how and why the council conducts its business whether alone or in partnership, and these include clear arrangements for how residents and businesses may engage with the council to achieve its vision for the county.			
	Link to corporate code principles: Provide the best possible service to the people of Herefordshire Define the roles of members and officers, ensure that they work together constructively and improve their effectiveness Be transparent and open: responsive to Herefordshire's needs and accountable to its people			
	Action(s)	Lead *	Timescale	Progress update including challenges and interdependencies
1a	Complete the refresh of the council's constitution, including the code of corporate governance.	CW	16/12/16	Working group meetings schedules, update to audit and governance committee (A&G) in July, questions to groups to be circulated in July with decisions on recommendations in August to be reported to A&G committee in September. All member seminar taken place re revised draft constitution; work presented to AGC on 28 November recommended adoption at full council on 16 December. Revised constitution gives greater prominence to the code of corporate governance and provides greater transparency about how the council operates and how citizens can engage with the council. Codes of conduct, finance and contracts procedure rules to be reviewed as phase 2 by May 17. Implementation guidance, templates and training will be provided for May 17. Achieved. The new constitution was adopted in December 2016 and work on the remaining codes will be completed by annual Council in May. Associated training and guidance is scheduled to support implementation from annual Council.
1b	Establish a framework and guidance for partnership governance	AB	31/10/16	Achieved. The framework was approved by cabinet on 20 October 2016. The framework provides for a published register of significant partnerships; this will be delivered in early 2017 following implementation of the new council website improving transparency. Development of a dedicated webpage is expected to be in place by end of May.
1c	Establish and implement a programme for reviewing existing partnership governance arrangements against the agreed framework	AB	31/10/16 then ongoing	The approved framework includes a self assessment process. Initial focus is on strategic partnerships. Work is underway to identify and review strategic partnerships by the end of January 2017. Risks identified in that review will be reported to audit and governance committee, together with actions identified to mitigate those risks. Other partnerships will be reviewed against the framework by end of June 2017. Significant partnerships have been identified and initial self assessments undertaken. These are being discussed with the relevant partners and, as part of those discussions

				improvement actions to mitigate any risks identified will be agreed. This review process will become business as usual going forward.
1d	Complete a council-wide review of contract management, taking account of relevant internal audit recommendations	NS	1/11/16	The contract procedure rules and supporting guidance for staff have been reviewed and will be presented to A&G in March; The updated contract procedure rules take into account recommendations of recent internal audits and will form the foundation for our commercial strategy. Once approved, they will allow for a training programme to be implemented, focussing on both procurement and contract management. The rules will be considered with the revised finance procedure rules by the audit and governance committee at its meeting in May.
1e	Following review agree commercial strategy linked to the commissioning strategy.	NS	31/1/17	See 1d above
1f	Implement action plan to include training for employees on core elements of contract management and record keeping.	NS	28/2/17	See 1d above
1g	Complete a council-wide review of commissioning	RB	1/11/16	A review was undertaken and findings reported to management board. The review focused on key issues relating to opportunities for cross organisational working on commissioning to ensure consistency and clarity whilst delivering financial efficiencies. An action plan was agreed which focused on the relationships between contracts and property assets and the action plan is being implemented to secure further property rationalisation.
1h	Following review agree a cross council approach and strategy to commissioning.	NS	30/09/17	Following the revision of the contract procedure rules highlighted in 1d above, and the review in 1g above, a revised timetable for the planned review of the commercial and commissioning strategy has been agreed.
2.	Improvement area: The council can demonstrate it is a learning organisation.			
	Improvement outcome/evidence base:			
	<ul style="list-style-type: none"> • Data is accurate, open and accessible (unless there are clear reasons why it should not be in which case these will be explained) leading to reduction in FOI requests; • There are clear processes for reviewing the effectiveness of the council's governance arrangements to ensure that the desired outcomes are achieved; • Performance information is understood and used effectively to deliver improvement; • % of agreed continuous performance improvement programme (CPIP) recommendations implemented; 			

	<ul style="list-style-type: none"> Audit of performance and risk management arrangements receives at least “reasonable assurance” 																			
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				<p>decisions taken by officers, committees and the executive, and linking to the existing delivery plan performance monitoring process.</p> <p>The tracking of recommendations/decisions is now in place for those that are approved by committee. Tracking of executive decisions will be implemented before the end of April; and officer decisions during May. The approach will then be rolled out to other directorates before the end of September.</p>
2d	Complaints and FOI trend data is reported and actively used to inform improvement	GH	Ongoing	<p>All complaints and FOI data is collected monthly Quarterly reports for complaints data and analysis are produced and discussed at directorate management meetings, and fed into strategic planning.. A six monthly report on information requests and complaints is discussed at management board discussing trends and to inform improvements within service areas. A similar annual report has been provided for the audit and governance committee This data is also analysed at the information governance steering group on a monthly basis and any system improvements required are authorised on a corporate wide basis.</p>
2e	Undertake ECC peer review	GH	09/17	<p>Reviews are being undertaken on a service basis rather than a directorate wide basis given the difficulties in seeking comparator models for the whole directorate. To date reviews of communications, and highways have been completed. Reviews are scheduled on waste collection, culture and economic development</p> <p>We have worked with local partnerships ltd on the planning service Feedback from the reviews will form the focus for a future performance challenge session.</p>
2f	Schedule corporate peer review for 2017/18	AN	03/17	<p>To ensure the corporate peer review is informed by sound service review evidence across the council work further peer review activity is being scheduled in relation to the place based elements of the economy, communities and corporate directorate. Discussions will begin with the LGA in March 2017 with a view to scheduling the corporate peer review during 2017/18</p>
3.	<p>Improvement area: The behaviours and culture of the organisation demonstrate the council's values.</p> <p>Improvement outcome/evidence base: Reduction in number of code of conduct complaints upheld (baseline 2015: 1) Reduction in the proportion of complaints that are responded to late (baseline 2015: 5.3%) Decrease in proportion of staff saying they feel bullied or harassed by:</p> <ul style="list-style-type: none"> • Senior managers (baseline 2015: 11%) • Members (baseline 2015: 8%) <p>Improvements in staff saying :</p>			

	<ul style="list-style-type: none"> The council has a clear sense of direction (baseline 2015: -14%) The council is a good place to work (baseline 2015: 22%) 																								
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3d	AB	31/10/16	Completed: see 1b above.																						
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	that the access to information rules support the council's transparency aims.			
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*** Lead:**

RB = Richard Ball, assistant director environment and place

AB = Annie Brookes, head of corporate governance

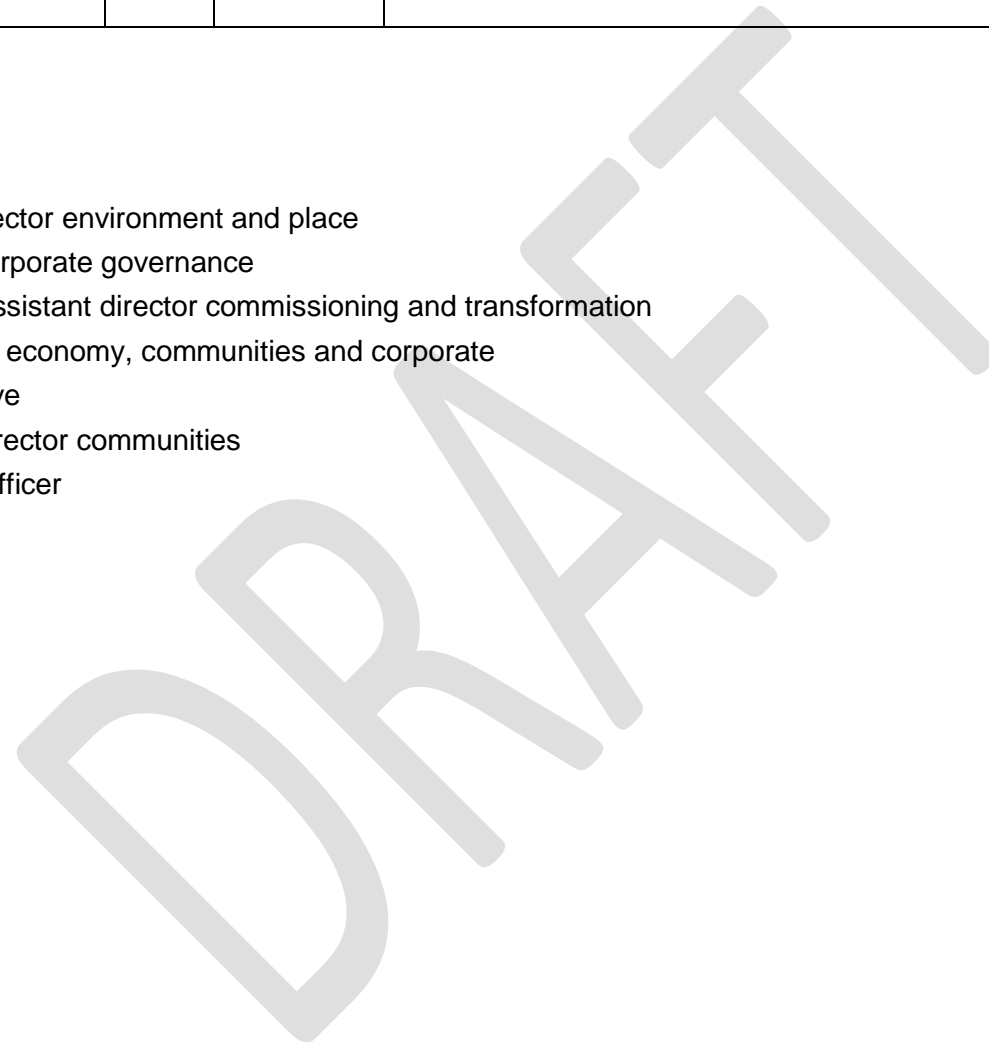
DE = Donna Etherton, interim assistant director commissioning and transformation

GH = Geoff Hughes, director for economy, communities and corporate

AN = Alistair Neill, chief executive

NS = Natalia Silver, assistant director communities

CW = Claire Ward, monitoring officer





Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Contract procedure rules
Report by:	Head of law and governance

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To approve the revisions to contract procedure rules (CPRs) which will allow the council to adopt a more mature attitude to managing commercial risk and simplify the procurement process, particularly below the EU value thresholds. Thus allowing better engagement with small and medium enterprises (SMEs) and local businesses, whilst still maintaining a robust governance framework to ensure council monies are spent in a legally compliant, ethical, responsible, and fully auditable manner.

Recommendation(s)

THAT:

- (a) the revised CPR at appendix 1 be adopted for implementation with effect from annual council in May 2017, alongside the constitution;**
- (b) authority be delegated to the head of law and governance to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the CPR for publication.**

Alternative options

1. None. Reviewing the CPRs to reflect legislative change and established best practice provides the necessary clarity to council officers concerned with procuring goods, works, and services to ensure that processes followed are legally and financially

Further information on the subject of this report is available from Erica Hermon, head of law and governance on Tel (01432) 261906

compliant. Additionally, under section 135 of the Local Government Act 1972, the council must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.

Reasons for recommendations

2. The updated CPRs take account of current changes to EU and domestic legislation and ensure the council's procurement processes are legally compliant and follow recognised best practice.

Key considerations

3. As part of the process of simplifying the CPRs, material which constituted guidance has been removed from the CPRs and will be available to officers via a council guidance document (appendix 2). This has the advantage of removing superfluous material from the 'rules' and providing a degree of 'future proofing' to the Constitution, as guidance can be regularly updated to reflect procedural changes and case law without a consequential need to amend the Constitution.
4. Members should be reassured that whilst the amended CPRs are simplified they provide a robust compliance framework. The amendments provide fully for appropriate financial safeguards before the commencement of any procurement activity and promote best practice legally compliant procurement, commercial flexibility and strong contract management. In addition, this must be balanced with the council's public sector duty to ensure value for money, transparency, equal treatment and non-discrimination. The revised CPRs provide a clear set of rules that address the points raised above and have been revised in conjunction with the revision of the financial regulations to ensure consistency between these two key constitutional documents.
5. Key areas of change in the CPR and associated guidance are:
 - a. Streamlined processes for procurement activity below £75,000 whilst maintaining adequate safeguards.
 - b. All open bid/tender activity above £5,000 will be via e-procurement ensuring: that the council is fully protected by a comprehensive electronic audit; and, makes it simpler for business to bid for council work – particularly SMEs – providing additional support to the 'local' agenda. The use of e-procurement also reaches the widest range of suppliers and reduces risk to the council by ensuring transparency and visibility.
 - c. Creates a threshold for sealing those non-work contracts which exceed the key decision threshold.
 - d. Introduce the use of electronic contracts and signatures for straightforward services.
 - e. Unlike the previous CPRs, the new guidance makes clear when an 'exemption to CPRs' is warranted, when exemptions/waivers can be requested.

- f. Makes clear the requirements for contract extensions and puts in place restrictions, for example extensions may only be taken up after consultation in accordance with the constitution.
 - g. Provides greater detail on the requirements of contract monitoring plus maintenance of the contracts register and its utility in informing work planning.
 - h. The revised CPRs shift the emphasis of procurement support away from low value routine procurement. Furthermore, they provide standard contract terms and conditions for use by officers which include necessary detail to ensure compliance with, but not limited to, health and safety, business continuity, data protection and human rights.
 - i. The current CPRs require approval for CPRs waivers from the solicitor to the council for any proposals that do not comply with CPRs. The revised CPRs guidance raises this level to £5,000 in order that resources can be focussed on the higher levels of expenditure. This will not negate the duty for commissioners, for example, to ensure compliance with CPRs and value for money in all expenditure.
 - j. The CPRs guidance creates good clear internal governance through a two-stage process for obtaining approval to commence procurement and approval to award contracts. This process enables directorate and the commercial services team to be given greater visibility and provides the ability to challenge procurement decisions.
 - k. Satisfies the recommendations made within recent audit reports such as: to review the process for compiling the contracts register for input into the council's contracts register in order to ensure that information covering all contracts will be captured and reported. Purchasing using a framework agreement should also be identified and recorded in the register; reviews the procurement toolkit and relevant intranet pages to provide additional guidance and advice on the use framework agreements and corporate contracts; includes current procedures for the administration, recording and approval of exemptions in the new update of the CPRs; records all contract extensions on the contracts register, even if it is only an interim arrangement.
6. There are no negative resource implications; the revised CPRs should create clarity across the organisation on delivering value for money services through best practice procurement.

Community impact

- 7. The CPRs set out how the council procures goods and services together with procedures which are followed to ensure that these are efficient, transparent and accountable to local people. As with the constitution, the format and content of the revised CPRs should help make these arrangements clearer to understand, and show how the public can effectively engage with them.

Equality duty

- 8. A public authority must, in the exercise of its functions, have due regard to the need to:

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- eliminate discrimination, harassment, victimisation and any other conduct ... prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
9. Commissioning and procurement projects will have to undertake equalities assessments. The revised CPRs also ensure that the council can comply with its public sector equality duty under section 149 of the Equality Act 2010 and the Public Services (Social Value) Act 2012.

Financial implications

10. The CPRs are linked to the council's financial regulations which details the overall regulatory framework of local authorities as well as Herefordshire's own approach to financial management. The financial regulations are currently being refreshed in full, to be agreed by audit and governance in May 2017. They will be consistent with the CPRs in respect of the scheme of delegation for award of contract value.
11. The revision of the CPRs will allow the council to help continue to drive improved value for money from its procurement activity, which is an important part of the assessment of the council's performance. The revision of processes, along with the assessment of risk within the process, will allow the procurement function to focus the effort on those activities that will have the biggest impact for the council.

Legal implications

12. The updates to the CPRs ensure they comply with: section 135 of the Local Government Act 1972; Public Contracts Regulations 2006 (as amended); and, the Best Value duty under the Local Government Act 1999.
13. The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which includes the a description of the rules and procedures for the management of contractual and legal affairs including: rules, regulations and procedures in respect of contracts and procurement including authentication of documents and rules and procedures in respect of legal proceedings brought by and against the local authority;
14. The Committee's delegation of the approval of the finance and contract procedure rules within constitution was effective on 1 January 2017 following council's decision on 16 December 2016.

Risk management

15. There is a risk associated with not adopting the new CPRs in that they support the delivery of the council's priorities in a compliant manner. The CPRs provide a robust governance framework for procurement which reduces legal, financial and compliance risk. The revised CPRs ensure that all procurement above £10,000 up to the appropriate EU value thresholds, is properly assessed prior to procuring goods,

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works and services, and that the process followed and resultant contractual arrangements are proportionate to the level of assessed risk.

Consultees

16. Governance improvement working group and management board.

Appendices

Appendix 1 – contract procedure rules

Appendix 2 – contract procedure rules guidance

Background papers

- None identified.

Section 6 - Contract Procedure Rules

Total Value	Competition	Advertising and Process	Authority to procure	Authority to appoint contractor (signing/ sealing)
Low value Below £5,000	Best value must be demonstrated	None required and the procurement process can be undertaken outside of the council's e-tendering portal	Director's delegated authority under Scheme of Delegation	Officers as authorised by the Director up to £25,000.
Medium Value £5,001 to £75,000	Minimum 3 competitive quotes sought from appropriately qualified and competent suppliers. Where 3 suppliers cannot be identified, the opportunity must be openly advertised or make the purchase via a compliantly let framework agreement.	None required if obtaining 3 quotes directly. The procurement process must be undertaken utilising the council's e-tender portal. Where advertising the opportunity to all suppliers, the opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using : <ul style="list-style-type: none"> trade journals and other publications if appropriate (recommended); Central Government's Contracts Finder when over £25,000 (mandatory). make the purchase via a compliantly let Umbrella Agreement. <i>*Note: framework agreements must have more than one supplier.</i>	No decision report is required for procurement under £50,000. Officers must be able to evidence compliance with CPRs. Procurement above the key decision value (£500,000) must be subject to approval by cabinet/cabinet member.	Managers who report to heads of service may authorise payments up to £100,000 Heads of service (as defined by head of service pay grades) may authorise payments up to £250,000 Assistant directors (as defined by assistant director pay grade) may authorise procurement activity up to £500,000 Directors must authorise all payments in excess of £500,000 All amounts exclude VAT. The following must be sealed by the council: contracts above the key decision value (£500,000); all building and works-related contracts; and, other high risk contracts (as advised by Legal Services) where a longer limitation period of 12 years is required.
High Value £75,001 to <ul style="list-style-type: none"> £164,176 (goods and services) £4,104,394 (works) £589,148 (light touch regime services) 	Open tendering procedures must be followed.	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using : <ul style="list-style-type: none"> trade journals and other publications if appropriate (recommended); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Umbrella Agreement. <i>*Note: framework agreements must have more than one supplier.</i>		
EU Tenders. Over: <ul style="list-style-type: none"> £164,176 (goods and services) £4,104,394 (works) £589,148 (light touch regime services) 	Use EU compliant procedures	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using : <ul style="list-style-type: none"> OJEU advert (mandatory); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Umbrella Agreement. <i>*Note: framework agreements must have more than one supplier.</i>		
Umbrella agreements	New framework Use one of the above procedures relative to the framework value.	The opportunity must be advertised and undertaken utilising the council's e-tendering portal. The opportunity should also be advertised using: <ul style="list-style-type: none"> OJEU advert (where above EU threshold); and, Central Government's Contracts Finder (mandatory); or, make the purchase via a compliantly let Framework Agreement. You must follow the procedure set out in the framework agreement for direct awards and mini competitions		New frameworks must be sealed by the council

- 4.6.1 The Local Government Act 1972 requires the council to have standing orders for how it enters into contracts. These Contract Procedure Rules (CPRs) are the standing orders required by the 1972 Act. They form part of the council's Constitution and are, in effect, the instructions of the council to officers and elected members for entering into contracts on behalf of the council. The purpose of these CPRs is to set clear rules for the purchase of works, goods, services, consultancy, grants and concessions for the council and are intended to promote good purchasing practice, public accountability and to deter bribery and corruption, in which the probity and transparency of the council's procurement process will be beyond reproach or challenge. In acting on behalf of the council, officers must also have regard to any guidance and procedures issued to support compliance with CPRs.
- 4.6.2 The council is also subject to EU law with regard to public procurement, which requires all contract procedures, of whatever value, to be open, fair and transparent. These CPRs and associated guidance provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the council has a procurement regime that is fully accountable and compliant with EU law.
- 4.6.3 The council is under a legal duty to promote Best Value and to consider the Public Services (Social Value) Act 2013 and the Public Sector Equality Duty and every officer engaged in the letting of contracts shall have regard to these duties. Where compliance with these duties contradicts the requirements of any statutory legislation or specific best practice guidance, the views of legal and commercial services teams must be obtained.
- 4.6.4 The CPRs apply to all contracts for the supply of works, goods, services, consultancy, grants and concessions **to** the council, regardless of value.
- 4.6.5 The CPRs do not apply to:
- a. Contracts for the actual purchase or sale of any interest in land (including leasehold interests) for which the financial regulations applies. Note that this does not apply to any external professional services linked to the purchase or sale.
 - b. Contracts of employment for the appointment of individual members of staff, including members of staff sourced through employment agencies under a corporate contract.
 - c. Grant agreements, where the council is giving an unconditional grant.
 - d. Sponsorship agreements regulated by the sponsorship rules.
 - e. Supply of Works, Goods and Services **by** the council. However, the head of law and governance must be consulted where the council is contemplating this route.
 - i. Contracts procured in collaboration with other local authorities where the council is not the lead authority (subject to the necessary approvals having been obtained from the appropriate decision maker at the council). The CPRs of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own contract procedure rules.
- 4.6.6 **Authority to conduct procurement activity.** Where governed by the scheme of delegation, officers of the council can:
- a. enter into procurement;
 - b. award a contract;
 - c. extend or vary a contract.
- 4.6.7 If the scheme of delegation allows and in accordance with financial procedure rules:

- a. officers as agreed by the director may authorise procurement activity up to £25,000
- b. managers who report to heads of service may authorise procurement activity up to £100,000.
- c. heads of service (as defined by head of service pay grades) may authorise procurement activity up to £250,000.
- d. assistant directors (as defined by assistant director pay grade) may authorise procurement activity up to £500,000
- e. directors or the chief executive must authorise all procurement activity in excess of £500,000.

4.6.8 Where the effect of the decision is to award a contract above £50k, there is a requirement to publish the decision. Additionally, a decision must be sought for:

- a. Procurement of contracts jointly with one or more other contracting authorities
- b. Contract variations of medium, high and above EU threshold value contracts
- c. Extension of contracts where not incorporated as part of the original contract agreement.
- d. Price increases in contracts where the proposed price increase is either:
 - Above that provided for in the contract; or
 - Above inflation (consumer price index (CPI))

4.6.9 At the start of any commissioning activity, the commissioners must develop and present service specifications and/or existing service designs for approval that identify as a minimum:

- a. Why is the service being commissioned; what is the need?
- b. What is the best form of community or service-user engagement or consultation? Consideration should be given to how service users can actively participate in the designing, delivery and quality-monitoring of their service.
- c. Which social value outcomes we need to achieve from the commissioning exercise, and how can it contribute towards meeting the council's overall priorities.

4.6.10 **Low value contracts/purchases (under £5,000)** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the CPRs have been followed and can be evidenced.

4.6.11 **Medium value contracts/purchases (between £5001 and £75,000)** – No contract with an estimated total cost over £5,000 shall be let, or any purchase of that value made, unless at least three written quotations have been sought from appropriately qualified and competent suppliers. The council's e-tendering portal must be used to obtain three quotations. For purchases where three appropriately qualified and competent suppliers cannot be identified you must either: advertise the opportunity to all suppliers using the council's e-tendering portal; or, make the purchase via a compliantly let Framework Agreement. Regard should also be given to advertisement of the opportunity within trade journals and other publications as appropriate. Contracts with an estimated total cost of over £25,000 that are openly advertised) must also be advertised on Central Government's Contracts Finder.

4.6.12 **High value contracts/purchases (between £75001 and up to relevant EU Limit) -** Open tendering procedures must be followed. All tenders must be advertised on Central Government's Contracts Finder and the council's e-tendering portal.

- 4.6.13 **Above the relevant EU threshold limit (currently £164,176 for goods and services, £4,104,394 for works and £589,148 for light touch regime services)** – Contracts with a value in excess of the relevant EU threshold must be let in accordance with the relevant procurement legislation. The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice must be sought from the commercial services team before commencing projects of this nature (including ensuring sufficient time is allowed to carry out a compliant process, which can take up to 18 months to prepare).
- 4.6.14 **Awarding a contract (signature and sealing).** Some contracts must be executed as deeds and are sealed by the council by affixing the common seal. In the event of a dispute, the council can make a claim under the contract for up to 12 years. This applies to the following contracts:
- a. contracts above the key decision value – unless agreed otherwise by legal services;
 - b. new framework agreements;
 - c. all building and works-related contracts – unless agreed otherwise by legal services;
 - d. where there is no consideration (ie money or money's worth) by one party (e.g. grant agreements, where the council is paying a voluntary sum to an organisation but the organisation is not giving anything in return); and,
 - e. other high risk contracts (as advised by legal services) where a longer limitation period of 12 years is required.
- 4.6.15 Before a contract can be sealed by the council, the officer must provide legal services with the relevant decision to award in writing from the appropriate decision maker. The sealing of the contract by legal services is simply affixing the common seal and does not indicate that legal advice has been sought or that legal services approve the contract.
- 4.6.16 The commissioning officer is to ensure that each contract is entered into by an officer in accordance with the following thresholds (all amounts excluded VAT):
- a. officers as agreed by the director may authorise payments up to £25,000
 - b. managers who report to heads of service may authorise payments up to £100,000.
 - c. heads of service (as defined by head of service pay grades) may authorise payments up to £250,000.
 - d. assistant directors (as defined by assistant director pay grade) may authorise payments up to £500,000
 - e. directors or the chief executive must authorise all payments in excess of £500,000.
- 4.6.17 **Exemptions from the council's contract procedure rules.** An exemption to the CPRs is a permission to let a contract without complying with one or more of the rules. Officers are responsible for ensuring that exemptions to the rules are approved in advance of any action undertaken in all instances where CPRs cannot be complied with such as, but not limited to: no quotations have been sought or the purchase cannot be made via a compliant framework agreement. If an application to let a contract without genuine competition is granted, the officer responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exemption to the rules.
- 4.6.18 Blanket waivers may be approved in certain situations where the normal process to be

followed is considered inappropriate. Such waivers must be fully supported with justifiable reasons and will only remain in force for one year from the date of approval.

- 4.6.19 The normal procedure for the completion of exemption forms is for the responsible officer to obtain the signature of their director on the form to demonstrate their approval of the request, and then forward the form to the head of law and governance who, if satisfied, will forward to the solicitor to the council or their deputy for final approval and signature. The commercial services team will retain a register of all approved extensions.
- 4.6.20 Tenders need not be invited in accordance with the provisions of the council's CPRs if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least 3 credible quotations must be sought and any decision made or contract awarded shall be reported to the relevant director and cabinet member. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the CPRs at the earliest practical opportunity.
- 4.6.21 An exemption cannot be granted for contracts over the EU threshold unless agreed with legal services that there are no cross-border competition requirements.
- 4.6.22 **Contracts register.** All contracts over £5,000 are to be entered on the council's contract register in order to comply with the transparency information/code. Contracts and commissioning officers are to update and add additional contracts to the register, as they are let, using the register to inform work planning.
- 4.6.23 **Admissions agreements and TUPE. To be inserted.**

Contracts Procedure Rules – guidance notes

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1. INTRODUCTION

- 1.1 This commissioning and commercial strategy is the definitive statement of how the council will manage its commissioning, decommissioning and commercial activity. The CPRs, together with this guidance, ensure that:
- a contract selection and award procedures are conducted in accordance with the relevant legal requirements under an equitable, transparent and regulated process
 - b ensure the council obtains value for money and minimizes the cost of procuring goods, works and services, utilizing strategic delivery partners wherever possible

- c strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment
- d procurement procedures are kept under review in order to ensure continuous improvements to services and provide best value to the community of Herefordshire

1.2 The CPRs form part of the council's constitution and are to be read in conjunction with other sections of the constitution in particular:

Part 3 – The Functions Scheme

Part 4 – Section 3 - The Budget and Policy Framework Rules

Part 4 – Section 7- Financial Procedure Rules

1.3 Failure to observe the CPRs could lead to disciplinary action.

2 APPLICATION AND INTERPRETATION

2.1 **Calculation of contract value.** There are specific provisions relating to the calculation of contract values, based on the contract's duration. If the contract is part of a series or is renewable, its value will be:

- a. The total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted where possible to take into account changes in quantity or value which would occur in the course of the 12 months following the initial contract; or
- b. The total estimated value over the next 12 months (or financial year where that is longer than) 12 months) from the date the goods, work or service is first provided.

In the case of contracts for services:

- c. If the contract is for a fixed term of less than 5 years, the value will be the total value of the contract.
- d. If the contract has no end date or is for a fixed term of more than 5 years, the value will be the monthly value of the contract multiplied by 48.
- e. Special provisions apply in the case of contracts involving leasing, hire, rental, hire purchase, insurance services, banking and financial services and design contests. When procuring such services advice should be sought from the commercial services team with regard to calculating value.

2.2 If more than one of the above applies, the method that gives the highest value must be used.

2.3 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or a group of contracts with similar characteristics is greater than the value limit, EU procurement rules must be followed. To ensure that the aggregation rules are properly applied contract managing representatives should liaise with the commercial services team for all contracts in excess of £75,000.

2.4 **Subdivision of contracts.** No contract shall be subdivided into smaller contracts or let via a series of short term agreements so as to avoid compliance with these rules or procurement legislation. Contracts may be divided into lots, particularly to encourage procurement opportunities for small and medium enterprises but the costs of the contract shall be aggregated accordingly. Where a regulated contract is not divided into lots then a written record of that decision, with reasons, shall be included in the contract notice and kept on the council's e-tendering portal. Commissioners must review the aggregate spend

on contracts for which they are responsible regularly (and at least every 6 months) to assess whether new contracts should be procured.

- 2.5 **Value Added Tax.** In calculating the value of a contract for the purposes of these CPRs, the sum shall be exclusive of VAT.
- 2.6 **Schools.** Maintained Schools, and the council where it acts on their behalf, must comply with these CPR when procuring contracts. This includes use of the council's e-tendering portal for such contracts. In addition the appropriate contract register entries must be made as set out in para 22.1.
- 2.7 **Other contracting authorities.** Wherever it is mutually advantageous to do so, the council may seek to conduct procurements in collaboration with partner organisations. It must be noted that each partner will need to comply with their own contract rules, which may have key differences to the council CPRs – for example, the EU Procurement Directive features different financial thresholds in respect to health authorities and local authorities. In the event that contracts are to be established which are applicable to two or more partners the contract rules of each partner must be adhered to, and it is possible that separate contractual documents will have to be established for each partner as they are separate legal entities. Officers must ensure the rules and governance procedures of each partner are followed throughout the procurement process. Where costs are to be shared between collaborating authorities it is advised that a formal agreement detailing such arrangements is drawn up between the partners.
- 2.8 **Conflicts of interest.** All members and officers¹ of the council must disclose any conflict of interest that they may have relating to a contract to which these rules relate and in which they are acting on behalf of the council. If any member or officer has such an interest they must not take any further part in the procurement process and must ensure that they comply with Part 5 (the codes and guidance) of the constitution.
- 2.9 **Declarations of interest, gifts and hospitality.** Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the council must be treated with extreme caution. No cash gifts should be accepted. No gifts should be accepted where it would conflict with your duties to the council. No member or officer may solicit or receive any gift or financial inducement in respect of any contract which is being awarded by the council or commit any corrupt act or any offence under the Bribery Act 2010 or any act in breach of Part 5 (the codes and guidance) of the council's constitution.
- 2.10 Any such offers must be noted on the appropriate employee declaration form and reported to the Solicitor to the Council who shall maintain and make available to the council's internal and external auditors a register of such matters.
- 2.11 **Professional services/consultants.** No ex-employee of the council or of any other public sector body covered by the Small Business Enterprise and Employment Act 2015 shall be engaged by the council without the express consent of the head of law and governance and the head of human resources and organisational development. Any ambiguity on whether a contract is an employment contract or a consultancy contract covered by these rules should be referred to HR, legal services and commercial services.
- 2.12 **Social value.** The Public Services (Social Value) Act 2012 requires the council to consider social value in its commissioning and procurement activity. In doing so, it is vital that in seeking social value outcomes the council will:

¹ Including those contracted to deliver services on the council's behalf.

- promote business opportunities as widely as is viable, to allow all types of providers, including social enterprises, voluntary organisations, SMEs, and micro-businesses (collectively termed “smaller providers”), to access the information they need to be able to tender in a timely way; hold “pre-tender” awareness events wherever possible; work to ensure smaller providers are not disadvantaged by the council’s commissioning and procurement processes.
- Look at a variety of contract models which offer opportunities to smaller providers, such as through lotting strategies which split tenders into smaller contracts. It is vital that there is a balance between minimising costs and acknowledging the importance of social value.

2.13 The council is fully committed to social value as a matter of good practice and it is integral to the council’s priorities of enabling residents and supporting the local economy. By recognising the social value in what suppliers can provide, the council can maximise the benefits achieved by the money it spends. It is important to note that social value does not mean preferring local suppliers just on the basis of locality. This would be in contravention of EU and UK procurement legislation plus EU Treaty principles regarding transparency, equal treatment, non-discrimination, proportionality and mutual recognition.

2.14 The council will be unambiguous in its intention to secure social value when it communicates with the marketplace, whether this is via service specifications for a particular contract or more informal communications. Potential outcomes and considerations can be sought from:

- **Sustainable communities team:** to provide guidance on how social value can be achieved in relation to community development and/or the third sector.
- **Energy and environmental management:** to provide guidance on how social value can be achieved in relation to environmental sustainability.
- **Economic development team:** to provide guidance on how social value can be achieved in relation to Herefordshire’s workforce, industries and economy.
- **Equality, records and information compliance team:** to provide guidance on how social value can be achieved in relation to Herefordshire’s social equality, diversity and integration.
- **Regeneration programmes team:** to provide guidance on how social value can be achieved in relation to community enterprise and employment.
- **Adult and community learning team:** to provide guidance on how social value can be achieved in relation to community education and skills

Core social value considerations are demonstrated in the example below:

EXAMPLE: Commissioning accommodation for ex-offenders		
Why are we doing this?	What else can we achieve for the stakeholders?	What about other potential outcomes?
<ul style="list-style-type: none"> • To provide good quality housing for ex-offenders? • To make sure they have somewhere to live? • To help reduce the risk of re-offending? • To meet requirements/legislation? • The current contract runs out soon? • We don’t know anymore? 	<ul style="list-style-type: none"> • Active participation in deciding what their service looks like and how it is delivered. • Support and information on learning/training/ employment. • Early intervention/ community health support (mental health, substance misuse etc.). • Social networks, events and activities to reduce social isolation and to support dealing with social barriers. • Reduce risk of fuel poverty by ensuring energy efficiency of housing. • Advice on finances/benefits. • Family learning/support. 	<ul style="list-style-type: none"> • Work placements in supported housing services. • Apprenticeships/ qualifications for young people in support work/administration etc. • Developing support service capacity in new sectors to deliver innovative approaches – eg: social enterprises, new consortia etc. • Improved outcomes for ex-offender’s children/family

3 OFFICER RESPONSIBILITIES

3.1 Directors' responsibilities. All directors are responsible for:

- a. monitoring compliance with the CPRs in relation to contracts funded by their directorate budget
- b. appointing staff to provide commissioning and contract management functions and ensuring they support them in their role and obtain regular briefings from them
- c. bringing the provisions of the CPRs to the attention of their staff
- d. ensuring that the contracts within their directorate are legal, comply with CPRs and financial procedure rules (part 4 section 7) and protect the council's interests fully.

3.2 The director for economy, communities and corporate (ECC) has overall responsibility for the preparation and review of the CPR but must do so in agreement with the monitoring officer/solicitor to the council and section 151 officer.

3.3 Solicitor to the council's responsibilities. The solicitor to the council is responsible for:

- a. providing legal advice and guidance to members and officers on the operation of the CPRs and all contracting and procurement activity
- b. working with the director for economy communities and corporate and head of law and governance on the preparation and review of the CPR.
- c. assisting the chief executive with the resolution of questions regarding the interpretation of the CPRs.
- d. advising on the preparation of contract documentation
- e. informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the council.

3.4 Contract managers' responsibilities. The contract managers:

- a. will be responsible for providing timely information regarding to the commercial services team to enter onto the central contracts register for contracts in excess of £5,000.
- b. must ensure that signed contract documents are available and retained in accordance with the council's retention schedule.
- c. must have read and understood the contract documents.
- d. must check that valid insurance documents are provided by contractors, proving that the annual premium has been paid, to cover the duration of the contract, and that copies are stored appropriately.
- e. must review the aggregate spend on contracts for which they are responsible every 6 months to assess whether new contracts should be procured
- f. are to meet with contractors to discuss performance at least every 12 months; every 6 months for high value and above £EU threshold contracts. KPIs must be used to assess performance at least every 12 months (every 6 months for high value and above £EU threshold contracts), and records of assessment must be kept up to date.
- g. will be responsible for maintaining and providing timely information regarding the contractors' performance including, but not limited to, delivery of KPIs, health and safety, business continuity, risk, contract terms and other events of default.
- h. must keep a record of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them and retained in accordance with retention schedule requirements.
- i. must keep a record of any contract variations of duration and value or scope in

order to maintain a deal history of the contract.

3.5 Commissioners' responsibilities. The commissioner will be responsible for:

- a. liaising fully with the commercial services team and legal services on all matters relating to contracting and procurement.
- b. agreeing exemptions from the formal tendering procedures with the head of law and governance . All exemptions are to be approved in writing and reported in line with para 19.
- c. maintaining records during procurement of the:
 - contracts awarded including the nature and value of contracts and the names of successful tenderers
 - total value of contracts awarded to each successful tenderer during each financial year
 - names of unsuccessful tenderers and reasons why their tenders were not accepted
 - details of any failure by a tenderer to comply with instructions to tenderers
 - details of the reasons for any tenders being withdrawn
 - details of failures by contractors to submit tenders after having requested and been invited to do so
 - reasons for exceptions to tendering procedures.
 - reasons for opening late tenders.
- d. making arrangements for the retention of tender and all contract documentation in accordance with the council's record retention schedule for a minimum of 6 Years (12 Years if signed under seal) after completion of contract work.
- e. advising the contracts manager and commercial services team and recording the details of all contracts over £5,000 in the contracts register, providing all detail necessary under the transparency code.
- f. considering how they achieve and measure social value through service planning and delivery. Social value outcomes should be captured and identified in contract decision reports and embedded within contract management practices.
- g. communicating a commitment to social value through engagement with the market, and for ensuring that social value is effectively embedded in service planning and delivery. To work with commercial services, other council stakeholders listed below and/or partner organisations to achieve and demonstrate social value.

3.6 Head of law and governance's responsibilities. Working to the assistant director of communities the head of law and governance is responsible for:

- a. providing advice on all aspects of the CPRs.
- b. oversight to ensure that the council has an up-to-date commercial and commissioning strategy.
- c. monitoring compliance with the CPRs and reporting non-compliance to the director of ECC and the solicitor to the council for appropriate action
- d. preparing an annual report on the operation of and compliance with the CPRs as a basis for the director for economy, communities and corporate, in consultation with the solicitor to the council and the audit and governance committee
- e. continually reviewing the CPRs to ensure they keep pace with developing best practice and advising amendments as necessary.
- f. preparing an annual report on the exemptions recorded for the solicitor to the council
- g. providing training and support for employees involved in procurement activities.
- h. informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the council.

- i. guiding the council's strategic approach to developing social value through collaboration with partners and market development.

3.7 Commercial services team. The commercial services team are responsible for:

- a. maintaining a register of current contracts above £5,000, prescribing the information needed from contracts
- b. providing advice on all aspects of the CPRs.
- c. monitoring compliance with the CPRs and reporting non-compliance to the director for economy communities and corporate and the solicitor to the council for appropriate action
- d. providing training and support for employees involved in procurement activities.
- e. informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the council.
- f. guiding the council's strategic approach to developing social value through collaboration with partners and market development
- g. maintaining and reviewing a contract procedures exemption register.

3.8 Responsibilities of all council officers. All officers are responsible for:

- a following the CPR and any codes of practice, guidance or instructions provided by commercial services team and the solicitor to the council
- b following all relevant English and European procurement laws
- c following relevant council policy requirements
- d seeking advice from the commercial services team and legal services in the case of any uncertainty
- e ensuring that any departure from these CPRs is agreed with the head of law and governance **and** the solicitor to the council
- f reporting any suspected fraudulent, corrupt or other irregularity to the chief internal auditor
- g informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the council.

3.9 Non-council staff. Any person who is not an officer of the council, but is engaged by the council to advise, conduct, or supervise any stage of a tender, must:

- a. comply with the CPRs and financial rules
- b. produce on request, all records relating to the contract he/she are engaged on, to the service director; and
- c. pass all relevant records to the Authorising Officer at the end of his/her appointment/engagement
- d. sign a declaration of interest relating to any contract that they were involved with on behalf of the council and give it to the category manager.

3.10 The Authorised Officer must ensure that non-council staff comply with these rules and consult the category manager as appropriate.

4 PURCHASE OF GOODS, SERVICES, PROFESSIONAL SERVICES, WORKS, GRANTS AND CONCESSIONS

4.1 Pre-procurement market testing can be carried out to gauge market interest (and is positively encouraged when purchasing new services), including approaching suppliers directly, but pre-selection of suppliers for potential contract award must not commence until the market testing process has been completed and the actual formal procurement process begun. In the case of procurements above the EU thresholds, highly-prescribed processes

apply. In any event, information gathering and market testing exercises should not have the effect of distorting competition or violating EU mandated principles of non-discrimination and transparency. In particular, such exercises should not provide any potential supplier(s) participating in them with an advantage over those who do not. Further advice can be obtained from the commercial services team.

- 4.2 For the latest information regarding the EU thresholds for procurement, please visit the EU Procurement website via the following link: <http://simap.ted.europa.eu/european-public-procurement>

5 THREE QUOTES PROCEDURE FOR CONTRACTS UNDER £75K

- 5.1 Officers must produce a description of the goods or specification of the services required before seeking quotations. Formal quotations should contain the following information:

- a date and reference number
- b supplier company details
- c council officer/department name
- d item/part number
- e description specification
- f quantity required
- g unit/service cost
- h total cost
- i delivery information
- j payment details
- k any special requirements
- l details of any discounts or rebates
- m terms and conditions

- 5.2 Every person or firm who makes a quotation must be treated fairly and equally.

- 5.3 Any departures from the formal quotation procedures must be discussed with the commercial services team who will agree or otherwise any exception in consultation with the head of law and governance (para 19 refers).

- 5.4 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not disclose any information they have about potential suppliers to others persons/suppliers potentially competing for the same contract.

- 5.5 Advice and guidance on how to describe the works, goods or services required for formal procurement purposes can be obtained from the commercial services team.

- 5.6 In accordance with regulation 111 of the Public Contract Regulations 2015, a pre-qualification questionnaire (PQQ) should not be issued for any quotation.

6 INVITING TENDERERS

- 6.1 Subject to advice from commercial services team, officers may consider conducting a 2 stage selection process to provide a short list of suppliers who will be invited to tender. When short listing, officers must consider the following when selecting suppliers to be invited to tender for a particular contract:

- a past performance on similar contracts (quality and costs)
- b technical capacity
- c specialist experience in the type of products and services being procured
- d financial situation

- e insurance arrangements
- f health and safety arrangements
- g equalities policy
- h written references on the contractor's reputation
- i environmental policies
- j past experience of social value
- k business continuity plans (see para 21.5)

6.2 The method for selecting tenderers must:

- a treat all tenderers in the same way
- b keep the process clear and simple
- c record all the selection and award decisions.

6.3 Advertisements for potential suppliers may be placed at the officer's discretion in relevant trade or professional journals, local and national newspapers or national websites administered by responsible bodies, and **must** be placed in the EU Journal (OJEU) if the contract is likely to exceed the relevant EU threshold. Advertisements must appear on the OJEU procurement website at least 48 hours in advance of any further publication/advertisement.

6.4 For each open tender, officers are to liaise with commercial services, legal and commissioning teams to develop, for publication on the e-portal, the following procurement documents:

- instructions to tenderers
- form of Tender
- specification
- schedule of rates/pricing documentation
- terms and conditions of the contract. Where appropriate standard council contract terms or industry standard contracts can be used on the advice of legal services – appendix 1.
- quality requirements/method statement questions
- tender evaluation criteria
- any relevant supporting information

6.5 Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the council will need to meet its obligations under the Freedom of Information Act.

6.6 Tenderers must be instructed to return their tendering documentation via the e-tendering portal, rather than by any other method. In addition, tenderers must be informed that tenders which are received by other means of communication, or received after the relevant submission deadline, will not be accepted. Tenderers should be advised that all tender responses will be opened at the same time

6.7 The invitation to tender guidance must detail how the procurement will be conducted and evaluated, including but not limited to the following issues:

- a. explain how the council will deal with any mistakes it identifies in the tender documentation submitted;
- b. confirm the evaluation criteria that will be used to select the preferred supplier. The assessment criteria must not distort and impair fair competition or discriminate between tenderers in any way and must also be compliant with relevant legislation; and,
- c. state that the council does not bind itself to accepting the lowest bid or any tender.

- 6.8 The tender should be assessed according to the most economically advantageous tender (MEAT) criteria which typically will be a price-quality assessment reflecting the qualitative, technical, sustainable and social aspects of the tender submission as well as price and such assessment criteria may include the following factors:
- a. how the skills and experience of staff will contribute to the delivery of the contract.
 - b. financial proposals
 - c. contract management arrangements
 - d. quality including technical merit and functional characteristics
 - e. delivery proposals
 - f. social value
 - g. environmental factors
 - h. innovation
- 6.9 During the live tender period (the period between first advertisement and the deadline for tender submission), all communications with tenderers must be recorded in a clarification log on the e-tendering portal. The clarification log will record all enquiries which are raised during the respective period and the relevant responses. The identity of the tenderer who has raised the query **must not** be disclosed.

7 PROVISION OF PRE BID SUBMISSION CLARIFICATION

- 7.1 All requests for clarification from tenderers must be dealt with as a matter of urgency in order to mitigate any delays to tenderers in preparing their submissions and in line with the procurement timetable as set out in the 'invitation to tender' document. Similarly where the Authorised Officer identifies a requirement for further information or clarification or correction of previously distributed documentation this must be addressed and issued as a matter of urgency.
- 7.2 All responses to requests for clarification must be issued to all bidders. Where the Authorised Officer wishes just to respond to the requesting bidder for reasons of commercial confidence the approval and advice of the relevant category manager must be sought.
- 7.3 All requests for clarifications and responses must be filed and fully auditable using the e-tendering portal (where utilised). The clarifications and responses must be recorded via a clarification log in accordance with the procurement guidance and standard template documentation.

8 RECEIVING TENDERS

- 8.1 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances as advised by the commercial services team. Any extension should not provide either advantage or disadvantage to any of the tenderers. Should it be necessary to extend the time limit for the submission of tenders, all potential tenderers should be informed of the new date in good time before the original submission date.
- 8.2 The council's e-tendering portal will automatically record the time, date and name of the tenders as they are received.
- 8.3 Tenders cannot be opened until the final deadline for receiving them. All tenders will be stored in the secure e-tendering portal until the requisite deadline for opening them.

9 LATE TENDERS

- 9.1 In exceptional circumstances, officers, in consultation with and the approval of the head of law and governance, can accept a late tender. The core principle is that tenders should not be rejected if the delay is due to the actions of the council, a third party, or force majeure. If

if it is decided to accept a late tender, it must be treated in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.

- 9.2 If the late tender is rejected, a record should be kept on file for two years with the other documents from the tender opening. The tender should be opened, under the same conditions as the other tenders, merely to ascertain the return name and address. The tenderer should be informed in writing of the reasons for rejecting the tender, i.e. that it was received late and is therefore deemed to be non-compliant under the council's CPR.

10 EVALUATION PRINCIPLES

- 10.1 Before assessing the tenders, the Authorised Officer needs to check that each part of the tender meets the requirements of the specification. The Authorised Officer also needs to make sure that there are no mistakes and that nothing is missing.
- 10.2 Low and medium value contracts shall be evaluated and agreed by the Authorised Officer or evaluation panel where appropriate.
- 10.3 High value and very high value contracts (as determined in the CPRs) shall be evaluated and agreed involving the commercial services team, assistant director and any other officers relevant to the decision making process.
- 10.4 The assessment of bids must be conducted in accordance with the evaluation methodology which was communicated to tenderers within the procurement documentation during the procurement process.
- 10.5 In the assessment of bids where it becomes apparent that a bidder has made a genuine mistake in their pricing they must be given the opportunity to correct their bid. If the tenderer has omitted ancillary documents, made an obvious error in calculating figures, or has otherwise made an error in their tender they may be allowed to correct any minor non-compliance or mistakes or to provide any necessary clarification. However, where a tenderer fails to allow sufficient time for the punctual submission of his tender, then the tender submission will be rejected. In all instances the Authorised Officer must obtain the approval and advice of the commercial services team before seeking corrections from the relevant tenderers via the council's e-tendering portal.
- 10.6 Where further information is to be sought from bidders following submission of bids, which extends further than clarifying what has already been submitted and constitutes the submission of new information, the Authorised Officer must obtain the approval and advice of the commercial services team before seeking further information from the relevant bidders.
- 10.7 Should the Authorised Officer have a case to reject a bid as non-compliant they must gain the approval and advice of the commercial services team before proceeding.
- 10.8 Should the Authorised Officer consider a bid to be abnormally low they must investigate this with the relevant bidder/s, and in accordance with Procurement Legislation. Before proceeding with investigation the Authorised Officer must gain the approval and advice of the category manager. Following this investigation should the Authorised Officer consider that the reasoning and any corrections put forward by the bidder does not satisfy their concerns and wishes to reject the bid, they must seek the approval and advice of the head of law and governance.
- 10.9 Should the Authorised Officer consider that a bidder does not meet minimum requirements and wishes to set aside the bid - which may relate to previous experience, legal standing, health and safety record, financial standing, etc. as appropriate to the contract in question - approval and advice must be sought from the commercial services team.

- 10.10 Should the Authorised Officer wish to take previous or current contractual performance into account in the assessment of a bid - whether the contract/s in question relates to council or other contracting authorities - approval and advice must be sought from the commercial services team.
- 10.11 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded and the tender rejected.
- 10.12 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.
- 10.13 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.
- 10.14 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify those to whom such documents have been issued and the date returned.
- 10.15 During the assessment process, the commissioning officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.

11 **NEGOTIATING**

- 11.1 The commissioning officer must consult with the commercial services and legal teams and obtain their permission when considering and prior to negotiating any aspect of a tender.

12 **POST-TENDER GOVERNANCE**

- 12.1 Once the assessment has been completed the commissioning officer should produce a report showing:
- a the result of the assessment of each tender
 - b a comparison of assessment results
 - c the recommendation on which tenderer should be offered the contract.
- 12.2 The Authorised Officer should accept the tender that is the most economically advantageous tender.
- 12.3 In addition, for procurements in excess of the OJEU threshold, a report should be produced in accordance with regulation 84 of the Public Contract Regulations 2015. The Authorised Officer should seek further advice from the commercial services team with regard to preparing such reports.
- 12.4 The Authorised Officer should always consider whether their recommendation for award the contract should be put before a cabinet member, the cabinet or council for formal approval. The Functions Scheme (Part 3) sets out the council's procedures for making decisions. If in doubt, seek advice and approval from the governance team and the head of law and governance. Tenderers should be told at the outset if cabinet or Council approval will be needed.
- 12.5 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received.**
- 12.6 'Intention to award' letters, informing the tenderer that they are the council's preferred

supplier, subject to contract and governance decisions, are to be reviewed by either legal or commercial services to ensure that the letter does not bind the council contractually before the formal documentation has been completed and signed by the appropriate authorised signatories. In the case of an EU-compliant process the contract cannot be formally awarded until the losing bidders have been informed and the mandatory standstill period has elapsed without any challenges arising from the bidders.

12.7 Unsuccessful tenderers should be informed of the outcome of the tendering process at the same time that the successful tenderer is notified. All bidders should be provided with a comprehensive briefing on the results of the tender with the increasing tendency for losing bidders or third parties to ask for such information under the Freedom of Information Act, it is essential that full details are recorded and can be supplied easily for all tender exercises, both above and below the EU thresholds.

12.8 **Insurance, health and safety.** The Authorised Officer shall ensure all contractors have sufficient levels of insurance in place prior to entering and throughout the duration of a contract and are able to demonstrate compliance with all relevant health and safety legislation. Insurance amounts may only be varied on the advice of the Hoople insurance officer whose advice shall be sought on any other insurances required.

13 **AWARDING A CONTRACT (SIGNATURE AND SEALING)**

13.1 Signatories to the contract will be in accordance with spend authority as outlined in the financial procedure rules.

13.2 **Contracting by electronic means.** Under English law contracts may be made informally, this means that no writing or other form is necessary for the contract to be legally binding. However, there are a number of situations where a written contract signed by the parties is required by statute, or in order to meet a registration requirement, such as:

- a. A contract for the sale of land, an equitable charge or a mortgage of a legal estate in land;
- b. Guarantees. In order to be enforceable, a guarantee (or some memorandum or note of the guarantee) must be in writing and signed by the guarantor, or a person authorised by the guarantor.
- c. An assignment of certain of intellectual property rights, and
- d. A transfer of certificated shares.

13.3 In the absence of a statutory requirement concerning the form of a particular contract, officers should be aware that a contract can be created with no structural formality for example by email correspondence or by means of other electronic communications.

13.4 In the absence of any statutory requirement, a simple contract may be concluded using an electronic signature. Electronic signatures can take a number of forms:

- a. An officer typing his or her name into a contract or into an email containing the terms of contract;
- b. An officer electronically pasting his or her signature into an electronic version of the contract; or
- c. An officer accessing a contract through a web based e-signature platform and clicking to have his or her name in a typed or handwriting font automatically inserted into a contract.

- 13.5 **Sealing.** All contracts for building, engineering, property repairs and property maintenance works excluded from the council contract with Integral, with an estimated value in excess of the European procurement limit for supplies and services shall be sent to Legal Services for execution under the council's seal. All other contracts in excess of the key decision threshold are also to be executed under the council's seal.

14 PUBLICATION OF CONTRACT DETAILS

- 14.1 Contract management representatives must ensure that all contracts comply with Herefordshire Council's Information Governance Policy.
- 14.2 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.
- 14.3 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.
- 14.4 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed.

15 FRAMEWORK AGREEMENTS

- 15.1 Framework contracting involves selecting a contractor from a list of contractors on a pre-existing "framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or EU law.
- 15.2 Purchasers can enter into subsequent 'call-off' contracts from a framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.
- 15.3 Frameworks can be externally formed (for example by Government) or internally formed (for example by the council). The number of approved contractors on a framework can vary.
- 15.4 When an external framework is formed general terms and conditions are agreed between the framework contractors and the central purchasing body or contracting authority which established the framework. These pre-agreed terms and conditions will form a major part of any purchaser's 'call-off' contract and contractors are not obliged to agree to any amendments to them.
- 15.5 Framework agreements can be established for a maximum of 4 years (unless special justification can be made for a longer period) and this is reiterated in the present UK enactment of the EU procurement rules. Any subsequent call-offs under the framework may be for a duration longer than four years provided this is justified by the nature of the call off contract e.g. such factors as the time needed for contract performance, where maintenance of equipment with an expected useful life of more than four years is necessary or where extensive training of staff to perform the contract is needed.
- 15.6 Officers must take the following steps to ensure compliance with the EU procurement rules when using a framework contract;
- a All the contractors on a framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.
 - b The reasons for selecting a smaller number of contractors on a framework must be clearly evidenced and should indicate why the excluded contractors were not

- c. capable of meeting the council's requirements.
- c. Award of contract must be on the basis of the criteria for the Framework as set out in the framework agreement itself, that is, within the original tender documentation setting up the framework.

15.7 The commercial services team must be consulted if a pre-existing framework contract is to be used to procure goods, services or works.

15.8 **Other procurement agreements.** There are a number of other procurement procedures that may be available in particular circumstances:

- a. design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
- b. public housing schemes where the size and complexity of schemes necessitate the close collaboration between the council and contractors.
- c. concession contracts where contractors derive income from the completed work, for example cafe in council offices.
- d. dynamic purchasing system is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. However, it has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions (as set out in Regulation 34 of the Public Contracts Regulations 2015).

15.9 The commercial services team must be consulted regarding any proposals to follow any such procedures.

16 **CONTRACT VARIATIONS (CHANGES TO DURATION, VALUE, SCOPE AND CONTRACTOR)**

16.1 Contracts usually have conditions permitting variation relating mainly to the duration or the costs. Where a variation is permitted by the contract then it must be recorded in accordance with those terms and executed according to the form of the original contract. Thus a contract executed under seal may only be varied by deed.

16.2 Where the variation amends the conditions of the contract, including the specification an assessment of the effect of the variation on the value of the contract must be carried out.

16.3 If the increase in value of the contract is less than 10% for service and supply contracts and less than 15% for works contracts then no new procurement needs to take place.

16.4 If additional supplies, services or works are needed and the use of a new contractor would:

- a. be economically or technically difficult, e.g. because of difficulties relating to interchangeability or integration with existing equipment; or
- b. Cause significant additional or duplication of costs.

Then the original contract may be varied without a further procurement process subject to the increase in cost being less than 50% of the original value. Any variation must be in accordance with procurement legislation and approved by commercial services, legal services and the budget holder for the contract.

16.5 Where the variation involves any change to the provider then legal services must be consulted.

17 **CONTRACT EXTENSIONS**

- 17.1 Where a contract provides for an extension, the service director shall be consulted prior to the extension of a contract with an aggregate total value of less than £100,000. If the value of the existing contract, together with the extension, exceeds £100,000, the approval of the commercial services team, service director, budget holder and legal services shall be sought.
- 17.2 In all cases where the extension of a contract will bring the total of the original value and the value of the extension over £500,000 then approval must be sought from the cabinet member as a key decision.
- 17.3 In cases where the proposed extension is not allowed within the terms of the contract and the extension is thus a direct award then approval shall be sought as per the 'contract variations' section above.

18 CONCESSIONS AND UTILITIES

- 18.1 All concession contracts, whether for works or services shall be let according to the provisions of these CPRs as if they were non-concession contracts unless the relevant opportunity is one covered by procurement legislation. The estimated value of the concession shall determine the procurement route to be used. The value of the concession shall be determined in an objective manner set out in the document offering the concession and shall be an estimate of the total turnover (excluding VAT) from the concession over the period for which it is to be let, including for any extension/variations in scope and/or duration.
- 18.2 Concessions exceeding the EU threshold shall be procured in accordance with procurement legislation.
- 18.3 All contracts for the sale of utilities must also comply with the provisions of these rules together with any applicable procurement legislation when brought into force.

19 CONTRACTOR SUBSIDIES AND STATE AID

- 19.1 Where it is proposed to provide financial support to a contractor, or where a contractor proposal entails financial support or benefit from the council or another public body necessary to ensure the continuance of contracting activity (state aid), the advice of legal services must be sought prior to advertising the opportunity or concluding the contract.
- 19.2 State aid is when taxpayer funded resources are used to provide assistance to one or more organizations in a way that gives an advantage over others. The legislative framework that applies to state aid is very technical and legal advice should be obtained well in advance in the event that the rules on State Aid may apply. The service director shall consult with legal services when State Aid issues are applicable. State aid is likely to become applicable if the following applies:
- The assistance is provided with or through state, including council, resources.
 - The assistance gives one or more economic entities an advantage over others (includes not-for-profit organisations and charities as well as businesses and an advantage is anything that they could not get themselves on the open market).
 - The assistance distorts or has the potential to distort competition (even small distortions count).
 - The assistance affects trade between member states of the EU (this is defined broadly, if something is tradable, it is covered).
- 19.3 Assistance may be through payments to the contractor, subsidised payments, the provision of equipment or support or low cost loans.

- 19.4 In certain circumstances financial assistance may be given where the amounts involved may be covered by de minimis provisions. Legal advice should still be obtained to ensure that de minimis applies before any financial assistance is given to another organisation.

20 CONTRACT MANAGEMENT

- 20.1 **Contracts register.** The contracts register is hosted on [SharePoint](#), and must detail all Herefordshire Council contracts above £5k in order to comply with the Transparency Information/Code. Contracts and commissioning officers are to update and add additional contracts to the register, as they are let, using the register to inform work planning in order to avoid unnecessary contract extensions.
- 20.2 Contract management standards apply to all contracts. All contracts shall be managed in accordance with the Contract Management Toolkit provided by the commercial services team and available on the intranet.
- 20.3 **Equality.** All contractors are required to demonstrate compliance with all relevant legislation relating to its employees and must operate in line with the council's equality policy, ensuring that its own Equal Opportunities Policy (if it has one) complies with the duties of the Equality Act 2010 and the Human Rights Act 1998.
- 20.4 **Health and safety.** We are committed to ensuring the health, safety and welfare of our employees, contractors' staff, the public and all others affected by our undertakings. All contractors will therefore be expected to demonstrate compliance with all relevant health and safety legislation and to submit their health and safety policies and procedures, along with confirmation of their level of public and employee liability insurance cover.
- 20.5 **Business continuity.** Although the council does not routinely request a Business Continuity Plan at the tendering stage as it is not a mandatory document, once a decision has been taken to award the contract, the selected provider's business continuity plan is an area that the council would wish to influence. Where contracts are being awarded to providers that will be providing critical services (as deemed by the council's business continuity management policy) on behalf of the council, and where there is not an immediate alternative to service provision, a business continuity plan is required. A failure of one of these providers would leave the council unable to perform its functions and be in breach of the Civil Contingencies Act. Risks should be identified and recorded should business continuity plans not be available. These risks must be mitigated to avoid a detrimental financial impact on council services and budgets, as well as a loss of public confidence.
- 20.6 **Payment.** In accordance with the Public Contract Regulations 2015 and the Late Payment of Commercial Debts Regulations 2013 and to maximise performance under the contract; the council will process all undisputed invoices within 30 days of receipt. The same shall apply to contractors in respect of any subcontractor arrangements applied under the applicable council contract(s). All council contracts shall contain provisions to this effect.

21 SUB-CONTRACTING

- 21.1 For contracts that are above the EU threshold, the advice of legal services shall be sought as to the contract and obligation to sub-contract.
- 21.2 Where a sub-contractor is to be engaged then the council is under an obligation to ensure that the contractor is under the same timescale obligations as to payment of the sub-contractor as the council is to the contractor.

22 PUBLIC TO PUBLIC COOPERATION OR IN-HOUSE BIDDING

- 22.1 Advice should be sought from the commercial services team and, if appropriate, legal services on proposals involving the provision of a service through a subsidiary company, jointly owned, or jointly provided.
- 22.2 Where an in-house provider wishes to compete for an above threshold tendered contract, the tender documents must comply with the following:
- a. that those involved with the in-house tender will maintain appropriate divisions with those managing the tender process for the council to ensure that the in-house bid team has no advantage over non-council bidders. In house tender bid teams must sign declarations that they have maintained independence of the tender review team,
 - b. the fact that there will be an in house tender must be noted on the relevant OJEU notice and the council's proposed arrangements should the in house bid be successful must be described, and
 - c. no information other than that provided to all bidders will be supplied to the in-house bidder.

23 SECURITY FOR PERFORMANCE

- 23.1 When drafting the invitation to tender the Authorised Officer shall seek the advice of commercial services, legal services and finance on whether a contract performance bond or some other form of security for performance is required prior to entering into a contract. The amount of, and form of security shall be determined by legal services in consultation with the S151 Officer having carried out an appropriate financial risk assessment. Such security must be effected with a reputable body authorised to effect such security and approved by the S151 officer or by way of a parent company guarantee if appropriate. Where appropriate a sum for liquidated damages to be included in the contract prior to any award to a contractor shall be set in consultation with the relevant technical officer and finance manager.

24 TRADING

- 24.1 Any proposals to sell or trade in services, supplies, or assets must be referred to legal services. Any proposal to dispose of council property other than land must be referred to the head of law and governance. Proposals to dispose of land must be referred to the corporate asset manager. For assets whose value is of negligible value (e.g. old office furniture/old IT equipment) officers must utilise the quotation procedure to seek offers to purchase the affected items.

25 GLOSSARY OF TERMS

"Anti-Bribery Legislation"	Means the Bribery Act 2010 any provision relating to the prevention of corruption in any legislation relating to Local Government and any statute amending or replacing them and any statutory instrument made thereunder.
"Authorised Officer"	means the officer with delegated authority from the relevant director for the receipt of quotations and tenders and for signing contracts
"Best Value"	means the council's duty under Section 3 Local Government Act 1999 to promote economies, efficiencies, and effectiveness
"Category Manager"	means the person responsible for overseeing all procurement and contract management activity for the category within the council that they are responsible for.

"Commissioner"	means the person responsible for planning and scoping the requirements which form the object of the contract.
"Concession Contract"	means an agreement whereby the council grants another person, whether legal or natural, the right to provide a service or function, or carry out works, at that person's risk, to the public, as more fully described in procurement legislation and with appropriate and measurable levels of service (KPIs)
"Contract Manager"	means the person responsible for the management of the contract, its scope and maintaining day-to-day relationships with the supplier.
"Contract"	means a contract (whether in writing or otherwise) for supplies, services, or for the execution of any works and also includes framework agreements, dynamic purchasing systems, and concession contracts. It excludes exempt contracts.
"Contracting Authorities"	means Central Government, local government bodies, bodies governed by public law or associations formed by any one or more of these.
"Contract Toolkit"	summarises the key procedures and actions to be undertaken in the management of the Contract,
"Contract Operations Manual"	means a document based on a standard template which provides, in a summary form, information on key stakeholders, relationships, contractual and financial arrangements concerning the contract.
"Contractor"	means any person or company seeking to enter into a contract with the council.
"Council"	means Herefordshire Council.
"Dynamic Purchasing System"	means a completely electronic process for making commonly used purchases, the characteristics of which, as generally available on the market, meet the requirements of the Contracting Authority and open throughout its validity to any Contractor which satisfies the selection criteria and has submitted an indicative tender that complies with the specification.
"Equalities"	Any duty or requirement placed on the council or any other body by the Equality Act 2011 or any legislation amending or replacing it and any statutory instrument made thereunder.
"e-tendering portal"	means the on-line system maintained by the council for notifying potential suppliers and Contractors of Contract opportunities, issuing tender documentation, administration of clarifications, receiving and receipting bids, awarding and managing Contracts and maintaining compliance with the Transparency Code through the publication of Contract spend.
"Estimated Total Cost"	means the aggregate total whole life cost of the supplies or services to be provided or works to be performed under a Contract estimated prior to its procurement, calculated in accordance with Procurement Legislation, as described in the Procurement Guidance.
"European Directive"	means a Directive made in accordance with the Treaty on the Functioning of the European Union by the Commission of the European Union.
"European (EU) Threshold"	means the threshold applying to local authorities at

"Exempt Contract"	which supplies, services and works are subject to the European Directives. means Contracts for the acquisition or disposal of an interest in land, the grant of a licence (unless a licence involves the letting of a Concession Contract), the raising of finance, Contracts of employment or a Contract for the provision of legal services in connection with litigation or dispute resolution.
"Framework Agreement"	means an agreement which establishes the terms under which a contractor will enter into contracts with the contracting authority in the period during which the Framework Agreement applies. A contractor may be awarded a contract under a framework for a period which extends beyond the termination date of the framework providing that the contract is entered into before that date and is proportionate to the duration of the framework.
"Grant Agreement"	means an agreement whereby the council provides or receives monies to/from another person, whether legal or natural to provide a function or service without the expectation of any monetary benefit to the council except the repayment of the monies if the services are not performed or not performed to a specified standard.
"Joint Procurement Agreement"	means combining the procurement actions of two or more Contracting Authorities. The key defining characteristic is that there should be only one tender published on behalf of all participating authorities.
"Category Manager"	means the procurement officer responsible for advising the relevant Authorised Officer.
"Procurement Document"	means any document produced or referred to by the council to describe or determine elements of the procurement or the procedure, including the Contract notice, the prior information notice where it is used as a means of calling for a competition, the technical specifications, the descriptive document, the invitation to tender, proposed conditions of contract, formats for the presentation of documents by Contractors, information on generally applicable obligations and any additional documents
"Procurement Legislation"	means the procurement directives of the European Union and any regulations that implement them within the United Kingdom
"Professional Services"	an 'experienced professional' (often referred to as a consultant) who will provide expert knowledge in an advisory capacity only and are usually not accountable for the outcome of a consulting exercise or specific project. They will be procured to meet the requirements of a specific project with defined outcomes and a project completions date. In general, consultants will help define strategy. The process for the procurement of consultants will be in accordance with CPR.
"Quotation"	a written estimate of the cost to execute works or supply goods, materials or services.
"Service Director"	means the senior officer under the council's constitution of the council service responsible for the contract
"Social Value Duty"	Means the duty imposed upon the council by the Public Services Social Value Act 2011 and is the important

additional benefits that go beyond the direct function of any services, works or goods that are purchased by the council. These can be:

Social benefits that deliver positive outcomes for individuals and/or communities

Economic benefits that strengthen a workforce, industry, sector and/or the economy

Environmental benefits that result in environmentally sustainable business practices and/or an improvement of the environment.

"Regulated Contract"

means a Contract to be entered into which is subject to the provisions of the Procurement Legislation (in particular the Public Contracts Regulations 2015 and Concession Contracts Regulations 2016 as amended or replaced from time to time). The most up to date version of the Regulations may be obtained from Legal Services.

"Transparency Information/Code"

means the information that the Council is required to publish under the Local Authority Transparency Code 2015 to be found at

<https://www.gov.uk/government/publications/local-government-transparency-code-2015>

as amended or replaced from time to time.

"Umbrella Agreement"

means one of the following agreement types: Framework Agreements, Dynamic Purchasing System, corporate Contracts, shared service arrangements, purchase of services from another Contracting Authority, etc.

DISTRICT OF HEREFORDSHIRE COUNTY COUNCIL - STANDARD TERMS AND CONDITIONS FOR SERVICES (Non-Framework)

PART A - OPERATIVE PROVISIONS

A1. DEFINITIONS

A1.1 The terms and expressions used in these Terms and Conditions shall have the meanings set out below:-

“Authorised Officer”	the person duly appointed by the council in accordance with clause B6.3 and notified in writing to the Provider to act as the representative of the council for the purpose of this contract or as amended from time to time and in default of such notification of the council’s solicitor to the council or similar responsible officer;
“Business Continuity Plan”	means the plan setting out the Provider’s proposed methodology to ensure continuance of the Contract in the event of an emergency;
“Business Day”	any day other than a Saturday or Sunday or a public or bank holiday in England;
“Change in Law”	the coming into effect or repeal (without re-enactment or consolidation) in England of any Law, or any amendment or variation to any Law, or any judgement of a relevant court of law which changes binding precedent in England in each case after the date of this Contract;
“Commencement Date”	the commencement date stated in the Contract Particulars;
“Commercially Sensitive Information”	means any Confidential Information comprised of information: a. which is provided by the Provider and designated as commercially sensitive information by the Council for the period set out in the Contract and/or b. that constitutes a trade secret
"Confidential Information"	means: a. any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998; and b. the Commercially Sensitive Information and does not include any information: (1) which was public knowledge at the time of disclosure (otherwise than by breach of Clause 6.3 (Confidential Information)); (2) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (3) which is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or (4) is independently developed without access to the Confidential Information

“Contract”	means the written agreement between the council and the provider
“Contracting Authority”	means any contracting authority as defined in Regulation 2 of the Public Contracts Regulations 2015 other than the Council
“Contract Particulars”	means the document detailing the specific core terms agreed between the parties with regard to the Services which shall include but not be limited to, the Commencement Date, Authorised Officer, Contract Manager, Key Personnel, Contract Period and Monitoring Requirements
“Contract Manager”	the person named in the Contract Particulars as the contract manager and any replacement from time to time in accordance with clause B6.1;
“Contract Period”	the period of the contract as set out in the Contract Particulars;
“Contract Price”	means the price (exclusive of any applicable VAT), payable to the Provider by the Council under the Contract, as set out in the Contract Particulars, for the full and proper performance by the Provider of its obligations under the Contract
“Control”	control as defined by section 416 of the Income and Corporation Taxes Act 1988;
“Convictions”	means, other than in relation to minor road traffic offences, any previous pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by Section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order;
“Council”	means the District of Herefordshire County Council of Plough Lane, Hereford, and where the context so admits any person which takes over or assumes the statutory functions or administrative responsibilities of the Council (whether in part or totally) or which is controlled by or is under common control with the Council (and the expression “control” shall mean the power to direct or cause the direction of the general management and policies of the person in question but only for so long as such control exists);
“Crown”	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
“Data Controller”	shall have the same meaning as set out in the Data Protection Act 1998;
“Data Processor”	shall have the same meaning as set out in the Data Protection Act 1998;
“Data Protection Legislation”	The Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

"Data Subject"	shall have the same meaning as set out in the Data Protection Act 1998;
"Default"	means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other
"Delivery Instructions"	the instructions provided in the Contract Particulars and any other information that the Council considers appropriate to the provision of the Services;
"Environmental Information Regulations"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations
"Employee"	any person employed by the Provider to perform the Contract which will also include the Provider's servants, agents, voluntary and unpaid workers and Sub-Contractors and representatives, employed by the Provider in the performance of the Services;
"Fraud"	means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud a Contracting Authority or the Council
"Good Industry Practice"	the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced Provider engaged in the supply of services similar to the Services under the same or similar circumstances as those applicable to this Contract;
"Goods"	Any goods to be supplied as specified in the Contract
"Guidance"	any applicable guidance or directions with which the Provider is bound to comply;
"Information"	has the meaning given under Section 84 of the FOIA;
"Intellectual Property Rights" and "IPRs"	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
"Key Personnel"	those persons named in the Contract Particulars as being key personnel in respect of this Contract and any replacement from time to time under clause B5.3;
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Provider is bound to comply
"Liabilities"	all costs, actions, demands, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities

"Monitoring Requirements"	(including reasonable legal and other professional fees and expenses) whenever arising or brought; any requirements of the Council in relation to monitoring ongoing performance and delivery of the Services detailed in the Contract Particulars;
"Month"	means calendar month
"Parent Company"	means any company which is the ultimate Holding Company of the Provider or any other company of which the ultimate Holding Company of the Provider is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged by the same or similar business to the Provider. The term "Holding Company" shall have the meaning ascribed in Section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto
"Party"	means the Provider or the Council
"Personal Data"	Shall have the same meaning as set out in the Data Protection Act 1998;
"Premises"	means the delivery address where the Services are to be supplied, as set out in the Contract Particulars
"Price"	the price of the Services as set out in the Tender. Unless otherwise stated, any reference to Price shall be regarded as being exclusive of properly chargeable VAT which shall be separately accounted for;
"Process"	has the meaning given to it under the Data Protection Legislation but, for the purposes of this agreement, it shall include both manual and automatic processing;
"Provider"	the provider of the Services and where applicable this shall include the Provider's Employees, Sub-Contractors, agents, representatives, and permitted assigns and, if the Provider is a consortium or consortium leader, the consortium members;
"Quality Standards"	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Provider would reasonably and ordinarily be expected to comply with (as may be further detailed in the Specification) and any other quality standards set out in the Specification;
"Regulatory Body / Bodies"	means any government department, regulatory, statutory and other entity, committee, ombudsman or body which, whether under statute, rules, regulations, codes of practice or otherwise, is entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Council;
"Replacement Provider"	means any third party provider of Services appointed by the Council to supply any services which are substantially similar to any of the Services, and which the Council receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract
"Request for Information"	shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "Request" shall apply)
"Services"	the Services described in the Specification together with all equipment required and any associated Goods provided by the Provider in relation to those Services;

"Staff"	means all persons employed by the Provider to perform its obligations under the agreement together with the Provider's servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the agreement;
"Sub-Contract"	any contract or agreement, or proposed contract or agreement between the Provider and any third party whereby that third party agrees to provide to the Provider the Services or any part of the Services, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of the Services;
"Sub-Contractor"	any other person engaged by the Provider from time to time as may be permitted by this Agreement to procure the provision of the Works and/or the Services (or any of them). References to sub-contractors means sub-contractors (of any tier) of the Provider;
"Tender"	means the document(s) submitted by the Provider to the Council in response to the Council's invitation to providers for offers to supply it with Services
"Terms and Conditions"	the terms and conditions set out in this document;
"TUPE"	The Transfer of Undertakings (Protection of Employment) Regulations 2006;
"VAT"	value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994;
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales.

A1.2 The interpretation and construction of the Contract including any schedules and appendices shall be subject to the following provisions:

- a. words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- b. words importing the masculine include the feminine and the neuter;
- c. the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- d. references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- e. references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- f. headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- g. reference to a clause is a reference to the whole of that clause unless stated otherwise.

A1.3 **Provider's Status.** At all times during the Contract the Provider shall be an independent Provider and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

A1.4 **Council's Obligations.** Save as otherwise expressly provided, the obligations of the Council under the Contract are obligations of the Council in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any

other way fetter or constrain the Council in any other capacity, nor shall the exercise by the Council of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Council to the Provider.

A1.5 Entire Agreement.

- a. This contract constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the parties in relation to such matters.
- b. Each of the parties acknowledges and agrees that in entering into the contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the contract. The only remedy available to either party for any such statements, representation, warranty or understanding shall be for breach of contract under the terms of the Contract.
- c. Nothing in clauses 1.5(a) and 1.5(b) shall operate to exclude fraud or fraudulent misrepresentation.
- d. In the event of and only to the extent of any conflict between the schedules, the clauses of the contract and any document referred to in those clauses, the conflict shall be resolved in accordance with the following order of precedence:
 - (1) The contract particulars
 - (2) The pricing schedule
 - (3) The specification
 - (4) The clauses of the contract
 - (5) The remaining schedules (if any); and
 - (6) Any other document referred to in the clauses of the contract.
- e. The contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

A1.6 Notices

- a. Except as otherwise expressly provided within the contract, no notice or other communication from one party to the other shall have any validity under the contract unless made in writing by or on behalf of the party sending the communication.
- b. Any notice or other communication which is to be given by either party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), by facsimile transmission or electronic mail. Such letters shall be addressed to the other party in the manner referred to in clause 1.6(c). provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) working days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.
- c. For the purposes of clause 1.6(b) the address of each party shall be:
 - (1) for the council: the address set out in contract particulars;
 - (2) for the provider: the address set out in in contract particulars.
- d. Either party may change its address for service by serving a notice in accordance with this clause.

A1.7 Mistakes in Information. The provider shall be responsible for the accuracy of all

drawings, documentation and information supplied to the council by the provider in connection with the supply of the services and shall pay the council any extra costs occasioned by any discrepancies, errors or omissions therein.

A1.8 Conflicts of Interest

- a. The provider shall take appropriate steps to ensure that neither the provider nor any staff are placed in a position where (in the reasonable opinion of the council), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the provider or staff and the duties owed to the council under the provisions of the contract.
- b. The provider shall promptly notify the Council (and provide full particulars to the Council) if any conflict referred to in Clause A1.8(a) above arises or is reasonably foreseeable.
- c. The council reserves the right to terminate the contract immediately by giving notice in writing to the provider and/or to take such other steps it deems necessary where, in the reasonable opinion of the council, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the provider and the duties owed to the council under the provisions of the contract. The actions of the council pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the council.

A1.9 Prevention of Fraud

- a. The provider shall take all reasonable steps to prevent any fraud by staff and the provider (including its shareholders, members and directors) in connection with the receipt of monies from the council.
- b. The provider shall notify the council immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- c. If the provider or its staff commits any fraud in relation to this or any other contract with a contracting authority or the council the council may:
 - (1) terminate the contract with immediate effect by giving the provider notice in writing and recover from the provider the amount of any loss suffered by the council resulting from the termination including the cost reasonably incurred by the council of making other arrangements for the supply of the services and any additional expenditure incurred by the council throughout the remainder of the contract period; and/or
 - (2) recover in full from the provider any other loss sustained by the council in consequence of any breach of this clause 1.9.
- d. This clause shall apply for the duration of the contract and for a period of two (2) years after expiry of the contract.

PART B - PROVISION OF SERVICES

B1. Contract period

- B1.1 This contract shall commence on the commencement date and shall continue for the contract period, unless it is otherwise terminated in accordance with the provisions of this contract, or otherwise lawfully terminated or extended under clause b1.2.
- b1.2 If the contract period includes an option to extend and the council intends to take up the option, the provider shall be notified in writing within the period stated in writing prior to the commencement of the extension. The provisions of this contract will apply throughout any such extended period. If no such notification is issued this contract shall

automatically expire after the initial contract period.

B2. Goods

B2.1 Where Goods are supplied as part of the carrying out by the Provider of the Services:

- a. The Provider shall supply the Goods in accordance with the Council's requirements and in accordance with any obligations implied by Section 12 or 14 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.
- b. If requested by the Council the Provider shall provide the Council with samples of Goods for evaluation and approval, at the Provider's cost and expense and such requests shall be acted upon immediately.
- c. The Provider shall ensure that the Goods are fully compatible with any of the Council's equipment.
- d. The Provider acknowledges that the Council relies on the skill and judgment of the Provider in the supply of the Goods and the performance of its obligations under the Contract.
- e. The Provider shall deliver the Goods at the time(s) and date(s) specified.
- f. Delivery lead times from point of order to receipt of goods should not exceed 4 working days.
- g. Where the Goods are delivered by the Provider, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Premises.
- h. Except where otherwise provided in the Agreement, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Provider's suppliers or carriers at such place as the Council or duly authorised person shall reasonably direct.
- i. Time of delivery shall be of the essence and if the Provider fails to deliver the Goods within the time specified the Council may release itself from any obligation to accept and pay for the Goods and/or terminate the Contract, in either case without prejudice to any other rights and remedies of the Council.
- j. The council shall be under no obligation to accept or pay for any goods delivered in excess of the quantity ordered. If the council elects not to accept such over-delivered goods it shall give notice in writing to the provider to remove them within five (5) working days and to refund to the council any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the goods), failing which the council may dispose of such goods and charge the provider for the costs of such disposal. The risk in any over-delivered goods shall remain with the provider unless they are accepted by the council. The council shall be under no obligation to accept or pay for any goods supplied earlier than the date for delivery.
- k. Unless expressly agreed to the contrary, the council shall not be obliged to accept delivery by instalments. If, however, the council does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the council, entitle the council to terminate the whole of any unfulfilled part of the contract without further liability to the council.
- l. The provider shall deliver the goods in accordance with the requirements of any supply chain agreement relevant to the appropriate delivery point.
- m. Ownership and risk in the goods shall, without prejudice to any other rights or remedies of the council, pass to the council at the time of acceptance of delivery.
- n. where specified by the council on dispatch of any consignment of the goods the provider shall send the council an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. where the goods, having been placed in transit, fail to be delivered to the council on the due date for delivery, the council shall, (provided that the council has been advised in writing of the dispatch of the goods), within ten (10) working

days of the notified date of delivery, give notice to the provider that the goods have not been delivered and may request the provider free of charge to deliver substitute goods within the timescales specified by the council or terminate the contract.

- o. The council or its authorised representatives may inspect or test the goods either complete or in the process of manufacture during normal business hours on reasonable notice at the provider's premises and the provider shall provide all reasonable assistance in relation to any such inspection or test free of charge. no failure to make complaint at the time of any such inspection or test and no approval given during or after such inspection or test shall constitute a waiver by the council of any rights or remedies in respect of the goods and the council reserves the right to reject the goods in accordance with clause 2.1(p)
- p. The council may by written notice to the provider reject any of the goods which fail to conform to the approved sample or fail to meet the contract requirements. Such notice shall be given within a reasonable time after delivery to the council of such goods. if the council rejects any of the goods pursuant to this clause the council may (without prejudice to other rights and remedies) either:
 - (1) Have such goods promptly, and in any event within 3 working days, either repaired by the provider or replaced by the provider with goods which conform in all respects with the approved sample and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or
 - (2) Treat the contract as discharged by the provider's breach and obtain a refund from the provider in respect of the goods concerned together with payment of any additional expenditure reasonably incurred by the council in obtaining other goods in replacement provided that the council uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement goods.
- q. The issue by the council of a receipt note for the goods shall not constitute any acknowledgement of the condition, quantity or nature of those goods.
- r. Any goods rejected or returned by the council as described in clause 2.1(p) shall be returned to the provider at the provider's risk and expense.
- s. The goods shall be packed and marked in a proper manner and in accordance with the council's instructions and any statutory requirements and any requirements of the carriers. in particular the goods shall be marked with the batch number, order number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous goods (and all documents relating thereto) shall bear prominent and adequate warnings.

B3. The services

- B3.1 In consideration of the payment of the price, the provider shall supply the services during the contract period in relation to this contract in a proper, skilful and workmanlike manner; and in accordance with the council's requirements
- B3.2 The council may inspect and examine the manner in which the provider provides the services on reasonable notice.
- B3.3 Timely supply of the services shall be of the essence of this contract, including in relation to commencing the supply of the services within the time agreed or on a specified date.

B4. Manner of carrying out the services

- B4.1 The Provider shall at all times comply with the Quality Standards, and where applicable

shall maintain accreditation with the relevant quality standards authorisation body. To the extent that the standard of services has not been specified in this contract, the provider shall agree the relevant standard of the services with the council prior to the supply of the services and, in any event, the provider shall perform its obligations under this contract in accordance with the law and good industry practice.

B4.2 The provider shall ensure that a sufficient number of employees are in place to supply the services and that all employees supplying the services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the services.

B4.3 The council shall have the right to require the provider to attend such ad hoc performance review meetings as the council (acting reasonably) shall request.

B4.4 If the provider at any time becomes aware of any material matter that could affect the performance of the services in accordance with this contract, the provider shall inform the council immediately.

B5. KEY PERSONNEL

B5.1 The provider acknowledges that the key personnel are essential to the proper provision of the services to the council under this contract.

B5.2 The key personnel shall not be released from supplying the services without the agreement of the council, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.

B5.3 Any replacements to the key personnel shall be subject to the agreement of the council. Such replacements shall be of at least equal status or of equivalent experience and skills to the key personnel being replaced and be suitable for the responsibilities of that person in relation to the services.

B5.4 The council shall not unreasonably withhold its agreement under clauses b5.2 or b5.3. Such agreement shall be conditional on appropriate arrangements being made by the provider to minimise any adverse impact on this contract which could be caused by a change in key personnel.

B6. Contract manager and authorised officer

B6.1 The provider shall employ a competent and authorised contract manager empowered to act on behalf of the provider for all purposes connected with this contract.

B6.2 If the contract manager's details are not specified in the contract particulars, the provider shall within seven (7) days of the date of this contract give notice in writing to the council of the identity of the contract manager. The provider shall within seven (7) days give notice in writing to the council of any change in the identity, postal address, email address and telephone numbers of the person appointed as contract manager. The provider shall give maximum possible notice to the council before changing its contract manager.

B6.3 The council shall appoint an authorised officer who shall be empowered to act on behalf of the provider for all purposes connected with this contract.

B6.4 If the authorised officer's details are not specified in the contract particulars, the council shall within seven (7) days of the date of this contract give notice in writing to the provider of the identity of the authorised officer. The council shall within seven (7) days give notice in writing to the provider of any change in the identity, postal address, email

address and telephone number of the person appointed authorised officer.

B7. DISCLOSURE AND BARRING SERVICE (DBS) CHECKS

- B7.1 The provider shall ensure that where relevant all employees who are engaged on this service have been subject to an enhanced DBS check prior to their employment and that they are not employed to work on this contract where they are found to have any conviction, caution, reprimand or warning which is relevant to the service.
- B7.2 The provider shall have policies and procedures which acknowledge and provide for ongoing monitoring of employees including undertaking further dbS disclosures every three years.
- B7.3 Any fee incurred in meeting the requirements of this clause b7 shall be at the provider's own cost.
- B7.4 The provider shall have policies and procedures in place which ensure that where an employee is to be engaged in a regulated activity as defined by the safeguarding of vulnerable groups act 2006 (as from time to time amended) permission is obtained to provide the council with the following information:
- a. Name;
 - b. Date of birth;
 - c. DBS disclosure number; and
 - d. The date of their most recent DBS disclosure.

B8. EMPLOYEES

- B8.1 The council (acting reasonably) may:-
- a. Instruct the provider that disciplinary action is taken against any employee (in accordance with the terms and conditions of employment of the employee concerned) where such employee misconducts himself or is incompetent or negligent in his duties (in which case the council shall co-operate with any disciplinary proceedings and shall be advised in writing of the outcome); or
 - b. Where the council has reasonable grounds for considering that the presence or conduct of an employee at any location relevant to the performance of the services is undesirable (including circumstances where the council reasonably considers that the employee may not be authorised to work in the uk) require the exclusion of the relevant employee from the relevant location(s).
- B8.2 The Provider shall comply with any notice issued by the Council pursuant to clause (b) from time to time requiring the exclusion from any relevant location of any Employee who in the opinion of the Council (which it shall not be required to explain or disclose to the Provider) is not acceptable on the grounds that the presence or conduct of the Employee is undesirable. The Provider shall not employ such persons again in the provision of the Services without the written consent of the Council.
- B8.3 Where the council exercises its rights under clause B8 and it can be shown that:-
- a. the provider has acted in accordance with the relevant provisions of this clause B8; and
 - b. the Council did not act reasonably in instructing the provider not to employ and/or in requiring any exclusion;

then the Council shall indemnify the Provider and keep the provider indemnified from and against any injury, claims, costs and expenses (including legal expenses) and or damage

suffered or incurred by the Provider, provided that the Provider has used its reasonable endeavours to re-deploy that person elsewhere and/or to mitigate the claim.

PART C - PRICE AND PAYMENT

C1. Contract Price

- C1.1 In consideration of the Provider's performance of its obligations under the Contract, the council shall pay the contract price in accordance with Clause C2 (Payment and VAT).
- C1.2 The council shall, in addition to the contract price and following evidence of a valid vat invoice, pay the provider a sum equal to the vat chargeable on the value of the services supplied in accordance with the contract.

C2. Payment and VAT

- C2.1 In consideration of the provider performing its obligations under the contract, the council shall pay all sums due to the provider in cleared funds within thirty (30) days of the date of invoice, submitted in accordance with the payment profile set out in the contract.
- C2.2 The provider shall ensure that each invoice contains all appropriate references and a detailed breakdown of the services supplied and that it is supported by any other documentation reasonably required by the council to substantiate the invoice.
- C2.3 If the Council agrees to delivery by instalments in accordance with Clause B2(k) payments may also be made in corresponding instalments at the discretion of the Council.
- C2.4 Where the provider enters into a sub-contract with a supplier or provider for the purpose of performing its obligations under the contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the provider to the sub-provider within a specified period not exceeding thirty (30) days from the receipt of a valid invoice.
- C2.5 The provider shall add VAT to the contract price at the prevailing rate as applicable.
- C2.6 The provider shall indemnify the council on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the council at any time in respect of the provider's failure to account for or to pay any vat relating to payments made to the provider under the contract. any amounts due under this clause c2.6 shall be paid by the provider to the council not less than five (5) working days before the date upon which the tax or other liability is payable by the council.
- C2.7 The provider shall not suspend the supply of the services unless the provider is entitled to terminate the contract under Clause D2 (Termination on Default) for failure to pay undisputed sums of money.
- C2.8 Interest shall be payable by the council on the late payment of any undisputed sums of money properly invoiced under the provisions of this Clause C2 in accordance with the Late Payment of Commercial Debts (Interest) Act 1998

C3. Recovery of sums due

- C3.1 Wherever under the contract any sum of money is recoverable from or payable by the provider (including any sum which the provider is liable to pay to the council in respect of any breach of the contract), the council may unilaterally deduct that sum from any sum

then due, or which at any later time may become due to the provider under the contract or under any other agreement or contract with the council.

- C3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Provider.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- C4. **Euros**
- C4.1 Any requirement of law to account for the services in Euros (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the provider free of charge to the council.
- C4.2 The Council shall provide all reasonable assistance to facilitate compliance with Clause C4.1 by the Provider.

DEFAULT, DISRUPTION AND TERMINATION

D1. Termination on insolvency and change of control, or disqualification

- D1.1 The Council may terminate the Contract with immediate effect by giving notice in writing where the Provider is a company and in respect of the Provider:
- a. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - b. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
 - c. a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
 - d. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
 - e. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - f. it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
 - g. being a "small company" within the meaning of Section 382 of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - h. any event similar to those listed in Clause D1.1(a) - (g) occurs under the law of any other jurisdiction.
- D1.2 The council may terminate the contract with immediate effect by notice in writing where

the provider is an individual and:

- a. an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Provider's creditors; or
- b. a petition is presented and not dismissed within 14 days or order made for the Provider's bankruptcy; or
- c. a receiver, or similar officer is appointed over the whole or any part of the Provider's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- d. the Provider is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of Section 268 of the Insolvency Act 1986; or
- e. a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within 14 days; or
- f. being an individual, dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
- g. the Provider suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

D1.3 The Provider shall notify the Council immediately if the Provider undergoes a change of control as defined by section 450, 451 and 707 of the Corporation Tax Act 2010 ("Change of Control"). The Council may terminate the Contract by notice in writing with immediate effect within six months of:

- a. being notified that a Change of Control has occurred; or
- b. where no notification has been made, the date that the Council becomes aware of the Change of Control; but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

D1.4 In addition, the Council may terminate the Contract with immediate effect by notice in writing if at any time it becomes aware that:

- a. the Provider, at the time of contract award, should have been excluded from participation due to any of the offences listed in Regulation 57(1) or Regulation 57(2) of the Public Contracts Regulations 2015 (the "mandatory exclusions" stipulated by those Regulations).
- b. the contract should not have been awarded to the Provider in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union (TFEU).

D2. **Termination on default**

D2.1 The council may terminate the contract by giving written notice to the provider with immediate effect if the provider commits a default and if:

- a. the provider has not remedied the default to the satisfaction of the council within three (3) working days, or such other period as may be specified by the council, after issue of a written notice specifying the default and requesting it to be remedied; or
- b. the Default is not, in the opinion of the Council, capable of remedy; or
- c. the Default is a material breach of the Contract.

- D2.2 If the council fails to pay the provider undisputed sums of money when due, the provider shall notify the council in writing of such failure to pay. If the council fails to pay such undisputed sums within ninety (90) working days of the date of such written notice, the provider may terminate the contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the council exercising its rights under clause 4.3.1 (recovery of sums due).
- D3. **Break**
- D3.1 The council shall have the right to terminate the contract at any time by giving ninety (90) days written notice to the provider.
- D4. **Framework agreement**
- D4.1 Not used
- D5. **Consequences of expiry or termination**
- D5.1 Where the council terminates the contract under clause D2 (termination on default) and then makes other arrangements for the supply of services, the council may recover from the provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the council throughout the remainder of the contract period. The council shall take all reasonable steps to mitigate such additional expenditure. Where the contract is terminated under clause D2 (termination on default), no further payments shall be payable by the council to the provider until the council has established the final cost of making those other arrangements.
- D5.2 Subject to clause E1 where the council terminates the contract under clause D3 (break), the council shall indemnify the provider against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the provider by reason of the termination of the contract, provided that the provider takes all reasonable steps to mitigate such loss. Where the provider holds insurance, the provider shall reduce its unavoidable costs by any insurance sums available. The provider shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the provider as a result of termination under clause 9.3 (break).
- D5.3 The council shall not be liable under clause D5.2 to pay any sum which:
- a. was claimable under insurance held by the provider, and the provider has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
 - b. when added to any sums paid or due to the provider under the contract, exceeds the total sum that would have been payable to the provider if the contract had not been terminated prior to the expiry of the contract period.
- D5.4 Save as otherwise expressly provided in the Contract:
- a. termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
 - b. termination of the Contract shall not affect the continuing rights, remedies or obligations of the Council or the Provider under Clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), H8 (Prevention of Corruption), F2 (Confidential Information), F4 (Freedom of Information), F7 (Records and Audit Access), H2.6 (Cumulative Remedies), 8.1 (Liability, Indemnity and Insurance),

D5 (Consequences of Expiry or Termination), and H13.1 (Governing Law and Jurisdiction).

D6. Disruption

- D6.1 The provider shall take reasonable care to ensure that in the performance of its obligations under the contract it does not disrupt the operations of the council, its employees or any other provider employed by the council.
- D6.2 The provider shall immediately inform the council of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the contract.
- D6.3 In the event of industrial action by the staff, the provider shall seek the council's approval to its proposals for the continuance of the supply of the services in accordance with its obligations under the contract.
- D6.4 if the provider's proposals referred to in clause D6.3 are considered insufficient or unacceptable by the council acting reasonably then the contract may be terminated with immediate effect by the council by notice in writing.
- D6.5 If the provider is temporarily unable to fulfil the requirements of the contract owing to disruption of normal business by direction of the council, an appropriate allowance by way of extension of time will be approved by the council. In addition, the council will reimburse any additional expense reasonably incurred by the provider as a direct result of such disruption.

D7. Recovery upon Termination

- D7.1 On the termination of the Contract for any reason, the Provider shall:
- a. Immediately return to the Council all Confidential Information and any IPRs belonging to the Council, in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Services;
 - b. Immediately deliver to the Council all property (including materials, documents, information and access keys) that may have been provided to the Provider by the Council. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - c. Assist and co-operate with the Council to ensure an orderly transition of the provision of the Services to the Replacement Provider and/or the completion of any work in progress.
 - d. Promptly provide all information concerning the provision of the Services which may reasonably be requested by the Council for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Council or the Replacement Provider to conduct due diligence.
- D7.2 If the Provider fails to comply with Clause D7.1 (a) and (b), the Council may recover possession thereof and the Provider grants a licence to the Council or its appointed agents to enter (for the purposes of such recovery) any premises of the Provider or its permitted suppliers or Sub-Contractors where any such items may be held.
- D7.3 Where the end of the Contract Period arises due to the Provider's Default, the Provider shall provide all assistance under Clause D7.1 (c) and (d) free of charge. Otherwise, the Council shall pay the Provider's reasonable costs of providing the assistance and the Provider shall take all reasonable steps to mitigate such costs.

PART E - INSURANCE AND LIABILITIES

E1. Liability, Indemnity and Insurance

- E1.1 nothing in the contract shall be construed to limit or exclude either party's liability for:
- a. death or personal injury caused by its negligence or that of its Staff;
 - b. Fraud or fraudulent misrepresentation by it or its Staff; or
 - c. any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
- E1.2 Subject to Clause E1.3 the provider shall indemnify and keep indemnified the council in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the services or the performance or non-performance by the provider of its obligations under the contract or the presence of the provider or any staff on the premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the provider, or any other loss which is caused directly or indirectly by any act or omission of the provider. the provider shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the council or by breach by the council of its obligations under the contract.
- E1.3 Subject to Clause E1.1, in no event shall either Party be liable to the other for any:
- a. loss of profits;
 - b. loss of business;
 - c. loss of revenue;
 - d. loss of or damage to goodwill;
 - e. loss of savings (whether anticipated or otherwise); and/or
 - f. any indirect or consequential loss or damage.
- E1.4 The Council may, amongst other things, recover as a direct loss:
- a. any additional operational and/or administrative expenses arising from the Provider's Default;
 - b. any wasted expenditure or charges rendered unnecessary and/or incurred by the Council arising from the Provider's Default; and
 - c. the additional cost of procuring replacement Services following termination of the Contract as a result of a Default by the Provider.
- E1.5 Nothing in the contract shall impose any liability on the council in respect of any liability incurred by the provider to any other person, but this shall not be taken to exclude or limit any liability of the council to the provider that may arise by virtue of either a breach of the contract or by negligence on the part of the council, or the council's employees, servants or agents.
- E1.6 The provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover (which as a minimum shall comply with the level of cover set out in the tender) in respect of all risks which may be incurred by the provider, arising out of the provider's performance of its obligations under the contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the provider. Such insurance shall be maintained during the period over which the contract is performed and for a minimum of 6 (six) years following the expiration or earlier termination of the contract.

- E1.7 The provider shall hold employer's liability insurance in respect of staff in accordance with any legal requirement from time to time in force.
- E1.8 The provider shall give the council, on request, copies of all insurance policies referred to in this clause E1 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- E1.9 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by the provisions of the Contract the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- E1.10 The provisions of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the Contract. It shall be the responsibility of the Provider to determine the amount of insurance cover that will be adequate to enable the Provider to satisfy any liability referred to in Clause E1.2.

E2. **Warranties and Representations**

- E2.1 The provider warrants and represents that:
- a. it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the contract;
 - b. the contract is executed by a duly authorised representative of the provider;
 - c. in entering the contract it has not committed any fraud;
 - d. as at the commencement date, all information, statements and representations contained in the tender are true, accurate and not misleading save as may have been specifically disclosed in writing to the council prior to execution of the contract and it will advise the council of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;
 - e. no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the contract;
 - f. it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under the contract;
 - g. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the provider's assets or revenue;
 - h. it owns, has obtained or is able to obtain valid licences for all intellectual property rights that are necessary for the performance of its obligations under the contract;
 - i. the obligations undertaken by the provider shall be discharged and carried out by appropriately experienced, qualified and trained staff with all due skill, care and diligence:
 - (1) In the three (3) years prior to the date of the contract:
 - (2) It has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and

- (3) It has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
- (4) It has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

PART F - PROTECTION OF INFORMATION

F1. Intellectual Property

- F1.1 All intellectual property rights in any specifications, instructions, plans, data, drawings, databases, patents, patterns, models, designs or other material:
- a. Provided to the provider by the council shall remain the property of the council; or
 - b. Prepared by or for the provider specifically for the use, or intended use, in relation to the performance of this contract shall belong to the council subject to any exceptions set out in the contract particulars.
- F1.2 The provider shall obtain any necessary approval before using any material, in relation to the performance of this contract which is or may be subject to any third party intellectual property rights. The provider shall procure that the owner of the intellectual property rights grants to the council a non-exclusive licence, or if the provider is itself a licensee of those rights, the provider shall grant to the council an authorised sub-licence, to use, reproduce, and maintain the intellectual property rights. Such licence or sub-licence shall be non-exclusive, perpetual and irrevocable, shall include the right to sub-licence, transfer, novate or assign to other councils, the replacement provider or to any other third party providing services to the council, and shall be granted at no cost to the council.
- F1.3 It is a condition of this contract that the services will not infringe any intellectual property rights of any third party and the provider shall during and after the contract period on written demand indemnify and keep indemnified without limitation the council against all liabilities which the council may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim relates to the act or omission of the council.
- F1.4 At the termination of this contract the provider shall at the request of the council immediately return to the council all materials, work or records held in relation to the services, including any back-up media.

F2. Confidential information

- F2.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each party shall:
- a. Treat the other party's confidential information as confidential and safeguard it accordingly; and
 - b. not disclose the other party's confidential information to any other person without the owner's prior written consent.
- F2.2 Clause F2.1 shall not apply to the extent that:
- a. Such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to Clause F4 (Freedom of Information);
 - b. Such information was in the possession of the party making the disclosure

- without obligation of confidentiality prior to its disclosure by the information owner;
- c. Such information was obtained from a third party without obligation of confidentiality;
 - d. Such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract; or
 - e. It is independently developed without access to the other party's confidential information.
- F2.3 The provider may only disclose the council's confidential information to its staff who are directly involved in the provision of the services and who need to know the information, and shall ensure that such staff are aware of and shall comply with these obligations as to confidentiality.
- F2.4 The provider shall not, and shall procure that its staff do not, use any of the council's confidential information received otherwise than for the purposes of this contract.
- F2.5 At the written request of the council, the provider shall procure that those members of the staff identified in the council's notice signs a confidentiality undertaking prior to commencing any work in accordance with this contract.
- F2.6 Nothing in this agreement shall prevent the council from disclosing the provider's confidential information:
- a. To any crown body or any other contracting authority. [all crown bodies or contracting authorities receiving such confidential information shall be entitled to further disclose the confidential information to other crown bodies [or other contracting authorities] on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any crown body or any contracting authority];
 - b. To any consultant, provider or other person engaged by the council or any person conducting an office of government commerce gateway review;
 - c. For the purpose of the examination and certification of the council's accounts;
 - d. For any examination pursuant to section 6(1) of the national audit act 1983 of the economy, efficiency and effectiveness with which the council has used its resources.
- F2.7 The council shall use all reasonable endeavours to ensure that any government department, contracting authority, employee, third party or sub-provider to whom the provider's confidential information is disclosed pursuant to clause f2.6 is made aware of the council's obligations of confidentiality.
- F2.8 Nothing in this clause F2 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's confidential information or an infringement of intellectual property rights.
- F3. Data protection**
- F3.1 With respect to the parties' rights and obligations under this agreement, the parties agree that the authority is the data controller and that the provider is the data processor.
- F3.2 The Provider shall:
- a. Process the personal data only in accordance with instructions from the authority (which may be specific instructions or instructions of a general nature as set out in this agreement or as otherwise notified by the authority to the

- provider during the term of this agreement;
- b. Process the personal data only to the extent, and in such manner, as is necessary for the provision of the services or as is required by law or any regulatory body;
 - c. Implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. these measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the personal data and having regard to the nature of the personal data which is to be protected;
 - d. take reasonable steps to ensure the reliability of any staff who have access to the personal data;
 - e. obtain prior written consent from the authority in order to transfer the personal data to any sub-contractors or affiliates for the provision of the services;
 - f. ensure that all staff required to access the personal data are informed of the confidential nature of the personal data and comply with the obligations set out in this clause F3;
 - g. Ensure that none of the staff publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by the authority;
 - h. Notify the authority (within [five] working days), if it receives:
 - (1) A request from a data subject to have access to that person's personal data; or
 - (2) A complaint or request relating to the authority's obligations under the data protection legislation;
 - i. Provide the Authority with full co-operation and assistance in relation to any complaint or request made, including by:
 - (1) Providing the Authority with full details of the complaint or request;
 - (2) Complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Authority's instructions;
 - (3) Providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and
 - (4) Providing the Authority with any information requested by the Authority.
 - j. Permit the authority or the authority's representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the provider's data processing activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by the authority to enable the authority to verify and/or procure that the provider is in full compliance with its obligations under this agreement.
 - k. Provide a written description of the technical and organisational methods employed by the provider for processing personal data (within the timescales required by the authority); and
 - l. Not process personal data outside the European economic area without the prior written consent of the authority and, where the authority consents to a transfer, to comply with:
 - (1) The obligations of a data controller under the eighth data protection principle set out in schedule 1 of the data protection act 1998 by providing an adequate level of protection to any personal data that is transferred; and
 - (2) Any reasonable instructions notified to it by the authority.

F3.3 The provider shall comply at all times with the data protection legislation and shall not

perform its obligations under this agreement in such a way as to cause the authority to breach any of its applicable obligations under the data protection legislation.

F4. Freedom of information

F4.1 The provider acknowledges that the council is subject to the requirements of the foia and the environmental information regulations and shall assist and cooperate with the council to enable the council to comply with its information disclosure obligations.

F4.2 The provider shall and shall procure that its sub-contractors shall:

- a. Transfer to the council all requests for information that it receives as soon as practicable and in any event within [two] working days of receiving a request for information;
- b. Provide the council with a copy of all information in its possession, or power in the form that the council requires within [five] working days (or such other period as the council may specify) of the council's request; and
- c. Provide all necessary assistance as reasonably requested by the council to enable the council to respond to the request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the environmental information regulations.

F4.3 The council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this agreement or any other agreement whether the commercially sensitive information and/or any other information is exempt from disclosure in accordance with the provisions of the foia or the environmental information regulations.

F4.5 In no event shall the provider respond directly to a request for information unless expressly authorised to do so by the council.

F4.6 The provider acknowledges that (notwithstanding the provisions of clause f4.2) the council may, acting in accordance with the secretary of state for constitutional affairs code of practice on the discharge of the functions of public authorities under part 1 of the freedom of information act 2000 ("the code"), be obliged under the FOIA, or the environmental information regulations to disclose information concerning the provider or the services:

- a. in certain circumstances without consulting the Provider; or
- b. following consultation with the Provider and having taken their views into account;
- c. provided always that where clause F4.2 applies the council shall, in accordance with any recommendations of the code, take reasonable steps, where appropriate, to give the provider advanced notice, or failing that, to draw the disclosure to the provider's attention after any such disclosure.

F4.7 The provider shall ensure that all information is retained for disclosure and shall permit the council to inspect such records as requested from time to time.

F5. Publicity, media and official enquiries

F5.1 The provider shall not make any press announcements or publicise the contract in any way without the council's prior approval and shall take reasonable steps to ensure that its servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with this clause.

F5.2 The council shall be entitled to publicise the contract in accordance with any legal

obligation upon the council, including any examination of the contract by the auditor.

F5.3 The provider shall not do anything or cause anything to be done, which may damage the reputation of the council or bring the council into disrepute.

F6. Security

F6.1 The provider shall comply with all reasonable security requirements of the council while on the premises and shall ensure that all staff complies with such requirements.

F6.2 The council shall provide the provider upon request copies of its written security procedures and shall afford the provider upon request an opportunity to inspect its physical security arrangements.

F7. Records and Audit Access

F7.1 The provider shall keep and maintain until one (1) year after the date of termination or expiry (whichever is the earlier) of the contract (or as long a period as may be agreed between the parties), full and accurate records and accounts of the operation of the contract including the services provided under it, the contracts entered into with the contracting authority and the amounts paid by each contracting authority.

F7.2 The Provider shall keep the records and accounts referred to in Clause F7.1 above in accordance with good accountancy practice.

F7.3 The provider shall on request afford the council, the council's representatives and/or the auditor such access to such records and accounts as may be required from time to time.

F7.4 The provider shall provide such records and accounts (together with copies of the provider's published accounts) during the contract period and for a period of one (1) year after the expiry of the contract period to the council and the auditor.

F7.5 The council shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the provider or delay the supply of the services save insofar as the provider accepts and acknowledges that control over the conduct of audits carried out by the auditor is outside of the control of the council.

F7.6 Subject to the Council's rights of Confidential Information, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each audit, including:

- a. All information requested by the Council within the scope of the audit;
- b. Reasonable access to sites controlled by the Provider and to Equipment used in the provision of the Services; and
- c. Access to Staff.

F7.7 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 6.6, unless the audit reveals a material default by the provider in which case the provider shall reimburse the council for the council's reasonable costs incurred in relation to the audit.

F8. Record keeping and monitoring

F8.1 In order to assist the council in its record keeping and monitoring requirements including auditing and national audit office requirements, the provider shall keep and maintain for six (6) years (or such longer time period required in accordance with any specific legislation) after this contract has been completed, full and accurate records of this

contract including the services supplied under it, all expenditure reimbursed by the council, and all payments made by the council. The provider shall on request allow the council or the council's representatives such access to (and copies of) those records as may be required by the council in connection with this contract.

- F8.2 Where monitoring requirements are set out in the contract particulars, the provider shall comply with monitoring requirements at its own cost. The council reserve the right to request from the provider all necessary supporting information in relation to the monitoring requirements.

PART G - STATUTORY OBLIGATIONS

G1. Health and safety

- G1.1 The provider shall comply with the requirements of the health and safety at work etc. act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working in the performance of its obligations under this contract.
- G1.2 The provider shall ensure that its health and safety policy statement (as required by the health and safety at work etc act 1974) is made available to the council on request. the provider acknowledges that its health and safety policy statement is subject to approval by the council.

G2. Corporate requirements

- G2.1 The provider shall comply with all obligations under the Human Rights Act 1998.
- G2.2 The provider will have in place appropriate policies and rules, including, but not limited to:
- a. Equality and diversity policies;
 - b. Child protection and safeguarding policies;
 - c. Sustainability;
 - d. Information security rules;
 - e. Whistleblowing and/or confidential reporting policies; and
 - f. All site rules relevant to the fulfilment of the provider's obligations in the performance of the services.
- G2.3 The Provider shall produce them upon request of the Council.
- G2.4 The provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) and shall take all reasonable steps to secure the observance of this clause g2 by all servants, employees or agents of the provider and all suppliers and sub-contractors employed in the execution of the contract
- G2.5 The provider shall comply with all relevant legislation relating to its employees however employed including (but not limited to) the compliance in law of the ability of the employees to work in the United Kingdom.
- G2.6 If the provider has a finding against it relating to its obligations under clause 0 it will provide the council with:
- a. details of the finding; and
 - b. the steps the provider has taken to remedy the situation.

G3 Law and change in law

G3.1 The provider shall comply at all times with the law in its performance of this contract.

G3.2 On the occurrence of a change in law which has a direct effect upon the price the parties shall meet within fourteen (14) days of the provider notifying the council of the change in law to consult and seek to agree the effect of the change in law and any change in the price as a result following the principle that this clause is not intended to create an artificial cushion from market forces for the provider. If the parties, within fourteen (14) days of this meeting, have not agreed the occurrence or the impact of the change in law, either party may refer the matter to dispute resolution in accordance with clause H1.

G3.3 Any agreed additional sums payable as a result of the operation of clause 0 shall be included in the price. for the avoidance of doubt nothing in this contract is intended to allow the provider double recovery of any increase in costs.

G4 TUPE indemnity

For the purposes of this clause only the following definitions shall take effect:-

“Current employer”	the employer of the transferring employees immediately before the commencement date.
“Employment costs”	remuneration, benefits, entitlements and outgoings in respect of the transferring employees and including without limitation all wages, holiday pay, bonuses, commissions, payment of PAYE, national insurance contributions and pensions contributions.
“Prohibited act”	include any of the following (1) termination of employment of any employees; or (2) the alteration or change of terms or conditions of any employees; or (3) the recruitment of any employees; or (4) relocation or assignment to new duties of any employees.
“Transferring employees”	those employees employed wholly or mainly by the current employer in providing the services described in the specification prior to the commencement date.

G4.1 The council and the provider acknowledge that where as a result of tupe the contracts of employment between the current employer and the transferring employees (except in so far as such contracts relate to any occupational pension scheme as defined in regulation 10 of TUPE) transfer, they will have effect after the commencement date as if originally made between the provider and the transferring employees.

G4.2 All employment costs in respect of the period:

- a. Up to and including the commencement date in relation to the transferring employees (whether or not due for payment at that date) will be borne by the current employer;
- b. After the commencement date will be borne by the provider; and,
- c. If necessary be apportioned on a time basis between the provider and the current employer.

G4.3 The provider will keep the council and any replacement provider indemnified in full against all liabilities arising directly or indirectly and whether incurred by the council pursuant to an indemnity provided to the replacement provider in connection with:

- a. the employment or termination of employment of any of the employees (whether

- b. or not terminated by notice and, if so terminated, whenever that notice expires);
- b. any act, omission or default of the provider in respect of the employment of the transferring employees;
- c. The provider's failure to inform or consult as required under Regulation 13 of TUPE except to the extent that any such action or claim (or any part of such action or claim) arises from any failure by the council or the replacement provider to give the provider the information required from the council or the replacement provider to enable the provider to comply with its obligations under TUPE; and
- d. The Provider's failure to provide the employee liability information under Regulation 11 of TUPE.
- b. Any claim by a Transferring Employee that such person is entitled for any reason to take early retirement benefits pursuant to the terms of any pension scheme in which the Council or the replacement Provider is not then participating, or pursuant to the Transferring Employee's terms and conditions of employment;

G4.4 In the event of expiry or termination of this Contract or whenever reasonably requested by the Council in preparation for tendering arrangements the Provider will (if the Council has reasonable grounds to believe that TUPE will apply to any employees of the Provider or its Sub-Contractors on expiry or termination in connection with a service provision change) provide the Council with such assistance as the Council may require and provide at no cost to the Council any information the Council (whether on its own account or on behalf of any potential or confirmed Replacement Provider) may request in relation to the Employees including but not limited to, providing employee liability information as required under Regulation 11 of TUPE.

G4.5 The provider authorises the council to pass any information supplied to any replacement provider or potential replacement provider and the provider will secure all necessary consents from relevant employees in order to do this.

G4.6 The provider will keep the council and any replacement provider indemnified in full against all liabilities arising directly or indirectly in connection with any breach of this clause or inaccuracies in or omissions from the information provided.

G4.7 The parties acknowledge that they consider the application of TUPE to be unlikely on termination or expiry of this contract. accordingly, except with the prior consent of the council to do otherwise (such consent not to be unreasonably withheld) the provider is to use best endeavours to provide the services in a manner such that no organised grouping of employees of the provider and/or its sub-contractors is formed where such individuals have rights under TUPE against the council or its subsequent service provider. the provider shall indemnify the council and/or where relevant the council's subsequent service providers in full for all losses, liabilities, actions, claims demands, compensation, damages, costs and expenses and increased costs and expenses relating to or arising from or connected with claims made against them respectively by such employees on the grounds of TUPE arising under or in connection with this Contract.

G5 **Business continuity plan**

G5.1 The Civil Contingencies Act 2004 requires the Council to maintain plans to ensure it can continue to perform its important ordinary functions in the event of an emergency, as defined by the Act. Organisations providing services or goods which underpin the Council's critical service provision must be able to continue to provide in the event of an emergency. The Provider shall use its reasonable endeavours:

- a. To prepare a robust Business Continuity Plan that ensures the continuation of

- this Contract;
- b. On request, to disclose to the Council the contents of its Business Continuity Plan (including any revisions made to it from time to time);
 - c. to allow the Council at its discretion from time to time to monitor the Provider's business continuity arrangements;
 - d. To notify the Council if an incident occurs which activates the Provider's Business Continuity Plan (such notification to be given prior to the issue of any notification to the press or other media); and
 - e. To provide the Council with details of how the Provider managed any incident which resulted in the activation of the Provider's Business Continuity Plan and any consequential amendments made to the Provider's processes and/or procedures thereafter.

G6 Community safety

- G6.1 The council has a statutory duty to ensure that it does all that it reasonably can to prevent crime and disorder in its area under the crime and disorder act 1998. the provider is requested to assist the council in the provision of the services, in order to enable the council to comply with this obligation at no additional expense to the council.

G7 Environmental requirements

- G7.1 The provider shall perform its obligations under the contract in accordance with the council's environmental policies, which are to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

PART H - GENERAL PROVISIONS

H1. Dispute resolution procedure

- H1.1 Any dispute arising in relation to any aspect of this Agreement shall be resolved in accordance with this clause H1.
- H1.2 The provider and the council shall endeavour to notify each other of any anticipated disputes so that any potential dispute can be avoided by negotiation between them.
- H1.3 Both parties shall endeavour to resolve any failure to agree matters or any disputes by direct negotiations between senior representatives of both parties.
- H1.4 If the parties fail to resolve the dispute through such consultation either party may refer the matter to an adjudicator ("the adjudicator"). The adjudicator shall be selected by agreement between the parties, or where the parties are unable to agree on the identity of the adjudicator within fourteen (14) days, the president for the time being of the chartered institute of arbitrators shall appoint the adjudicator within thirty (30) business days of any application for such appointment by either party.
- H1.5 Within five (5) business days of nomination in relation to a particular dispute, the adjudicator shall require the parties to submit in writing their respective arguments. the adjudicator shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute.
- H1.6 In any event, the adjudicator shall provide to both parties his written decision on the dispute, within twenty (20) business days of the adjudicator's nomination to consider the relevant dispute (or such other period as the parties may agree after the reference) or

thirty (30) business days from the date of reference if the party which referred the dispute agrees. The adjudicator's decision shall not state any reasons for his decision. Unless and until revised, cancelled or varied by the English courts, the adjudicator's decision shall be binding on both parties who shall forthwith give effect to the decision.

- H1.7 The adjudicator's costs of any reference shall be borne as the adjudicator shall specify or, in default, equally by the parties. Each party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- H1.8 The adjudicator shall be deemed not to be an arbitrator but shall render his decision as an expert, and the provisions of the arbitration act 1996 and the law relating to arbitration shall not apply to the adjudicator or his determination or the procedure by which he reached his determination.
- H1.9 The adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The adjudicator shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this agreement.
- H1.10 All information, data or documentation disclosed or delivered by a party to the adjudicator in consequence of or in connection with his appointment as adjudicator shall be treated as confidential. the adjudicator shall not, save as permitted by clause F2 (confidentiality and publicity) and clause F2 (freedom of information), disclose to any person or company any such information, data or documentation and all such information, data or documentation shall remain the property of the party disclosing or delivering the same and all copies shall be returned to such party on completion of the adjudicator's work.
- H1.11 The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.
- H1.12 If:
- a. either party is dissatisfied with or otherwise wishes to challenge the adjudicator's decision made in accordance with clause h1.6 (adjudicator's decision); or
 - b. both parties agree,
- then either party may (within twenty (20) business days of receipt of the adjudicator's decision, where appropriate), notify the other party of its intention to refer the dispute to the courts.
- H1.13 The parties shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under this clause H1 and shall give effect forthwith to every decision of the Adjudicator and the courts delivered under this clause H1.

H2. **Control of the contract**

H2.1 **Transfer and Sub-Contracting**

- a. The provider shall not assign, novate, sub-contract or in any other way dispose of the contract or any part of it without the prior approval of the council. Sub-contracting any part of the contract shall not relieve the provider of any obligation or duty attributable to the provider under the contract.
- b. The provider shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- c. Where the council has consented to the placing of sub-contracts, copies of each

sub-contract shall, at the request of the council, be sent by the provider to the council as soon as reasonably practicable.

d. Subject to clause H2.1(f), the council may assign, novate or otherwise dispose of its rights and obligations under the contract or any part thereof to:

- (1) any contracting authority; or
- (2) any other body established by the crown or under statute in order substantially to perform any of the functions that had previously been performed by the council; or
- (3) any private sector body which substantially performs the functions of the council;

provided that any such assignment, novation or other disposal shall not increase the burden of the provider's obligations under the contract.

e. Any change in the legal status of the council such that it ceases to be a contracting authority shall not, subject to clause H2.1(f), affect the validity of the contract. In such circumstances, the contract shall bind and inure to the benefit of any successor body to the council.

f. If the rights and obligations under the contract are assigned, novated or otherwise disposed of pursuant to clause H2.1(d) to a body which is not a contracting authority or if there is a change in the legal status of the council such that it ceases to be a contracting authority (in the remainder of this clause both such bodies being referred to as "the transferee"):

- (1) the rights of termination of the Council in Clauses D1 (Termination on insolvency and change of control) and D2 (Termination on Default) shall be available to the Provider in the event of, respectively, the bankruptcy or insolvency, or Default of the Transferee; and
- (2) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the previous consent in writing of the Provider.

g. The council may disclose to any transferee any confidential information of the provider which relates to the performance of the provider's obligations under the contract. In such circumstances the council shall authorise the transferee to use such confidential information only for purposes relating to the performance of the provider's obligations under the contract and for no other purposes and shall take all reasonable steps to ensure that the transferee gives a confidential information undertaking in relation to such confidential information.

h. Each party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other party reasonably requires from time to time for the purpose of giving that other party the full benefit of the provisions of the contract.

H2.2 **Waiver**

- a. The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- b. No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 1.6 (Notices).
- c. A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

H2.3 Variation

- a. Subject to the provisions of this Clause H2.3, the Council may request a variation to Services ordered provided that such variation does not amount to a material change to the Contract. Such a change is hereinafter called a "Variation".
- b. The Council may request a Variation in writing to the Provider giving sufficient information for the Provider to assess the extent of the Variation and any additional cost that may be incurred. The Provider shall respond to a request for a Variation within the time limits specified in the Variation Form. Such time limits shall be reasonable having regard to the nature of the services.
- c. In the event that the Provider is unable to provide the Variation to the Services or where the Parties are unable to agree a change to the Contract Price, the Council may:
 - (1) agree to continue to perform their obligations under the Contract without the Variation; or
 - (2) terminate the Contract with immediate effect, except where the Provider has already delivered part or all of the Services, or where the Provider can show evidence of substantial work being carried out to fulfil the Contract, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure detailed at Clause H1.
- d. If the Parties agree the Variation and any variation in the Contract Price, the Provider shall carry out such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.

H2.4 Severability

- a. If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.
- b. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Council and the Provider shall immediately commence good faith negotiations to remedy such invalidity.

H2.5 Remedies in the event of inadequate performance

- a. Where a complaint is received about the standard of provision of the Services or about the manner in which any Services have been supplied or about the materials or procedures used or about any other matter connected with the performance of the Provider's obligations under the Contract, then the Council shall take all reasonable steps to investigate the complaint. The Council may, in its sole discretion, uphold the complaint, or take further action in accordance with Clause D2 (Termination on Default) of the Contract.
- b. In the event that the Council is of the reasonable opinion that there has been a material breach of the Contract by the Provider, then the Council may, without prejudice to its rights under Clause D2 (Termination on Default), do any of the following:
 - (1) Without terminating the contract, itself supply or procure the supply of all or part of the services until such time as the provider shall have demonstrated to the reasonable satisfaction of the council that the

- provider will once more be able to supply all or such part of the services in accordance with the contract;
- (2) Without terminating the whole of the contract, terminate the contract in respect of part of the services only (whereupon a corresponding reduction in the contract price shall be made) and thereafter itself supply or procure a third party to supply such part of the services;
 - (3) Terminate, in accordance with Clause D2 (Termination on Default), the whole of the Contract; and/or
 - (4) Charge the Provider for and the Provider shall pay any costs reasonably incurred by the Council (including any reasonable administration costs) in respect of the supply of any part of the Services by the Council or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Provider for such part of the Services and provided that the Council uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.
- c. If the Provider fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Council shall instruct the Provider to remedy the failure and the Provider shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within three (3) Working Days of the Council's instructions or such other period of time as the Council may direct.
- d. In the event that the Provider:
- (1) Fails to comply with Clause H2.5 (c) above and the failure is materially adverse to the interests of the Council or prevents the Council from discharging a statutory duty; or
 - (2) Persistently fails to comply with Clause H2.5 (c) above
- the Council may terminate the Contract with immediate effect by giving the Provider notice in writing.
- e. Without prejudice to any other right or remedy which the Council may have, if any Services are not supplied in accordance with, or the Provider fails to comply with any of the terms of, the Contract the Council shall be entitled to avail itself of any one or more of the following remedies at its discretion whether or not any part of the Services have been accepted by the Council:
- (1) Not used;
 - (2) To reject any goods (in whole or in part) and return them to the provider at the risk and cost of the provider on the basis that a full refund for the goods so returned shall be paid forthwith by the provider;
 - (3) At the council's option to give the provider the opportunity at the provider's expense to either remedy any defect in the goods and/or services or to supply replacement goods and/or services and carry out any other necessary work to ensure that the terms of the contract are fulfilled;
 - (4) To refuse to accept any further deliveries of the goods but without any liability to the council;
 - (5) To carry out at the provider's expense any work necessary to make the goods and/or services comply with the contract; and
 - (6) To claim such damages as may have been sustained in consequence of the provider's breach or breaches of the contract.

H2.6 Cumulative remedies. Except as otherwise expressly provided by the contract, all remedies available to either party for breach of the contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be

deemed an election of such remedy to the exclusion of other remedies.

H2.7 **Monitoring of contract performance.** The provider shall comply with the monitoring arrangements set out in the contract particulars including, but not limited to, providing such data and information as the provider may be required to produce.

H3. **Third party rights**

H3.1 This Contract is enforceable by the original parties to it, by their successors in title and permitted assignees. Any rights of any person to enforce the terms of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 are excluded.

H4. **No waiver**

H4.1 Failure by either party at any time to enforce any one or more of the provisions of this Contract or to require performance by the other party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Contract nor affect the validity of this Contract or any part of it or the right of the parties to enforce any provision in accordance with its terms.

H4.2 No waiver of any of the provisions of this Contract shall be effective unless it is expressed to be a waiver in writing and communicated in accordance with clause Error! Reference source not found. (Notices).

H5. **Severance**

H5.1 If any provision of this Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

H6. **Assignment, sub-contracting and responsibility**

H6.1 Subject to any express provision of this Contract, the Provider shall not without the prior written consent of the Council, assign all or any benefit, right or interest under this Contract or sub-contract the provision of the Services.

H6.2 The Council shall be entitled to:

- a. assign, novate or dispose of its rights and obligations under this Contract either in whole or part to any contracting authority (as defined in The Public Contracts Regulations 2015); or
- b. transfer, assign or novate its rights and obligations where required by Law.

H6.3 The Provider shall remain responsible and liable for the acts and omissions of any other members of a consortium arrangement, Sub-Contractors, servants, agents and Employees as though they were its own.

H7. **Force majeure**

H7.1 Neither party shall be liable for failure to perform its obligations under this Contract if such failure results from Force Majeure.

H7.2 If the Council or the delivery location is affected by circumstance of Force Majeure, the Council shall be entitled to, totally or partially, suspend the date or dates for delivery of the Services until the circumstances of the Force Majeure have ceased. The suspension shall not give rise to any claim by the Provider against the Council nor entitle the

Provider to terminate this Contract.

- H7.3 Industrial action by, or illness or shortage of the Provider's Employees, agents or Sub-Contractors, or failure or delay by any of the Provider's suppliers to supply goods, components, services or materials shall not be regarded as an event of Force Majeure.
- H7.4 If the event of Force Majeure continues for more than two (2) months either party may give written notice to the other to terminate this Contract immediately or on a set termination date.
- H7.5 If this Contract is terminated in accordance with clause H7.4 neither party will have any liability to the other except that any rights and liabilities which accrued prior to termination will continue to exist.

H8. Prevention of corruption

- H8.1 The Provider shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council or any other public body or person employed by or on behalf of the Council any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the Contract or any other contract with the Council or any other public body or person employed by or on behalf of the Council, or for showing or refraining from showing favour or disfavour to any person in relation to any such contract.
- H8.2 If the Provider, its Staff or any person acting on the Provider's behalf, engages in conduct prohibited by Clause H8.1, the Council may:
- a. Terminate the contract with immediate effect by giving notice in writing to the provider and recover from the provider the amount of any loss suffered by the council resulting from the termination; and/or
 - b. Recover in full from the provider any other loss sustained by the council in consequence of any breach of those clauses.

H9. Costs and expenses

- H9.1 Each of the parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Contract.

H10. No agency or partnership

- H10.1 Nothing contained in this Contract, and no action taken by the parties pursuant to this Contract, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. Neither party has, nor may it represent that it has, any authority to act or make any commitments on the other party's behalf.

H11. Non solicitation and offers of employment

- H11.1 The Provider agrees that it will not, without the prior written consent of the Council, whether directly or indirectly, and whether alone or in conjunction with, or on behalf of, any other person and whether as a principal, shareholder, director, Employee, agent, consultant, partner or otherwise during the Contract Period or for a period of twelve (12) months following termination of this Contract:
- a. Solicit or entice, or endeavour to solicit or entice, away from the Council, any person directly related to the Services employed in a senior capacity in a

managerial, supervisory, technical, sales or administrative capacity by, or who is or was a consultant to, the Council at the date of the termination of this Contract or at any time during the period of one month immediately preceding the date of termination; or

- b. Attempt, or knowingly assist or procure any other person to do the above.

H12. Inspection of provider's premises

- H12.1 The provider shall permit the council to make any inspections or tests which may reasonably be required in respect of the provider's premises in relation to this contract.

H13. Law and jurisdiction

- H13.1 This contract shall be governed by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English courts.



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Financial procedure rules
Report by:	Chief finance officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

County-wide

Purpose

To refresh the financial procedure rules within the council's constitution.

Recommendation

THAT:

- (a) the financial procedure rules as attached at appendix A be approved.**

Alternative options

- 1 The council could continue with its current financial procedure rules; however they would then not be up to date or provide clarity of roles and processes.

Reason for recommendations

- 2 To ensure council financial procedure rules are up to date and provide clarity of roles, accountabilities and process in order to ensure transparency about how public resources are used and to mitigate the potential for fraud.

Further information on the subject of this report is available from
Andrew Lovegrove, chief finance officer on Tel (01432) 383519

Key considerations

- 3 The financial procedure rules, forming part of the council's constitution, were previously updated in March 2015.
- 4 The updated rules (at appendix A) contain the following revisions which enable officers to work effectively and efficiently and to ensure controls are in place against financial risk:

- a) Revisions to the officer payment authorisation limits, officers limit to increase to £25,000 (previously £5,000) and assistant directors to be able to authorise payments up to £500,000.

Authorisation Limit	Officers
£25,000	Officers as agreed by the director
£100,000	Managers who report to heads of service
£250,000	Heads of service (as defined by head of service pay grades)
£500,000	Assistant directors (as defined by assistant director pay grade)
Excess of £500,000	Directors

- b) Revised budget virement limits and procedures. Budget virements in excess of £250,000 (previously £25,000) between directorates and portfolios must receive prior approval from cabinet.
- c) Increase in the threshold for reporting to cabinet the write off of individual debt balances from £2,000 to £10,000.
- d) Clearer guidance on the use of corporate credit cards and bank/cash imprest accounts.
- e) The head of corporate finance is now the money laundering reporting officer (post previously held by the finance director of Hoople).
- f) The responsibilities under the financial procedure rules have been clarified to confirm the responsibilities of audit and governance committee, the chief finance (CFO) and management board.

- 5 The financial procedure rules will be published on the council website and intranet as part of the council's constitution and authorisation limits will be updated on a regular basis. bad debt write-offs are reported to cabinet bi-annually.

Community impact

- 6 To ensure clear and transparent processes are in place to govern how resources of the council are effectively managed supports the council's corporate plan objective to manage finances effectively and to demonstrate one of the council's values, namely to be open, transparent and accountable.

Equality duty

- 7 The Equality Duty 2010 has 3 aims (general duty)
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those that who do not.
- 8 The Public Sector Equality Duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying “due regard” in our decision making in the design of polices and in the delivery of services. This decision will not adversely impact on our Equality Duty.

Financial implications

- 9 The proposed revisions to the financial procedure rules are designed to ensure that the council complies with all of the relevant financial regulations which govern the council’s financial conduct and ensures that the council follows effective processes.

Legal implications

- 10 The updates to the financial procedure rules ensure they comply with the Terrorism Act 2000, Crime and Society Act 2001, Money Laundering Regulations 2007, Public Contract Regulations 2015 and the Late Payment of Commercial Debts Regulations 2013.
- 11 The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which includes a description of the rules and procedures for the management of the council’s financial affairs including: procedures for auditing and financial rules.
- 12 The committee’s delegation of the approval of the finance and contract procedure rules within constitution was effective on 1 January 2017 following council’s decision on 16 December 2016.

Risk management

- 13 The current regulations and standing orders are out of date, in some places, and this creates potential for confusion, errors and misunderstandings. Updating the rules will attempt to deal with these issues and problems and ensure that the council continues to have sound financial management policies in place.
- 14 There is a risk that officers may be unaware of the new rules, which will be mitigated by communication of the changes and a training programme for relevant officers.

Consultees

- 15 The governance improvement working group were consulted on the proposed changes and were supportive of the recommended amendments. The working group recommended that the rules were presented as far as possible in table form for clarity and these recommendations have informed the development of the draft now presented to the committee.

Appendices

Appendix A - revised draft financial procedure rules

Background papers

None identified.

Section 7 - Financial procedure rules

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APPENDIX A Responsibilities under the financial procedure rules

APPENDIX B Policy for the management of corporate credit cards and bank/cash imprest accounts

APPENDIX C Glossary of terms

4.7.1 Background

4.7.1.1. The person with overall responsibility for Herefordshire Council's financial affairs under section 151 of the Local Government Act 1972 is the chief finance officer (CFO). Herefordshire uses the Chartered Institute of Public Finance (CIPFA) guidance in defining the role of their CFO:

- is a key member of the leadership team, helping it to develop and implement strategy and to resource and deliver the authority's strategic objectives sustainably and in the public interest;
- must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the authority's financial strategy; and
- must lead the promotion and delivery by the whole authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively

4.7.1.2 To deliver these responsibilities the CFO:

- must lead and direct a finance function that is resourced to be fit for purpose; and
- must be professionally qualified and suitably experienced

4.7.1.3 The 1988 Local Government Act makes a requirement to have a designated qualified deputy s151 officer to act on their behalf in their absence, or if requested by the CFO to do so.

4.7.1.4 The financial procedure rules apply these requirements and controls the way the council manages its finances and safeguards its assets. They form part of the council's constitution and are to be read in conjunction with other sections of the constitution in particular:

Part 3 – The functions scheme

Part 4 – Section 3 - The budget and policy framework rules

Part 4 – Section 6 – the contract procedure rules

4.7.1.5 The financial procedure rules apply to every member and officer of the council and anyone acting on its behalf except where separate arrangements are made under the scheme for the local management of schools.

Purpose

4.7.1.6 The purpose of the financial procedures rules are:

- Promote best value and improve service delivery;

- Set out procedures for employees and members to meet the council's expected standards;
- Demonstrate that controls are in place.

Controls

4.7.1.7 The financial procedure rules consist of this policy, the financial regulations and the financial guidance. All employees and members are required at all times when engaged on council activities to comply with these documents as applicable.

PART B - FINANCIAL REGULATIONS

4.7.2 Financial regulations

- 4.7.2.1 All members and officers must comply with these financial procedure rules all times as applicable.
- 4.7.2.2 All members and officers must act in the interest of the council at all times when engaged on council activities.
- 4.7.2.3 All activities must comply with legislation, approved service plans and other council policies or procedure documents.
- 4.7.2.4 All activities must seek to achieve value for money.
- 4.7.2.5 Managers must ensure that there are adequate financial controls in place for every system under their management.
- 4.7.2.6 Adequate records must be kept for all transactions.
- 4.7.2.7 Members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these assets is legal, properly authorised, provides value for money and achieves best value.
- 4.7.2.8 The chief executive, directors, auditors and other officers designated by them should have unrestricted access to all assets and records held on behalf of the council.
- 4.7.2.9 Members, officers and others acting on behalf of the council are required to have proper regard to the advice and guidance issued by the CFO on the financial procedure rules.
- 4.7.2.10 Any report informing a decision requires approval by the CFO or a nominee designated by the CFO, setting out the financial implications of the recommendation(s) proposed, and of alternative options considered.
- 4.7.2.11 The council's expectation of propriety and accountability is that members and staff at all levels shall lead by example in ensuring adherence to financial and legal requirements, rules, procedures and practices.
- 4.7.2.12 Members and staff at all levels shall act in accordance with the council's anti-fraud and anti-corruption policies.
- 4.7.2.13 Appendix A sets out the responsibilities of members and officers relating to the financial procedure rules.
- 4.7.2.14 The council's scheme of delegation is the formal record of delegation of financial decision making.

PART C - FINANCIAL GUIDANCE

4.7.3 Urgent decisions

- 4.7.3.1 The chief executive is empowered to take all necessary decisions in cases of emergency.
- 4.7.3.2 Nothing in these financial procedure rules shall prevent expenditure required to meet immediate needs caused by a sudden emergency to which the civil contingencies act 2004 applies; any such expenditure shall be reported as soon as possible to the appropriate cabinet member and identified in the next scheduled outturn report to cabinet.

4.7.4 Income charging policy

- 4.7.4.1 The council has a wide discretion to levy charges for services. Where charges can be set at the discretion of the council directors should comply with the income and charging principles, including;
- a) the council should aim to charge for all services where it is appropriate to do so, unless there are conflicting policies or legal reasons not to do so;
 - b) the council should (subject to market conditions) aim to maximise income from fees and charges by ensuring that the full cost of provision and enforcement is recovered, unless there are contrary policies, legal or contractual reasons;
 - c) decisions to subsidise services, or to not make a charge for a service should be clearly linked to council objectives, and the potential income that is not earned must be a consideration in the decision;
 - d) where the council continues to subsidise the cost of services provided to customers, the level of subsidy should be clearly understood and publicised, and the costs of any subsidy should be carried by the relevant service;
 - e) comparisons and benchmarking with relevant sectors in terms of charges made, cost of service delivery, levels of subsidy and market variations should be used to inform fees and charging proposals;
 - f) charges must be linked to both service and strategic objectives and must be clearly understood;
 - g) the direct implications of charging for residents, and the indirect implications for public, private and voluntary sector partners should be clearly understood;
 - h) any concessionary scheme should be based on ability to pay and be applied in a consistent and transparent approach across all council services;
 - i) the council should, through its commissioning arrangements, ensure that the charging policies of organisations engaged

in delivering council services align with council policies;

- j) where appropriate annual inflationary uplifts will be applied through the budget setting process.

4.7.5 Income collection

4.7.5.1 The CFO shall agree arrangements for the collection of all income and approve procedures and systems. In order to achieve this, the following controls must be followed:

- a) All income due to the council is identified, charged correctly and billed promptly;
- b) All money received by an employee on behalf of the council is paid without delay to the CFO or to a nominated officer or into the council's specified bank account and is properly recorded;
- c) All receipts given for money should be on an official receipt form;
- d) All income is collected from the correct person, at the right time using the correct procedures and appropriate stationery and effective recovery action to pursue outstanding sums is taken within defined timescales;
- e) A formal approval process for write-offs of uncollectable debts using the criteria detailed below;
- f) Personal cheques shall not be cashed out of money held on behalf of the council;
- g) All income received shall be receipted within one month;
- h) Officers shall bank all cash received within one month; its use for either personal or official purposes is strictly forbidden;
- i) All paying in records shall be retained securely in line with the council's policies on the retention of documents;

4.7.5.2 The CFO has determined the following authorisations for writing off uncollectable debt:

Debt write off	Officers
Up to £150	Senior Revenues, Development Debtors Team Leader (Hoople Ltd)
Between £151 and £500	Revenues and Development Operational Manager and Benefits Operational Manager (Hoople Ltd)
Between £501 and £2,000	Revenues and Benefits Service Manager (Hoople Ltd)
Between £2,001 and £20,000	Head of Corporate Finance and Deputy Section 151 Officer
Above £20,001	CFO

4.7.5.3 For debts above £2,000, other than council tax, business rates and overpaid housing benefit, in exercising the delegated authority the relevant director must be consulted. For all debts below £2,000 the CFO is consulted.

4.7.5.4 For write offs of amounts exceeding £20,001 the CFO must be consulted.

4.7.5.5 The CFO is required to report annually to cabinet details of all debts exceeding £10,000 written off in the year. The report will provide the total number and value of debts written off split by reason for write off.

4.7.6 Orders for goods, works and services

4.7.6.1 Orders shall not be issued for goods, work or services unless the cost is covered by an approved budget. No payment will be made without an authorised order, unless otherwise agreed by the CFO or head of corporate finance. Multiple orders should not be issued for goods, works or services to manipulate the value of orders below the financial thresholds included in these rules.

4.7.6.2 All orders given on behalf of the council shall be approved in electronic form in accordance with signatory limits. All orders are to be authorised by officers nominated by the appropriate director who shall be responsible for official orders issued from his or her directorate. Orders given verbally shall be confirmed as appropriate as soon as possible.

4.7.6.3 The key controls for ordering and paying for work, goods and services are:

- a) All works, goods and services are ordered only by appropriate persons and recorded.
- b) All works, goods and services shall be ordered in accordance with the contract procedure rules unless they are purchased from internal sources.
- c) Works, goods and services received are checked to ensure they are in accordance with the order.
- d) Payments are authorised by officers who can certify that goods have been received to price, quantity and quality.
- e) All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
- f) All appropriate payment documents are retained and stored for the defined period in accordance with the 'Herefordshire Council Records Management Policy'
- g) All expenditure, is accurately recorded against the right budget and any exceptions corrected.
- h) That processes are in place to maintain the security and integrity of data for transacting business electronically.

4.7.7 Payments

- 4.7.7.1 Individual directors shall ensure that payments are authorised by appropriate officers who can certify that goods and services have been received and that price, quantity and quality are in accordance with the initial order.
- 4.7.7.2 Directors shall provide the CFO with a list of authorised officers showing their signing levels as specified in paragraph 4.7.7.3 below, with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.
- 4.7.7.3 The following limits will apply:

Authorisation Limit	Officers
£25,000	Officers as agreed by the director
£100,000	Managers who report to heads of service
£250,000	Heads of service (as defined by head of service pay grades)
£500,000	Assistant directors (as defined by assistant director pay grade)
Excess of £500,000	Directors

- 4.7.7.4 Where an electronic file contains multiple payments, an officer may authorise the whole file with one signature if his or her authorised limit is at least the value of the highest individual amount within that file.
- 4.7.7.5 References to certification and authorisation are deemed to include those made online within a system where the identity of the user is verified using the system's identification protocols.
- 4.7.7.6 Once certified, all accounts paid through the centralised payment system must be passed to the payments section that shall ensure that the required payment is made to the correct person by the agreed method of payment and that all expenditure including VAT is accurately recorded against the correct budget.
- 4.7.7.7 Requests for payment shall be rejected unless certified by an officer who has the appropriate level of authority.
- 4.7.7.8 The use of feeder systems to generate payments will only be allowed if the CFO is satisfied that the data integrity of the corporate financial system would not be compromised and that the feeder system works in accordance with these financial procedures and the council's information governance procedures .
- 4.7.7.9 Invoices do not need specific authorisation for payment in an electronic system where the invoice matches the authorised order and goods receipt, and all three are correctly entered into the system.
- 4.7.7.10 In accordance with the Public Contract Regulations 2015 and the Late Payment of Commercial Debts Regulations 2013, and to maximise performance under the contract; the council should process all undisputed invoices within 30 days of receipt. The same shall apply to contractors in respect of any subcontractor arrangements applied under the applicable council contract(s). All council contracts shall contain provisions to this

effect. All accounts received must be date stamped with the day of receipt. In the event of a claim for damages/interest for late payment, the amount will be charged to the budget of the service responsible.

- 4.7.7.11 The CFO shall ensure that all appropriate payment documentation is retained for the required period of time in accordance with the Herefordshire Council records management policy.

4.7.8 Salaries, wages, pensions, travel and subsistence

- 4.7.8.1 Directors shall provide the CFO with a list of officers authorised to sign claims and other payroll documents showing their signing limits with specimen signatures. This list should be updated and reported promptly to reflect staff changes. Expense claims for less than £250 will be self authorised.
- 4.7.8.2 All claims for payment of allowances, subsistence, travelling and expenses must be submitted within one month of the period they relate to on the approved form, duly certified in a form approved by the CFO with all required supporting evidence including VAT receipts for fuel and other expenses where appropriate. Any exceptions shall require individual certification by both the director and the head of service.
- 4.7.8.3 The certification of claims by or on behalf of a director or head of service shall be taken to mean that the certifying officer is satisfied that the journeys and the expenses incurred were necessary and authorised as being in line with the council's policies on travel and subsistence claims.
- 4.7.8.4 The head of human resources and organisation development shall ensure that all appropriate payroll documents are retained for the required period of time in accordance with the 'Herefordshire Council Records Management Policy'.

4.7.9 Imprest accounts

- 4.7.9.1 The head of corporate finance will authorise provision of a cash or bank imprest account to meet minor expenditure on behalf of the council.
- 4.7.9.2 The head of corporate finance will maintain a record of all advances made and reconcile to the council's main financial system.
- 4.7.9.3 The policy for the management of corporate credit cards and bank/cash imprest accounts is shown at appendix B. In summary officers operating an imprest account will comply with the following procedures:
- a) obtain and retain vouchers to support each payment from the imprest account including official VAT receipts where appropriate.
 - b) make adequate arrangements in their office for the safe custody of the account including vouchers and any other supporting documentation.
 - c) produce upon demand by the head of corporate finance cash and all vouchers to the total value of the imprest account.
 - d) record transactions promptly.

- e) reconcile and balance the account at least monthly with reconciliation sheets to be signed and retained by the imprest holder.
- f) provide the head of corporate finance with a certificate of the value of the account held at 31 March each year.
- g) ensure that the imprest is never used to cash personal cheques or to make personal loans.
- h) ensure that the only payments into the account are the reimbursement payments and any notes/coinage relating to purchases made by a cash advance from the imprest account.
- i) ensure income due to the council is collected and banked as provided in paragraph 4.7.5 of the council's Financial Procedure Rules and not through an imprest account.
- j) on leaving the council's employment, ceasing to be entitled to hold an imprest advance or no longer requiring an imprest advance, officers must request that the head of corporate finance close the account. All funds and account documentation should be returned to the head of corporate finance.
- k) a bank imprest account cannot become overdrawn.
- l) submit a claim for reimbursement at least monthly or return a nil claim.
- m) accounts require a minimum of three authorised signatories. Officer operating the account should notify the head of corporate finance of any changes required to signatories leaving their posts.

4.7.10 Banking arrangements and corporate credit cards

- 4.7.10.1 All arrangements with the council's bank concerning the council's bank accounts and for the ordering and issue of cheques shall be made by, or under arrangements approved by the CFO. The CFO is authorised to open and operate such banking accounts, as he or she may consider necessary. This authority shall include the power to give the necessary directions to the bank as to signatures for withdrawals.
- 4.7.10.2 Apart from payments from corporate cards, petty cash, imprest accounts, the normal method of payment due from the council shall be by BACS or cheque. Direct debit and periodical payment arrangements shall require the prior agreement and authorisation of the CFO.
- 4.7.10.3 All cheques and cheque stationery shall be ordered only on the authority of the CFO who shall be satisfied that proper arrangements are in place for their safe custody. Where the signature is printed on the cheque by a council system, the signature shall be that of the CFO.

4.7.10.4 The CFO shall be responsible for authorising the issue of corporate credit cards and determining spending limits. Cardholders are required to comply with the policy issued by the CFO regulating the use of corporate credit cards as shown in appendix B. Purchases must be made in accordance with the contract procedure rules. This policy will include the requirement for cardholders to obtain a receipt and monthly analysis form detailing each item purchased using a credit card within 14 days of the monthly card statement being received.

4.7.11 Preventing financial irregularities

4.7.11.1 All officers are required under their contractual obligation to report financial irregularities at the earliest opportunity to their manager or CFO and to comply with the employee code.

4.7.11.2 The CFO, in conjunction with the head of internal audit, will determine the scope of any internal enquiries or investigations, subject to consultation with the relevant member of the management board.

4.7.11.3 The CFO, in consultation with the relevant director or chief executive, will decide whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.

4.7.11.4 The CFO will inform the chief executive and monitoring officer if a suspected irregularity occurs involving staff who are his or her responsibility.

4.7.11.5 All staff and members must report financial irregularities to the CFO who will notify the head of internal audit.

4.7.11.6 The CFO will advise the relevant director if the outcome of any investigation indicates improper behaviour by a member of staff; or the monitoring officer if the outcome of an audit investigation indicates improper behaviour by an elected member. The director or monitoring officer will then instigate the relevant disciplinary/standards procedure.

4.7.11.7 All officers are required to declare all interests and associations as required under the employee code of conduct.

4.7.12 Money laundering

4.7.12.1 The CFO has appointed the head of corporate finance as the money laundering reporting officer (MLRO). This officer shall ensure that all staff likely to receive payments from the public, businesses or professions are aware of the council's responsibilities under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2007 and any other relevant acts and regulations, such as the Terrorism Act 2000 and Anti-terrorism, Crime and Security Act 2001.

4.7.12.2 The MLRO shall receive reports from staff about suspicious payments of any value for any purpose and payments in cash in excess of £10,000 including in aggregate.

4.7.12.3 The MLRO shall report any instance of suspected money laundering to the Serious Organised Crime Agency.

4.7.13 Asset management

Overarching principles

4.7.13.1 A set of overarching principles govern the operation of this section of the council's financial procedure rules.

4.7.13.2 These are:

Property

- a) all property owned or leased by Herefordshire Council is held corporately (including Herefordshire Council-owned schools).
- b) the CFO is responsible for ensuring that the occupation of all Herefordshire Council property by directorates or other tenants is in the interests of the council as a whole.
- c) the CFO has the authority to intervene in property matters to protect Herefordshire council's overall interests.
- d) all property transactions should be referred to the CFO who shall seek the comments of all interested parties, including relevant cabinet members, directorates and local members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this section of the council's financial procedure rules, the functions scheme, and the decision making procedures set out in the council's constitution.

Acquisitions and improvements to assets

4.7.13.3 Before an asset is acquired or improved the need for investment must be clearly identified and appraised.

Disposals

4.7.13.4 Land, property and any other assets which are surplus to operational need are either to be reallocated to meet alternative needs or disposed of in line with statutory requirements and/or Herefordshire Council strategies and policies.

4.7.13.5 Directorates shall notify the Strategic Property Manager of:

- a) any property (or part) that is:
 - Vacant.
 - Held against a future operational need.
 - Not used for the principal purpose for which it is held.
 - Likely to be surplus to requirements (with estimated timescale).
- b) any statutory/process issues relevant to its disposal (e.g. prescribed consultation processes, reference to the Secretary of State, etc.).

c) any other issues which need to be considered prior to disposal.

4.7.13.6 The CFO may identify any property (or part) that is considered, or could be made, surplus to operational requirements.

Treatment of capital receipts

4.7.13.7 In general capital receipts from disposals are deemed to be a corporate capital resource available for allocation in line with corporate priorities.

Financial Procedure Rules

4.7.13.8 All officers are expected to comply for the FPR.

4.7.14 Audit

4.7.14.1 The CFO has responsibility for maintaining an adequate and effective internal audit service. This service is provided by the south west audit partnership (SWAP).

4.7.14.2 The CFO shall maintain strategic and annual audit plans that take account of the relative risks of the activities involved.

4.7.14.3 SWAP is responsible for providing the audit & governance committee with regular assurance reports that highlight any areas of concern regarding the effectiveness or level of compliance with agreed systems of internal control.

4.7.14.4 SWAP shall submit an annual report to the audit and governance committee detailing internal audit activity for the previous year and reporting significant findings and areas of concern.

4.7.14.5 The CFO is responsible for producing an annual governance statement for inclusion with the annual statement of accounts based on assurances provided by internal and external audit work and a review of the council's governance arrangements.

4.7.14.6 External auditors are appointed through a commercial contract limited to auditing annual accounts, value for money and grant certificates.

4.7.14.7 Officers shall ensure that internal and external auditors are provided with:

- a) access at reasonable times to premises or land used by the council.
- b) access at reasonable times to any employee or employees.
- c) access to all assets, records, documents, correspondence and control systems relating to any matter or business of the council.
- d) any information and explanation considered necessary concerning any matter under examination.

4.7.14.8 Officers are required to consider and respond to audit reports and audit recommendations within two weeks.

- 4.7.14.9 Officers must ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 4.7.14.10 Where an appropriate response to audit recommendations has not been made within the agreed period, the CFO shall refer the matter to the chief executive and/or the audit and governance committee.
- 4.7.14.11 Officers are responsible for notifying the CFO or SWAP immediately in writing/electronic medium of any suspected or alleged fraud, theft, irregularity, improper use or misappropriation of council property or resources. Pending investigation, all necessary steps should be taken to prevent further loss and secure records and documents against removal, destruction or alterations.
- 4.7.14.12 The CFO is to investigate promptly all apparent, suspected or reported irregularity or fraud he/she becomes aware of. He/she shall report his/her findings to the chief executive to discuss and agree appropriate legal proceedings and disciplinary action, consulting with the relevant member(s) of the management board as appropriate.
- 4.7.14.13 Officers are responsible for ensuring that new systems for maintaining financial records, or records of assets, or changes to such systems are discussed and agreed with the CFO prior to implementation.
- 4.7.14.14 Officers are responsible for ensuring that all paperwork and systems are up to date, kept securely and are made available for inspection by audit.
- 4.7.14.15 Officers shall ensure that all fundamental systems and other financial systems are reconciled on a monthly basis and that records are up to date and available for audit inspection when required.

4.7.15 Revenue budget management

- 4.7.15.1 The head of corporate finance shall prepare and review at least annually a medium term financial plan and strategy to provide an estimate of resources available to the council and identify budget pressures.
- 4.7.15.2 Proposed budgets over periods of one year or longer shall be prepared by directors, in consultation with the CFO, for consideration by members in accordance with the budget and policy framework rules.
- 4.7.15.3 Budget management ensures that resources allocated by members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continual process enabling the council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.
- 4.7.15.4 The structure and format of the revenue budget should be sufficient to permit effective financial management.
- 4.7.15.5 The overall budget setting process for both revenue and capital is controlled by the head of corporate finance.
- 4.7.15.6 Budget holders should provide information on any legislative changes, statutory duties, demographic changes, which impact upon service trends and activity levels to inform the financial planning and budget setting process.

4.7.17 Budgetary control

- 4.7.17.1 Each director shall be responsible for monitoring the revenue and any capital budget relevant to his/her directorate to ensure that such budgets are properly spent and not exceeded.
- 4.7.17.2 Any new proposal or variation which would materially affect the finances of the council shall require approval through the appropriate governance process. Any budget virements must comply with the council's scheme of budget virement (section 4.7.18)
- 4.7.17.3 The council operates within an overall annual cash limit. As a result all individual budgets are cash limited. Each budget holder is required to operate within the cash limit.
- 4.7.17.4 Directors shall monitor spend and income against budgets monthly and ensure, so far as practicable, that expenditure in excess of their net approved budgets is not incurred without prior approval. If actual income is expected to be below budget, this must also be actively managed.
- 4.7.17.5 If it appears to a director that his/her overall cash limited budget may be exceeded, he/she shall report the details as soon as practicable and identify mitigating action. The overall position is then reported to the cabinet.
- 4.7.17.6 Action plans must be put in place by each directorate at an early stage in the financial year in order to manage potential overspendings (e.g. due to additional spending or below target income). Directors must ensure officers adhere to the savings targets and take mitigating action if delivery is deemed to be at risk.
- 4.7.17.7 It is the duty of directors to ensure that responsibility for budgetary control is allocated to appropriate officers in their directorates. Directors shall nominate a budget manager for each cost centre. As a general principle budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
- 4.7.17.8 Budget managers are accountable for their budgets and the level of service to be delivered and must understand their financial responsibilities. Budget managers should be responsible only for income and expenditure that they can influence.
- 4.7.17.9 Budget managers are required to;
- a) follow an approved certification process for all expenditure.
 - b) ensure that income and expenditure are properly recorded and accounted for.
 - c) ensure that expenditure is committed only against an approved budget head.
 - d) monitor performance levels/levels of service in conjunction with the budget and necessary action is taken to align service outputs and budget.
 - e) monitor and control the gross expenditure budget position.

f) investigate and report significant variances from approved budgets.

4.7.17.10 The CFO shall establish an appropriate framework of budgetary control, monitored and reported through the financial system.

4.7.17.11 The CFO shall provide directors, budget holders and cabinet members with monthly financial management information reports in line with the forward plan.

4.7.17.12 The CFO shall ensure that each director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.

4.7.17.13 The head of management accounts and corporate finance shall provide financial management training courses that all budget managers must attend.

4.7.18 Virement

4.7.18.1 The council operates a scheme of budget virement. This enables budget holders to manage budgets with a degree of flexibility within the overall policy framework determined by the council.

4.7.18.2 Directors have authority to vire expenditure between individual budget heads in accordance with the virement policy.

4.7.18.3 Key controls for the scheme of virement are:

a) any variation from this policy requires the approval of the Audit and Governance committee.

b) that the overall budget is agreed by cabinet and approved by council. Directors and budget holders are therefore authorised to incur expenditure in accordance with those estimates contained within the annual budget. The rules below cover virement; that is switching resources between budget heads. For the purposes of these rules a budget head is considered to be the standard service sub-division as defined by CIPFA. The scheme applies equally to a reduction in income as to an increase in expenditure.

Budget virements	Officers & Members
Below £25,000	Chief Finance Officer or Head of Corporate Finance
Below £500,000 (if single cabinet member and single directorate)	Head of Management Accounts, consulting Head of Service or Director
Above £500,000 (if single cabinet member or single directorate)	Report to Cabinet in budget monitoring
Above £250,000 (between portfolio cabinet member and different directorate)	Cabinet

4.7.19 Loans, leasing and investments

- 4.7.19.1 The CFO shall borrow as necessary to finance the approved capital programme and deal with all matters in connection with the raising or repayment of loans and is authorised to borrow for meeting expenses pending the receipt of revenues.
- 4.7.19.2 All investments and all borrowing shall be made in the name of the council
- 4.7.19.3 Directors shall not enter into financial leasing arrangements except with the consent of the CFO.
- 4.7.19.4 Loans to third parties will only be made in exceptional circumstances, and having followed the council's decision making process.
- 4.7.19.5 The CFO shall arrange the borrowing and investment activities of the council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the council's treasury management policy statement.
- 4.7.19.6 In addition, cabinet will receive an annual treasury management report after the end of the financial year and will recommend to full council for approval.
- 4.7.19.7 Cabinet will also receive quarterly treasury management reports as part of the budget monitoring updates.

4.7.22 Trust funds

- 4.7.22.1 The CFO shall:
 - a) arrange for all trust funds to be held wherever possible in the name of the council. All officers acting as trustees by virtue of their official position, shall deposit securities, etc. relating to the trust with the CFO unless the deed otherwise provides.
 - b) arrange where funds are held on behalf of third parties for their secure administration approved by the CFO and to maintain written records of all transactions.
 - c) ensure that trust funds are operated within any relevant legislation and the specific requirement for each trust.

4.7.23 Inventories and stocks and stores

- 4.7.23.1 The CFO shall:
 - a) advise on the form, layout and content of inventory records to be maintained by the council.
 - b) advise on the arrangements for the care and custody of stocks and stores in directorates.

4.7.23.2 Directors shall:

- a) maintain inventories in a form approved by the CFO to adequately record and describe all furniture, fittings and equipment, plant and machinery under their control.
- b) carry out an annual check of all items on the inventory in order to verify location, review condition, ensure insurance cover is adequately provided and to take action in relation to surpluses or deficiencies.
- c) ensure attractive and portable items, such as computers, cameras and mobile technology devices are identified with security markings as belonging to the council and appropriately controlled and secured.
- d) make sure that property is only used in the course of the council's business unless the director concerned has given permission otherwise.
- e) directors have discretion to write off redundant equipment up to the value of £20,000. Anything over £20,000 is referred to CFO. Directors shall seek independent quotations where it is not immediately obvious what the market value of the redundant item is.
- f) make arrangements for the care, custody and recording of stocks and stores in directorates.
- g) ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- h) ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- i) write-off discrepancies of up to £20,000 and seek advice from internal audit on discrepancies above this limit and refer to CFO for investigation.
- j) record the reasons for the chosen method of disposing of redundant stocks and equipment if not by competitive quotation or auction.

4.7.24 Working for third parties and shared services

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

4.7.24.2 All proposals for the council to undertake work for a third party shall be properly costed in accordance with guidance provided by the CFO. Financial advice should be obtained from the head of corporate finance on the cost of providing the service.

- 4.7.24.3 All decisions for the council to undertake work for a third party shall be made in accordance with the council's formal decision making processes and as set out in the council's functions scheme and before any negotiations to work for third parties are concluded.

Appendix A

Responsibilities under the Financial Procedure Rules

This appendix provides details of responsibilities under the Financial Procedure Rules. It lists in a single place responsibilities that would otherwise be repeated in various sections of the Financial Procedure Rules. It confirms the overall responsibilities of the council's CFO, the Audit and governance committee and members of the management board within the Financial Procedure Rules.

A1 Audit and governance committee responsibilities

A1.1 Audit and governance committee shall oversee compliance with the council's financial procedure rules for those functions within their terms of reference.

A2 Chief financial officer (CFO) responsibilities

A2.1 The CFO has been appointed under Section 151 of the Local Government Act 1972 as the officer with responsibility for the proper administration of the Council's financial affairs.

A2.2 Reference in these Financial Procedure Rules to the CFO shall be taken to include any officer nominated by the CFO to act on his/her behalf.

A2.3 The CFO shall be entitled to attend a meeting of anybody on which members are represented where matters affecting the financial affairs of the council are being discussed.

A2.4 The CFO, under the general direction of cabinet, is responsible for determining the basis for all accounting procedures and financial records for the council and for exercising a check over all financial matters.

A2.5 The CFO is responsible for maintaining a continuous review of the Financial Procedure Rules and advising the audit and governance committee and council of any additions or changes necessary.

A2.6 The CFO is responsible for reporting, where appropriate, breaches of the Financial Procedure Rules or any other element of the constitution that relates to the proper administration of the council's financial affairs to the council and/or audit and governance committee.

A2.7 The CFO is responsible for issuing advice and guidance to underpin the Financial Procedure Rules.

A2.8 The CFO is responsible for maintaining adequate and effective audit arrangements for the council and for ensuring that audit services complies with the Public Sector Internal Audit Standards.

A2.9 The CFO is responsible for ensuring, in conjunction with the relevant member of the management board, that the council's disciplinary procedures are followed where the outcome of an audit or other investigation indicates fraud or irregularity.

A2.10 The CFO is responsible for ensuring that any case of fraud or loss or financial irregularity or bribery or corruption discovered or suspected to exist which involves the council's interest shall be dealt with in accordance with the council's Anti-Fraud and Anti-Corruption policy.

- A2.11 The CFO is responsible for appointing senior officers to be the council's money laundering reporting officer and deputy to the council's money laundering reporting officer.
- A2.12 The CFO has overall responsibility for making payments on behalf of the council; this will be carried out by Hoople Ltd.
- A2.13 The CFO has overall responsibility for the council's income and collection functions although this will be carried out by Hoople Ltd who will ensure the effective collection and recording of all monies due to the council.
- A2.14 The CFO is responsible for making payments to employees, former employees and members on behalf of the council; this will be carried out by Hoople Ltd.

A3 Chief executive and director responsibilities

- A3.1 Members of the management board are responsible for ensuring that all employees are aware of the content of the Financial Procedure Rules and other internal regulatory documents and that they are complied with.
- A3.2 Members of the management board are responsible for consulting with the CFO on any matter within their area of responsibility that is liable to materially affect the finances of the council before any provisional or other commitment is incurred or before reporting the matter to a cabinet member.
- A3.3 Members of the management board are responsible for supplying the CFO with all information necessary for the proper administration of the council's affairs.
- A3.4 Members of the management board shall allow the CFO and his/her authorised representatives access to all documents and records on demand.
- A3.5 Members of the management board shall maintain a sound system of internal control.
- A3.6 Members of the management board are responsible for ensuring those functions within their terms of reference operate within the council's Financial Procedure Rules.
- A3.7 Members of the management board are responsible for informing cabinet members promptly if the council's Financial Procedure Rules are not being complied with.

Appendix B

Policy for the management of corporate credit cards and bank/cash imprest accounts

Purpose of this policy

To ensure corporate credit cards and bank/cash imprest accounts are handled securely and that transactions are recorded correctly in accordance with the Financial Procedures Rules.

This policy applies to all employees with access to a corporate credit card or a bank/cash imprest account.

Failure to comply with this policy may result in loss of funds, incorrect financial records and potential fraud or error.

Appropriate action (including disciplinary action) will be taken if the policy is breached.

Corporate credit cardholders will have the authority to make use of the card facility as he or she sees fit in the event of an emergency situation, but will have responsibility for ensuring that all practicable steps are taken to ensure compliance with the authority's financial procedure rules.

Summary of principles

- Corporate credit cards and bank/cash imprest accounts will enable purchases or reimbursements to individuals to be made when other methods of payment are not appropriate.
- The head of corporate finance will determine whether the use of a corporate credit card and bank/cash imprest account is appropriate for a particular section and agree the account limit in line with the council authorisation limits. The account limit for the account will be capped at 10% of the sections budget (or 2% of the schools budget).
- The person responsible for operating an imprest account (the account administrator) will ensure any cash float and supporting documents are held securely. Corporate credit cardholders will ensure that their card and associated passwords and pin numbers are secure.
- Account administrators and cardholders will reconcile the accounts at least monthly.
- Corporate credit card transactions and bank/cash imprest accounts will be subject to audit review as necessary.

Account approval by head of corporate finance

The head of corporate finance will determine whether the use of a corporate credit card or bank/cash imprest account is appropriate for a particular section when requested. The account limit for each account is to be agreed in line with the council authorisation limits. The account limit for the account will be capped at 10% of the section's budget or in the case of schools capped at 2% of the schools budget, i.e. the school's non pay budget.

Each account has a credit limit that must not be exceeded. Increases in individual card or account limits will need to be authorised by the head of corporate finance.

Security

Any cash float and supporting documents should be kept in a secure fire proof safe that can only be accessed by the account administrator.

Cardholders must ensure that card security, including passwords and the use of card PIN numbers, is maintained at all times. Only the cardholders themselves should use the card to make payments and should not devolve use of their cards to any other officer.

Cardholders must sign their card immediately upon receipt. They must immediately inform the credit card provider and the head of corporate finance if the card is lost or stolen. They must immediately inform the credit card provider and the head of corporate finance of any fraudulent transactions.

Request received for purchase of goods or services or reimbursement to an individual

The council aims to minimise the amount of cash being handled and therefore has a range of payment methods available. The use of credit cards or cash payments for purchases of goods, services or reimbursements is to be used only when other payment methods are not appropriate

Whenever possible the Agresso finance system should be used to make payments rather than by credit card or petty cash. By placing an official order, this ensures that the council's financial affairs are promptly recorded on the finance system.

Any payment or reimbursements to members of staff that may be subject to statutory deductions i.e. income tax, national insurance should be processed through the payroll team.

An imprest account should never be used to cash personal cheques or to make personal loans. The account should never become overdrawn.

A corporate credit card is only to be used for business purposes and no wholly personal invoices shall be charged to the card. If the cardholder is in any doubt as to what constitutes the acceptable use of the card he or she must seek advice from their line manager or the head of corporate finance.

No cash withdrawals are permitted from a corporate credit card.

Invoices covering both business and personal items should be avoided and a separate invoice obtained for each. However, where an invoice unavoidably includes both business and personal items the Cardholder will identify them and reimburse the Council for the personal expenditure.

Receipts obtained

The account administrator will ensure that invoices and receipts to support each payment are obtained, recorded and retained, including VAT receipts as appropriate.

Transactions recorded

All transactions should be recorded promptly onto the petty cash book provided.

A credit card analysis form or imprest account reimbursement form should be completed on a monthly basis and within fourteen days of receipt of the statement. The account administrator should complete the form, which must be authorised by the relevant budget holder and then passed to the payments team for processing.

Duties of the account administrator/cardholder

The account administrator/cardholder will:

- a) obtain and retain all transaction vouchers to support each payment.
- b) obtain VAT receipts for all items that include VAT (the council will be unable to reclaim VAT without a valid VAT receipt).
- c) make adequate arrangements in their office for the safe custody of the account, including funds, credit card, vouchers and any other supporting documentation.
- d) produce on demand, by the head of corporate finance, cash and all vouchers to the total value of the cash imprest account.
- e) record transactions promptly.
- f) reconcile and balance the account at least on a monthly basis.
- g) provide the head of corporate finance with a certificate of the value of the account held at 31 March each year.
- h) ensure that the imprest account is never used to cash personal cheques or to make personal loans and ensure that the account doesn't become overdrawn
- i) ensure that the only payments into the account are the reimbursement payments and any notes/coinage relating to purchases made by a cash advance from the imprest account.
- j) ensure income due to the council is collected and banked as detailed in the council's financial procedure rules and not through an imprest account.

- k) complete a monthly analysis of transactions to include details of the items purchased (and the reason why they are a business expense if unclear) and the relevant Agresso cost codes.
- l) agree the monthly analysis to the cardholder's individual monthly statement.
- m) resolve any discrepancies or errors with the relevant suppliers.

Please note that the cardholder must be responsible for the card and must resolve any problems with suppliers concerning incorrect amounts being charged, unsatisfactory goods or services etc.

- n) certify the form as being correct and that all business items claimed are appropriate, have been necessarily incurred, and are within any limits set by the council.
- o) obtain authorisation from the relevant budget holder.
- p) submit the completed form (or return a nil claim), complete with vouchers and a cheque to cover any personal and other reimbursable items to payments section and within fourteen days of the relevant credit card statement being issued. The transactions will be entered onto the finance system and a payment will be raised for the amount due to the float.
- q) ensure that a minimum of three authorised signatories is maintained on the imprest account and notify the head of corporate finance of any changes required to signatories ahead of signatories leaving their posts.

Termination of accounts

The account administrator or cardholder will return the cash float or card immediately upon the termination of their employment, or upon any organisational change that affects the cardholder's role and their eligibility to have a card or imprest account.

On leaving the council's employment, ceasing to be entitled or no longer requiring an imprest account or corporate credit card, the account administrator or cardholder must request that the head of corporate finance close the account. All funds, credit cards and account documentation should be returned to the head of corporate finance.

Local government transparency code

Credit card transactions are required to be published on the council's website under the requirements of the Local Government Transparency Code 2014, therefore cardholders must ensure that the transaction is adequately explained and documented within fourteen days of receipt of the statement.

Appendix C

Glossary of terms

In the Financial Procedure Rules the words and phrases in the left hand column have the meaning given in the right hand column;

Asset	Something the council owns that has value, such as premises, vehicles, equipment or cash.
Audit	A specialist team that examines evaluates and reports on the adequacy of internal control systems.
Budget	A statement of the Authority's plans for revenue and capital expenditure and income over a specified period of time.
Capital	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
Capital Programme	A budget generally covering a 3-5 year period relating to items of capital expenditure.
Capital receipts	Proceeds from the sale of fixed assets, such as land or buildings.
Cash Limit	The most that can be spent in an area in one year.
CIPFA	The Chartered Institute of Public Finance and Accountancy is the leading professional accountancy body for public services in the UK. CIPFA has responsibility for setting good practice accounting standards for local government.
Gross Expenditure	The total cost of providing the council's services before taking into account income from government grants and fees and charges for services.
Imprests	Bank and petty cash floats.
Internal Control	The systems of control that help ensure the council's objectives are achieved in an economical, efficient and effective way and consistent with safeguarding the council's assets.
Inventory	A list of equipment and furniture.
Money Laundering	The practice of engaging in financial transactions in order to conceal the identity, source, and/or destination of money.
Officer	A person employed or appointed as a member of staff.
Revenue budget	Budget relating to the day-to-day expenses associated with the provision of services.
Treasury Management	Management of the council's cash balances on a daily basis, to obtain the best return while maintaining an acceptable level of risk.

Treasury Management Strategy	A document stating how the council plans to borrow and optimise its return on its cash and investments in the coming financial year whilst ensuring the over-riding criterion of security of public money.
Virement	Transfers of budgets between one area and another.

Clarification of post titles

Chief Executive	The council's head of paid service
Council's Chief Finance Officer (CFO)	The council's section 151 officer
Head of Corporate Finance	The council's deputy section 151 officer



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Council constitution
Report by:	Solicitor to the council (monitoring officer)

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To consider amendments to the council's constitution proposed by the governance improvement working group and the standards working group, and to agree recommendations to Council.

Recommendation(s)

THAT:

- (a) having regard to the further work undertaken by the governance improvement working group and the standards working group, the revised constitution be recommended to full Council for adoption, with implementation with effect from annual council in May 2017; and
- (b) authority be delegated to the solicitor to the council to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution.

Alternative options

- 1 To reject the proposed amendments and retain the current constitution unamended: this is not recommended because the amendments have been proposed in order to either:

- a) Improve clarity;
- b) Ensure compliance with current legislative requirements; or

Further information on the subject of this report is available from
 Claire Ward, solicitor to the council on Tel (01432) 260657

- c) Improve the efficiency and effectiveness of the council's governance arrangements
- 2 To propose alternative or additional amendments; it is open to the committee to propose that consideration be given to alternative or additional amendments. However additional time may be required in order for the working group to assess the impacts of any such proposals and to consult with the wider member body as necessary.

Reasons for recommendations

- 3 The proposed amendments to the constitution reflect the principles agreed by the audit and governance committee and ensure that the council's governance will remain robust, compliant with legislative requirements, and transparent.

Key considerations

- 4 In December 2016 Council approved a revised constitution for implementation with effect from the annual council meeting in May 2017 and agreed arrangements for the completion of the outstanding elements of work which chiefly focussed on elements of the rules and codes within the constitution. Audit and governance committee has been delegated authority to approve the finance and contract procedure rules, and makes recommendations to full Council on the remaining elements. The work has been undertaken by two member-led working groups:
 - the standards working group – which has looked at the codes relating specifically to conduct and behaviours; and
 - the governance improvement working group – which has reviewed the remaining codes, and provided guidance in respect of the training and communications programme to support implementation of the new constitution.
- 5 The working groups have continued to have regard to the design principles for a refreshed constitution which were approved by audit and governance committee in November 2015, and which sought to ensure that:
 - a) Members and officers perform effectively in clearly defined functions and roles
 - b) Member engagement and participation is maximised, including the involvement of all members in the development of key policies
 - c) Decision making is informed, transparent and efficient
 - d) The council welcomes public engagement and makes accountability real

Standards working group

- 6 Having sought comments from the parish councils, the working group reviewed the existing code, prepared a draft and consulted all Herefordshire Council members and all parish councils within the county (who may chose to adopt the Herefordshire Council code for their own parish council but may also choose to adopt their own code). Having regard to the outcome of the consultation the revised code the recommendation by a majority of the working group is attached at appendix 1; the main changes are:
 - a) The gifts and hospitality code has been incorporated within the member code of conduct and employee code of conduct;
 - b) The value at which offers of gifts or hospitality should be declared established as being £20.00;

- c) There is a new description of personal registrable interests known as schedule 2 interests.
 - d) The member use of resources code has been deleted and incorporated into the member code of conduct or the member officer relationships code as appropriate.
 - e) A separate set of working protocols are being developed to support effective working arrangements for members and a consultation with members is underway to inform the development of this;
- 7 The employee code of conduct is currently being revised and will be in line with the members' code of conduct. The draft will be consulted upon with staff and the employment panel with a decision being taken by the chief executive under delegated authority.

Governance improvement working group

- 8 As part of the review to inform the development of the annual governance statement, the working group was consulted on a revised code of corporate governance. This is included elsewhere on the committee agenda today.
- 9 The working group has reviewed revised contract and finance procedure rules, having regard to the advice of the chief finance officer (the council's section 151 officer) and the head of law and governance. Both of these documents are included elsewhere on the committee agenda today.
- 10 As agreed by Council in December the draft approved by Council has undergone a quality assurance review to proof read and ensure cross references were correct. During this process a number of minor amendments have been made and these are detailed at appendix 2. Members may view the tracked changes at: [Constitution Review](#) and the final draft is available at: [Constitution - May 2017](#). Examples of changes are:
- job titles made current;
 - added West Mercia Police and Crime Panel to list of joint committees;
 - individuals referred to as 'they' rather than 'he/she';
 - references added to relevant regulations;
 - definitions added and wording refined where meaning was unclear;
 - paragraph numbering streamlined and cross references updated as necessary; and
 - typographical errors corrected and consistent formatting applied.
- 11 The working group has also overseen the development of a training and communication programme for members and employees to support implementation of the new constitution.
- 12 Another matter considered by the group was the Constitution's rule that required separate meetings to consider the revenue and capital budgets. Following consultation with the chief finance officer and the fact that two meetings are not required by law, the proposal is to move to one budget setting meeting and one council tax setting meeting which removes the requirement for the December meeting and allowing for a redistribution of the meetings throughout the municipal years, the proposed full Council dates are as follows:

30 June 2017

Further information on the subject of this report is available from
 Claire Ward, solicitor to the council on Tel (01432) 260657

13 October 2017
26 January 2018
9 March 2018
25 May 2018

- 13 Finally as a result of the revised codes the working groups views have been sought on a revised protocol member and officer protocol which is found at appendix 3.

Community impact

- 14 The constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The format and content of the revised constitution should help make these arrangements clearer to understand, and show how the public can effectively engage with them.

Equality duty

- 15 Legislation requires that the council must, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct prohibited by law;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 16 The recommended changes to the constitution seek to ensure that, in its decision-making and its operations, the council fully complies with the public sector equality duty.

Financial implications

- 17 None arising from the recommendations. The council already makes provision within its existing budgets to enable publication of the constitution on its website and to ensure that members and officers have the training necessary to ensure awareness and understanding of the requirements within the constitution.

Legal implications

- 18 The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which have been complied with when preparing the amendments. A checklist has been produced to demonstrate how the draft constitution complies with these minimum requirements, and is attached at appendix 4.

Risk management

- 19 If the council's constitution is not accurate, up to date and understood then there is a risk that governance arrangements are not clear and robust leaving the council open to judicial review, contractual challenge or financial risk. The proposed amendments and adoption of the revised constitution seek to mitigate that risk. In addition the audit

Further information on the subject of this report is available from
Claire Ward, solicitor to the council on Tel (01432) 260657

and governance committee will continue to maintain oversight of the constitution, once adopted, and should any further amendments be necessary will make recommendations to full Council accordingly.

Consultees

- 20 The standards working group has consulted with all members, and with parish councils and the councils appointed independent persons and their views were taken into account. .
- 21 The outcome of the consultations is summarised at appendix 5.

Appendices

Appendix 1 – revised draft member code of conduct
Appendix 2 – schedule of changes to the constitution
Appendix 3 – Revised member and officer protocol
Appendix 4 – Local Government Act checklist
Appendix 5 – Summary of code of conduct consultation responses

Background papers

None identified

Members' code of conduct

Introduction

This code has been adopted by the council as required by section 27 of the Localism Act 2011. The Council has a statutory duty to promote and maintain high standards of conduct by members and co opted members of the council. The code sets out the standards that the council expects members to observe.

Who does the code apply to?

The code applies to all members of the council and to all co opted members of any committee, sub committee or joint committee.

When does the code apply?

The code applies whenever a member is acting in his or her capacity as a member, a representative of the council or when they claim to act or give the impression of acting as a member or representative of the council. It does not seek to regulate what members do in their purely private and personal lives, unless such conduct brings the council into disrepute.

What standards of conduct are members required to observe?

When carrying out their role members should always act in accordance with the seven principles of public life, the council's PEOPLE values and the following standards;

	The seven principles of public life	Standards of conduct
A	Selflessness Holders of public office should act solely in terms of the public interest.	A.1 Serve the public A.2 Only take decisions in the public interest A.3 Treat everyone that they deal with equally and with respect and courtesy
B	Integrity Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.	B.1 Should declare and resolve their interests in accordance with the law and with the provisions of this code of conduct. B.2 Should not place themselves in a position where they either are, or give the appearance that they are, under any financial or other obligation to anyone that might seek to influence them in the performance of their duties as a Member B.3 Should not act or take decisions in order to (or attempt to) confer or secure an advantage, disadvantage, financial gain or other material benefits for themselves, their family or close associations B.3 Should declare gifts and hospitality that they are offered whether accepted or not where the value exceeds £10 B.4 Maintain confidentiality and not disclose information given to them in confidence.

	The seven principles of public life	Standards of conduct
C	<p>Objectivity Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias</p>	<p>C.1 Act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias</p>
D	<p>Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.</p>	<p>D.1 Be accountable to the public for their decisions and actions D.2 Co-operate fully with any scrutiny appropriate to their particular role or office D.3 Act in accordance with the member and officer relations code D.4 Act in accordance with the constitution procedural rules and codes D.5 Do not prevent another person from gaining access to information to which that person is entitled to by law</p>
E	<p>Openness Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.</p>	<p>E.1 Be as open as possible about their decisions and actions and should give reason for their decisions and actions E.2 Complete and maintain an up to date register of interests E.3 Do draw attention to any code of conduct interest when performing their duties as a Member E.4 Do not bully, harass, intimidate or attempt to intimidate any person</p>
F	<p>Honesty Holders of public office should be truthful.</p>	<p>F.1 Be truthful F.2 Declare any private interests that relate to their duties as a Member and resolve any such conflict in a way that protects the public interest F.3 Only use the resources of the authority in accordance with the reasonable requirements set out for their use from time to time.</p>
G	<p>Leadership Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.</p>	<p>G.1 Actively promote and robustly support leadership principles G.2 Be willing to challenge poor behaviour wherever it occurs G.3 Never undertake any action which would bring the council, members or officers into disrepute G.4 Never make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority</p>

Code of conduct interests

Registerable Interests

The monitoring officer will maintain a register of interests which can be inspected at XXXXX and found at XXXX.

The register of interests contains two schedules. Schedule 1 are interests defined by regulations made under section 30(3) of the Localism Act 2011 (“the Act”), Schedule 2 are interests that Herefordshire council considers are appropriate to register and disclose.

Schedule 1 Interests (defined as disclosable pecuniary interests under the Act) may be amended from time to time by regulation but at 19 May 2017 were¹:-

Employment, office, trade or profession	Any employment, office, trade, profession or vocation carried out for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a person in carrying out duties as a member, or towards the election expenses of that person
Contracts	Any contract which is made between the relevant person (or body in which the relevant person has a beneficial interest) and the relevant authority- <ol style="list-style-type: none">Under which goods or services are to be provided or works are to be executed; andWhich has not been fully discharged
Land	Any beneficial interest in land which is within the area of the relevant authority
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
Corporate tenancies	Any tenancy where (to the persons knowledge): <ol style="list-style-type: none">The landlord is the relevant authority; andThe tenant is a body in which the relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where: <ol style="list-style-type: none">That body (to the persons knowledge) has a place of business or land in the area of the relevant authority; andEither:- <ol style="list-style-type: none">The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; orIf the share capital of that body is of more than one class, the total nominal value of the shares in any one class in which the relevant person has a beneficial interest that exceeds one hundredth of the total issued share capital of that class

¹ For further explanation and guidance please see the register of interests form [link]

Schedule 2 interests are:

<p>Any body of which the member is in a position of general control or management (this does not include general membership or subscription or where the member is appointed or nominated by the council)</p>	<p>Including</p> <p>Any body exercising functions of a public nature</p> <p>Any body directed to charitable purposes</p> <p>Any body whose principle purposes includes the influence of public opinion or policy (including any political party)</p> <p>Any body which is not open to the public without formal membership</p>
<p>Any gifts or hospitality which the member has been offered by virtue of their office (whether accepted or refused) where in excess of £20</p>	
<p>Trade Union membership</p>	

Other declarable interests

If a matter to be considered affects the welfare or financial position (positively or negatively) of the member, a member of their family, and or a close personal associate to a greater extent than others in the member's ward: then there is a requirement to declare such an interest.

Where a member has a registrable or other interest as detailed above the following applies:

What is the interest?		Do I have to complete the form and register?	Do I have to declare this interest?	When do I disclose the interest?	Can I participate?	Can I vote?	Do I have to leave the room?
Schedule 1		<input checked="" type="checkbox"/> Yes Within 28 days of: <ul style="list-style-type: none"> • election • re-election • disclosing in a meeting a previously undisclosed interest • becoming aware of any change or new interests 	<input checked="" type="checkbox"/> Yes verbally At a meeting <input checked="" type="checkbox"/> Yes Where making a decision either as an individual member or collectively <input checked="" type="checkbox"/> Yes When acting in the capacity of a member <u>If the interest is in the matter being considered</u>	As soon as you are aware that you have an interest ²	X No ³	X No	<input checked="" type="checkbox"/> Yes
Schedule 2		<input checked="" type="checkbox"/> Yes As for schedule 1 interests above	<input checked="" type="checkbox"/> Yes As for schedule 1 interests above	As soon as you are aware that you have an interest	X No	X No	<input checked="" type="checkbox"/> Yes
Other declarable interests	Welfare	X no	<input checked="" type="checkbox"/> Yes As for schedule 1 interests above	As soon as you are aware that you have an interest	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	X no
	Financial	X no			<input checked="" type="checkbox"/> No	X no	X no

² Unless the monitoring officer has determined that the interest is a sensitive one

³ Unless a dispensation has been granted by the monitoring officer or at an audit and governance committee meeting as appropriate

Record of changes made to the draft approved by Council in December 2016

The table below summarises the changes made to the constitution approved on 16 December 2016, and explains the reasons for the change.

The design principles are:

- a) Members and officers perform effectively in clearly defined functions and roles
- b) Member engagement and participation is maximised, including the involvement of all members in the development of key policies
- c) Decision making is informed, transparent and efficient
- d) The council welcomes public engagement and makes accountability real

Section	Key change	Design principle	Changed by	Date
Generic	<ul style="list-style-type: none"> • Job titles made current • Ensure compliance with council's style guide • Simplify wording • Correct typographical errors and ensure correct cross referencing • Individuals referred to as 'they' rather than he/she • Sequential numbering of paragraphs – note references below refer to old numbering unless stated 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Part 1 (Introduction)				
Introduction	<ul style="list-style-type: none"> • Removed duplicated heading 'Introduction and Summary' 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • SS 	<ul style="list-style-type: none"> • 13/04/17
Part 2 (Articles)				
Article 1:	<ul style="list-style-type: none"> • 1.3.3 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
Article 2:	<ul style="list-style-type: none"> • Introduction – corrected reference to contact centres, now customer service centres 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • Comms 	<ul style="list-style-type: none"> • 21/03/17
	<ul style="list-style-type: none"> • 2.1.4.1 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 2.1.8.1 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 2.1.9.1 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 2.3.5 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • Para 2.9.6.1 – removed incomplete end to sentence which was superfluous as the Act had already been referenced 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • AB 	<ul style="list-style-type: none"> • 6/3/17
	<ul style="list-style-type: none"> • Para 2.10.5 – correct job title as approved by Council 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • AB 	<ul style="list-style-type: none"> • 6/3/17
Article 3:	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

Section	Key change	Design principle	Changed by	Date
Article 4:	<ul style="list-style-type: none"> • Para 4.1.7.3 – reformatted for clarity • Para 4.5.16.8 – paragraph reference clarified 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • AB • AB 	<ul style="list-style-type: none"> • 6/3/17 • 6/3/17
	<ul style="list-style-type: none"> • Para 2.4.4 missing definite article in heading, corrected to Chairman of the council. 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • Comms 	<ul style="list-style-type: none"> • 21/03/17
Article 5:	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Article 6	<ul style="list-style-type: none"> • 2.6.1.6 • 2.6.1.2 – committee size set to seven members (requires approval at council in May 2017) 	<ul style="list-style-type: none"> • G • C 	<ul style="list-style-type: none"> • TB • SS 	<ul style="list-style-type: none"> • • 11/04/17
Article 7	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Article 8	<ul style="list-style-type: none"> • 2.8.1.2 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • Add description of employment panel 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB/AB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 2.8.18 (new numbering) added description of independent panel for reviewing decisions to dismiss statutory officers following agreement of the chief executives JNC 	<ul style="list-style-type: none"> • A 	<ul style="list-style-type: none"> • CW 	<ul style="list-style-type: none"> • 02/05/17
	<ul style="list-style-type: none"> • Clarify standards panel 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • AB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Article 9	<ul style="list-style-type: none"> • 2.9.6 (new numbering) added West Mercia Police and Crime Panel as previously omitted 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • CW 	<ul style="list-style-type: none"> • 02/05/17
Article 10	<ul style="list-style-type: none"> • 2.10.2.1 – amended for grammatical sense 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • Comms 	<ul style="list-style-type: none"> • 21/03/17
Article 11	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Article 12	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Article 13	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Part 3 (Functions)				
Introduction	<ul style="list-style-type: none"> • Included reference to the regulations 	<ul style="list-style-type: none"> • C 	<ul style="list-style-type: none"> • CW 	<ul style="list-style-type: none"> • 02/05/17
Council functions	<ul style="list-style-type: none"> • P31 column 1 specify regulations (CW to confirm) 	<ul style="list-style-type: none"> • G 	<ul style="list-style-type: none"> • TB/AB 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • P32 clarify reference to appendix 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
	<ul style="list-style-type: none"> • 3.1.1 (new numbering) included delegation to MO where a parish council is inquorate and temporary appointments required 	<ul style="list-style-type: none"> • A 	<ul style="list-style-type: none"> • CW 	<ul style="list-style-type: none"> • 02/05/17
Local choice	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
Cabinet	<ul style="list-style-type: none"> • 3.3.2.2. clarified that pay policy statement is not a cabinet function 	<ul style="list-style-type: none"> • A 	<ul style="list-style-type: none"> • AB 	<ul style="list-style-type: none"> • 30/03/17

Section	Key change	Design principle	Changed by	Date
	<ul style="list-style-type: none"> 3.3.15 (new numbering) added definition of locality 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> CW (via SS) 	<ul style="list-style-type: none"> 25/04/17
Overview and scrutiny	<ul style="list-style-type: none"> 3.4.2 (new numbering) omitted to include consultation by relevant persons under s23 Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013/218 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> CW (via SS) 	<ul style="list-style-type: none"> 25/04/17
	<ul style="list-style-type: none"> 3.4.5 (new numbering) overview and scrutiny remits table added 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> SS 	<ul style="list-style-type: none"> 21/04/17
Other functions	<ul style="list-style-type: none"> Correction to say 'bodies' rather than 'committees' in box at top of section 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> TB 	<ul style="list-style-type: none"> 02/05/17
	<ul style="list-style-type: none"> 3.5.2.1 – change ref to say council has 	<ul style="list-style-type: none"> G 	<ul style="list-style-type: none"> TB 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> 3.5.4.2 clarify role of stds panel (CW/CM to confirm.) 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> TB/AB 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> 3.5.20 (new numbering) clarification following chief executives model procedure 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> CW 	<ul style="list-style-type: none"> 02/05/17
Additional arrangements	<ul style="list-style-type: none"> 			<ul style="list-style-type: none">
Officer functions	<ul style="list-style-type: none"> 3.7.4.1 clarified purchase as well as disposal 	<ul style="list-style-type: none"> c 	<ul style="list-style-type: none"> AB 	<ul style="list-style-type: none"> 31/03/17
Part 4 (Rules)				
Council and committee	<ul style="list-style-type: none"> 			<ul style="list-style-type: none">
	<ul style="list-style-type: none"> 4.1.2 (new numbering) removed reference to cabinet as these rules do not apply, cabinet rules are listed separately under part 4 section 4 	<ul style="list-style-type: none"> A 	<ul style="list-style-type: none"> SS 	<ul style="list-style-type: none"> 02/05/17
	<ul style="list-style-type: none"> 4.1.5.2 4.1.5.2 – grammar made consistent and wording simplified 	<ul style="list-style-type: none"> G G 	<ul style="list-style-type: none"> Comms 	<ul style="list-style-type: none"> 23/03/17
	<ul style="list-style-type: none"> 4.1.6.1 	<ul style="list-style-type: none"> G 		
	<ul style="list-style-type: none"> 4.1.7.2 iv - 			
	<ul style="list-style-type: none"> 4.1.10 – definition of quorum added 	<ul style="list-style-type: none"> G 	<ul style="list-style-type: none"> Comms 	<ul style="list-style-type: none"> 23/03/17
	<ul style="list-style-type: none"> 4.1.12.1 	<ul style="list-style-type: none"> G 		
	<ul style="list-style-type: none"> 4.1.13.2 delete ref to petitions scheme/ could refer to the separate guide (to be produced) 	<ul style="list-style-type: none"> ? 		
	<ul style="list-style-type: none"> 4.1.14.1 move definition of public up form .14.2 – this is clearer and matches wording in cabinet rules. 	<ul style="list-style-type: none"> G 	<ul style="list-style-type: none"> TB 	

Section	Key change	Design principle	Changed by	Date
	<ul style="list-style-type: none"> 4.1.14.1 clarification of meetings at which members may ask questions 		Ab	22/03/17
	<ul style="list-style-type: none"> 4.1.14.4 add "a" 	G		
	<ul style="list-style-type: none"> 4.1.15 (new numbering) table second row from bottom added 'except at the budget meeting' 	• C	• CM	• 02/05/17
	<ul style="list-style-type: none"> 4.1.15.3 9.30 am or half an hour before start of meeting 	G		
	<ul style="list-style-type: none"> 4.1.15.4 c 	G		
	<ul style="list-style-type: none"> 4.1.16.1 (detail deadline for clarity?) 	?		
	<ul style="list-style-type: none"> 4.1.16.8 add in reference to motion to change leader 	?		
	<ul style="list-style-type: none"> 4.1.16.13 reference to speaking time generally as part of a debate? 	?		
	<ul style="list-style-type: none"> 4.1.16.16 add "carried"? 	? G		
	<ul style="list-style-type: none"> 4.1.15.18 add in or half an hour before the meeting? 	?		
	<ul style="list-style-type: none"> 4.1.15.24 and/or 	G		
	<ul style="list-style-type: none"> 4.1.15.40 duplication in wording? 	G		
	<ul style="list-style-type: none"> 4.1.23.1 superfluous wording 	G		
	Flowchart: Can't insert comment into flowchart. What if substantive motion carried? Implies you go back to original motion?) <ul style="list-style-type: none"> Resolved with introduction of infographic 	?		
	<ul style="list-style-type: none"> Flowchart of motions at Council – infographic version from comms inserted in place of word version 	• C	• AB	• 02/05/17
	<ul style="list-style-type: none"> 4.1.30 (new numbering) added 'in setting the agenda' 	• A	• CW	• 02/05/17
	<ul style="list-style-type: none"> 4.1.32 (new numbering) added in 'at the meeting' 	• A	• CW	• 02/05/17
Access to information	4.2.4.3 – edited for flow	G	Comms	23/03/17
	4.2.7 – subheading clarified	G	Comms	23/03/17
	4.2.15.3 delete duplicated wording	G		
Budget and policy	4.3.1.1 add ref to forward plan as well			
	4.3.2.2	G		
	4.3.6.4	G		

Section	Key change	Design principle	Changed by	Date
Cabinet	4.4.2 – subheading edited for clarity	G	Comms	23/03/17
	4.4.5.2 f	G		
	4.4.8.10	G		
Scrutiny	4.5.15.6	G		
	4.5.16.7	G		
	4.5.17.1 – wording adjusted to help flow	G	Comms	23/03/17
	4.5.18.1 new para?	G		
	4.5.18.4 – wording adjusted to help flow	G	Comms	23/03/17
Contracts				
Finance				
Planning	4.8.2.2	G		
	4.8.4.2 – wording clarified	G		28/03/17
	4.8.9.3	G		
	<ul style="list-style-type: none"> General update to ensure consistency of name to Planning and Regulatory Committee 	<ul style="list-style-type: none"> G 	<ul style="list-style-type: none"> SS 	<ul style="list-style-type: none"> 02/05/17
Employment	<ul style="list-style-type: none"> 4.9.24-26 (new numbering) additional procedures on dismissal procedure for head of paid service following agreed JNC model procedures 	A	CW	02/05/17
Part 5 (Codes and guidance)				
Code of corporate governance				
Councillor code of conduct				
Employee code of conduct				
Member officer relations code	Text added to composite draft		SS	02/05/17

Section	Key change	Design principle	Changed by	Date
Use of council resources by members				
Gifts and hospitality code				
Confidential reporting code	Para 5.3.2.6 technical amendment to clarify route to raise victimisation concern	A,C	AB	10/02/17
Planning code	<ul style="list-style-type: none"> 5.12.4.2 specific requirement to minute reasons for site inspection removed 	<ul style="list-style-type: none"> C 	<ul style="list-style-type: none"> SS 	<ul style="list-style-type: none"> 02/05/17
	5.12.6.1 CW to amend			
	5.12.8.1	G		
	5.12.6.1 CW to amend			
	<ul style="list-style-type: none"> General update to ensure consistency of name to Planning and Regulatory Committee 	<ul style="list-style-type: none"> G 	<ul style="list-style-type: none"> SS 	<ul style="list-style-type: none"> 02/05/17
Councillor call for action guide				
Public participation guide				
Roles of members guide				
Part 6 (Allowances)				
Scheme				•
Part 7 (Portfolios and committees)				

Member-Officer Relations Protocol

Introduction and principles

The objectives of this protocol are to guide members and officers of the council in their relations with one another in such a way as to ensure the smooth running of the council in a transparent and accountable way, and to foster good working relationships.

The council has adopted codes of conduct for both [employees](#) and [members](#). The protocol reflects the principles underlying the two codes of conduct and the values of the council. The shared objective of these codes is to enhance and maintain the integrity (real and perceived) of local government and the codes, therefore, demand very high standards of personal conduct.

This protocol should be read in conjunction with the member and employee codes of conduct, the council's constitution and any guidance issued by the monitoring officer.

This protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the protocol is followed it should ensure that members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from members.

Given the variety and complexity of relations between members and officers, this protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.

The role of members

Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of their group leader, the relevant senior officer, and/or the monitoring officer.

At all times members should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.

Collectively, members are the ultimate policy-makers determining the core values of the council and approving the council's policy framework, strategic plans and budget.

Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

Every member represents the interests of, and is an advocate for, their ward and individual constituents. They represent the council in their ward, respond to the concerns of constituents, meet with partner agencies, and may serve on local bodies.

Some members have roles relating to their position as members of the cabinet, scrutiny committee, or other committee of the council. These roles are explained in more detail in the [functions](#) scheme and the [guide](#) to roles and responsibilities of councillors elsewhere in the constitution.

Some members may be appointed to represent the council on local, regional or national bodies.

As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to

act in the public interest. Further guidance for members is available in the council's communications [protocols](#).

Members are not authorised to instruct officers other than:

- through the formal decision-making process;
- to request the provision of consumable resources provided by the council for members' use;
- to request service information or officer advice in accordance with this protocol.

Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the council.

Members must avoid taking actions which are unlawful, financially improper, in breach of the council's own policies or procedures, or likely to amount to maladministration.

Members must have due regard to the impartiality and integrity of the council's statutory officers and its other employees, and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.

Members should only become involved in commercial transactions at the formal decision making stage. When dealing with a commercial transaction members should be aware of the requirements of the [contract procedure rules](#) and relevant guidance.

When using council resources, members must ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate the functions of the council and any office of the council to which a member has been elected or appointed. Members may use council resources on council business (including setting up political group meetings or communicating with members of a political group on council business). A council email address will be provided and should be used for all communications made when carrying out council duties. Members should comply with relevant council policies and procedures when using council resources.

Members should not use council resources:

- a for the publication of material which, in whole or in part, appears designed to affect public support for a political party. This includes campaigning leaflets and correspondence.
- b for mass mailings, even if these are related to council business.
- c during an election period to promote yourself or others as candidates to the electorate
- d for personal use.

The role of officers

Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

Under the direction and control of the council, officers manage and provide the council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

Officers have a duty to implement decisions of the council which are lawful, and which have been properly approved in accordance with the requirements of the law and the council's constitution.

Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

Officers must assist and advise all parts of the council. They must always act to the best of their abilities in the best interests of the council as expressed in the council's formal decisions.

Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public. Where a decision could affect members' wellbeing group leaders will be consulted.

Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the council or in their personal capacity.

The chief executive has a specific statutory function in relation to employees, appointments, discipline, terms and conditions of employment and collective bargaining. Members must recognise and respect those responsibilities and duties.

The relationship

Members are elected by, and officers are servants of the public and members and officers are indispensable to one another. However, their responsibilities are distinct as outlined above. Members are accountable to the electorate and serve as long as their term of office lasts. Officers are accountable to the council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the council's work under the direction and control of the council.

The conduct of members and officers should be such as to instil mutual confidence and trust. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

At the heart of the codes, and this protocol, is the importance of mutual respect. Member/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour, language or emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.

Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, or the public perception of the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual members and officers can damage the relationship of mutual respect and prove embarrassing to other members and officers. To protect both members and officers, officers should address members as 'councillor XX' or 'chairman/leader', save where circumstances clearly indicate

that a level of informality is appropriate, e.g. a one to one meeting between a director and a cabinet member.

Members and officers should inform the monitoring officer of any relationship which might be seen as unduly influencing their work in their respective roles.

It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

A member should not raise openly or through the media matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this protocol, and particularly in relation to any pending or ongoing complaint or disciplinary process involving the officer. This is a longstanding tradition in public service. An officer has no means of responding to such criticisms in public. Furthermore, open criticism or comment may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate, or prejudice the council's position in any subsequent employment tribunal or similar legal action.

A member who feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer should:

- avoid personal attacks on, or abuse of, the officer at all times,
- ensure that any criticism is well founded and constructive,
- never make a criticism in public, and
- take up the concern with the officer privately.

If direct discussion with the officer is inappropriate or fails to resolve the matter, the member should raise the matter with the respective director. The director will then look into the facts and report back to the member. If the member continues to feel concern, then they should raise the issue with the chief executive who will look into the matter afresh. Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the council's performance management and disciplinary policies and procedures.

Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the council's strategic objectives, especially during the scrutiny process. Nothing in this protocol is therefore intended to stop members holding officers to account for decisions made under delegated powers. Officers are accountable to the council for any decision they make and may be required to report to and answer questions from a scrutiny committee except in relation to council functions. A scrutiny committee may also call-in executive officer decisions before they are implemented. Members may also raise queries about a planned or published decision with the decision-maker or an appropriate senior officer.

Where an officer feels that they have been the subject of a sustained or systematic challenge which is unfounded or in any other way unreasonable by a member, they should raise the matter with their director, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances the director will, after consultation with the complainant, take appropriate action either by approaching the individual member and/or political group leader or by referring the matter to the monitoring officer as a breach of the code of conduct.

Advice to political groups

Political groups have a role in the successful running of the council, and officers may on occasion be asked to provide information or support to political groups.

This support can take many forms, ranging from a briefing meeting with a group leader to a presentation at a political group meeting. It is an important principle that such support is available to all political groups. Requests for such support should be made in the first instance to the relevant director or chief executive.

Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular:

- a officer support in these circumstances must not extend beyond providing information and advice in relation to matters of council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
- b Political group meetings form part of the preliminaries to council decision making but are not empowered to make decisions on behalf of the council. Conclusions reached at such meetings do not therefore rank as council decisions and it is essential that they are not interpreted or acted upon as such;
- c similarly, where officers provide information and advice to a political group meeting in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant decision maker when the matter in question is considered; and
- d Members often seek officers' assistance in drafting resolutions or amendments which they wish to move at a meeting. It is proper for an officer to advise on the wording of such a proposal to ensure it is accurate, practical and lawful but there can be no inference that the officer supports the substance or merits of the proposition.

Special care needs to be exercised whenever officers are involved in providing information and advice at a political group meeting which includes persons who are not members of the council. Such persons will not be bound by the code of conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a members only meeting.

Officers must respect the confidentiality of any political group discussions at which they are present and should not relay the content of any such discussion to another political group. Although there is no reason why other such groups should not be aware that a group has sought and received officer advice, or be inhibited from requesting officer support themselves, no political point should be made of that fact. Any difficulty or uncertainty should be raised with the chief executive who will discuss them with the relevant group leader(s).

Members' access to information, council documents or employee advice

Members will need in the discharge of their duties to access information from employees. General service information is available both on the council website and in the online councillor handbook on the council's intranet.

Requests for particular information should be made through the service contacts listed in the councillor handbook (usually more senior employees) who are able to provide an overview

or direct the member to the most appropriate employee. For individual cases (such as planning application or social care cases) members may directly approach the relevant case officers, but employees are entitled to refer the member to the responsible senior manager if appropriate.

Members who wish to obtain information from employees should request it as early as possible, recognising that employees may require reasonable time to collate or research the information. Members should state any deadline for the provision of this information.

Employees will make every reasonable effort to provide members with accurate factual information and professional advice in a timely manner, unless there are lawful reasons to prevent disclosure of the information.

Members have the same statutory right as any member of the public to inspect any council document which contains material relating to any business which is to be transacted at a public meeting of the council and any relevant background papers. This right applies irrespective of whether or not the member is a member of the committee concerned or acting as a substitute. This right does not, however, apply to documents relating to items containing information which is exempt from publication. Correspondence held by the monitoring officer in relation to his or her duties is similarly exempt unless released by him or her in the interest of furthering any enquiry.

The common law right of members is much broader and based on the principle that any member has a prima facie right to inspect council documents so far as access to the documents is reasonably necessary to enable the Member properly to perform duties as a member of the council. This principle is commonly referred to as the 'need to know' principle and will be determined in the first instance by the relevant director. Any disputes may be referred to the monitoring officer whose decision shall be final.

A member who asks to inspect documents which contain personal information about third parties will normally be expected to justify that request in specific terms.

A member of one political group will not have a 'need to know' and does not have a right to inspect any document which forms part of the internal workings of another political group and is in the possession of the council or of an individual employee.

A member of a scrutiny committee is entitled to a copy of any document which:

- a is in the possession or under the control of the cabinet; and
- b contains material relating to:
 - i any business that has been transacted at a private meeting or a public meeting of a decision making body of the council; or
 - ii any decision that has been made by an individual member of the cabinet , or an officer in accordance with the delegation of executive functions.

No member of a committee is entitled to a copy of a document or part of a document which contains exempt information or confidential information unless that information is relevant to an action or decision that they are reviewing or scrutinising; or which is relevant to any review contained in any agreed programme of work of such a committee or sub-committee.

More detailed advice regarding members' rights to inspect council documents may be obtained from the monitoring officer.

Any council information is provided to a member on the basis that it must only be used by the member in connection with the proper performance of the member's duties as a member of the council and in accordance with the policies and procedures of the council. This obligation of confidentiality is part of the [member code of conduct](#).

Involvement of members

Where an officer consults a member as part of the preparation of a report to a decision-making body under the council's constitution, the following principles will apply. The member may ask the report author:

- a to include particular options;
- b to clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
- c to check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
- d to check any estimate of costs or savings.

The member may not ask officers:

- a to exclude any option contained in the draft report;
- b to exclude or alter the substance of any statement in the draft report of any officers' professional opinion;
- c to alter the substance of any recommendation that compromises the officer's integrity or would result in illegality;
- d to exclude any report, comments or representations arising from consultations, publicity or supply of information to the community;
- e certain statutory functions are undertaken by the head of paid service, monitoring officer and chief finance officer. Their reports on such matters are their own full responsibility.

Officers must recognise that ward members are, in many cases, the first point of contact, especially if local people, stakeholders and other community groups are concerned about or want an issue dealt with or simply want information about an issue. It is therefore important that ward members are appropriately informed, engaged with and involved in issues affecting their areas, at as early a stage as possible.

Members should be kept informed and, where possible, consulted about all developments which relate to council activity that affect both Herefordshire as a whole, and/or their ward at the outset of the exercise and, if a press release is to be issued or the media are to be contacted, before a public announcement is made by the Council. Whenever a public meeting is organised by the council to consider a local issue, all the members representing the wards affected should, as a matter of course, be invited to attend the meeting. More generally, officers should consider whether other policy or briefing papers, or other topics being discussed with a cabinet member, should be discussed with the relevant local member(s). Situations where a member is contacted by a resident or the press for a comment or assistance on a matter council is or should be dealing with and of which they were unaware should be avoided, wherever possible

Examples of where members should be contacted by the relevant officer include:

- changes to services provided by the council (directly or commissioned) which affect the ward;
- where decisions are to be taken by a decision maker which affect their ward specifically or which are key decisions;
- controversial issues (e.g. planning applications, petitions, formal complaints, local campaigns, etc.);
- wherever practicable, where any visits by the chairman, committee chairmen or cabinet members to council sites or establishments in their ward, except where these are purely courtesy visits.

Members whose ward may be affected by the change should be briefed on issues in order that they are equipped to be informed and proactive in handling such issues and in responding to individuals or interest groups that may choose to lobby them. These may include:

- representations by local interest groups;
- works to local council facilities;
- complaint outcomes specific to facilities in the local area;
- variations to local service provision;
- sale of land/property owned by the council;
- enforcement action;
- school matters;
- where the council is contacted by the media in respect of a local issue.

In speaking to and corresponding with members, officers shall ensure that they comply with the standards for response times set out in the council's [customer service standards](#), including meeting the council's response times in relation to telephone messages, acknowledging letters and emails, responding in full within its target and, if it cannot, letting members know why and keeping them informed of the progress being made.

Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where it is necessary to copy the correspondence to another member, this should be made clear to the original member. In other words, a system of 'silent copies' should not be employed.

Official letters on behalf of the council should normally be sent in the name of the appropriate officer, rather than in the name of a member. It shall, however, be appropriate in certain circumstances (e.g. representations to a government minister) for a letter to appear in the name of a cabinet member, the leader or the chairman of the council. Letters which, for example, create legal obligations or give instructions on behalf of the council should never be sent out in the name of a member.

Scrutiny

The reports drafted by officers for decision makers may be subject to scrutiny and examined by a scrutiny committee.

Where such a decision is subject to scrutiny by a scrutiny committee, or when a decision is called-in, an officer may provide information or advice to a scrutiny committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.

Scrutiny committees and their members will need active assistance from officers if they are to perform their role of scrutinising the cabinet effectively. These factors will require understanding by members of the role that officers have to perform.

Employees may need to attend scrutiny committee to give evidence and assist it in its scrutiny. Where an employee is required to attend a scrutiny committee, to report to it or provide evidence for it, it is the employee's duty to do so, or to explain why they are unable to do so.

Where a scrutiny committee has resolved to undertake a review it is the duty of directors to co-operate fully with the review and to arrange for relevant officers to attend. This duty extends beyond merely answering the committee's questions and involves a requirement to assist the committee in addressing the right questions and seeking the information which may be required to help them in their work.

Publicity

Councils are accountable to their electorate. Accountability requires local understanding. This shall be promoted by the council, explaining its objectives and policies to the electors and council taxpayers, and encouraging public engagement in accordance with the council's [code of corporate governance](#).

Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Officers and members of the council shall, in making decisions on publicity, take account of the provisions of the [Code of Recommended Practice on Local Authority Publicity](#) and the council's [communication strategy and protocols](#). If in doubt, officers and/or members should initially seek advice from the communications team, who, if necessary, shall refer the matter to the monitoring officer. Particular care should be paid to any publicity used by the council around the time of an election and more so during the period of heightened sensitivity during the pre-election period known as 'purdah'. Advice shall be given on this by the monitoring officer, as appropriate.

Breaches of this protocol

Members and officers must at all times observe this protocol. This protocol is a local extension of the [member](#) and [employee](#) codes of conduct. Consequently a breach of the provisions of this protocol may also constitute a breach of those codes.

The Local Government Act 2000 (Constitutions) (England) Direction 2000

The Secretary of State for the Environment, Transport and the Regions, in the exercise of his powers under sections 37(1)(a) and 48(7) of the Local Government Act 2000 (c.22) (the Act) and all other powers enabling him in that behalf, hereby directs all local authorities in England to which Part II of the Act applies as follows:

Miscellaneous and interpretation

1. In the direction:

"constitution" has the meaning given by section 37(1) of the Act,

"overview and scrutiny committee":

- a. in the case of a local authority which is operating executive arrangements has the meaning given by section 21(1) of the Act; or
- b. in the case of a local authority which is operating alternative arrangements means any committee or sub-committee appointed by the authority in accordance with regulations made under section 32(1)(b) of the Act to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority.

2. In complying with this direction a local authority must have regard to any guidance issued for the time being by the Secretary of State under section 38 of the Act.

The constitution

3. The constitution prepared and kept up to date in accordance with section 37(1) of the Act by a local authority which is operating executive arrangements or, as the case may be, alternative arrangements must include:

	Requirement of Direction	Relevant part of Council's Constitution	Comment
a	a summary and explanation of the purpose and content of the constitution;	Article 1	
b	a description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office;	Article 2	
c	a description of the principal roles and functions of the members of the council under executive arrangements or, as the case may be, alternative arrangements including the rights and duties of	Article 5, Part 7	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	those members;		
d	the scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 (c.42);	Part 6	Phase 2 recommendation c
e	a description of the rights and responsibilities of inhabitants of the authority's area including: <ul style="list-style-type: none"> i. their rights to vote in elections for the return of members of the authority; ii. their rights to access to information about the authority's activities; iii. their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority; and iv. their rights of access to meetings of the executive and committees of the executive, 	Article 3 Access to information rules Council and cabinet procedure rules	
f	a description of the roles of the authority itself under executive arrangements or, as the case may be, alternative arrangements including: <ul style="list-style-type: none"> i. the functions which may be exercised only by the authority itself or which may to some extent be exercised only by the authority itself (including, in the case of a local authority operating executive arrangements any plans and strategies which are subject to approval or adoption by the authority itself by virtue of regulation 5 of, and paragraph 1 of Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853)); and ii. any rules governing the conduct and proceedings of meetings of the authority itself whether specified in the authority's standing orders or otherwise; 	Function scheme – cabinet Council and cabinet procedure rules	
g	a description of the roles and functions of the chairman of the council (including a chairman entitled to the style of mayor);	Article 4	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
h	a description of the functions of the local authority executive which, for the time being, are exercisable by individual members of the local authority executive stating as respects each function, the name of the member by whom it is exercisable;	Functions scheme – cabinet Part 7	
i	a description of the functions of the local authority executive which, for the time being, are exercisable by the executive collectively or a committee of the executive, stating as respects each function, the membership of the body by who it is exercisable	Cabinet functions	
j	a description of those powers of the executive which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months	Officer function	
k	a description of the arrangements for the operation of overview and scrutiny committees including: <ul style="list-style-type: none"> i. the terms of reference and membership of those committees and any rules governing the exercise of their functions; and ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise; 	Article 6 Function scheme – overview and scrutiny Overview and scrutiny rules	
l	in the case of a local authority which is operating executive arrangements, a description of the roles of the executive, committees of the executive and members of the executive including: <ul style="list-style-type: none"> i. the roles, functions, rights, responsibilities and duties of members of the executive; ii. in the case of a local authority which is operating executive arrangements which include a leader and cabinet form of executive, any rules governing the election of the executive leader; iii. any rules governing the appointment of members of the executive; iv. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of the executive; 	Article 5 Function scheme – cabinet cabinet rules	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	<p>v. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive;</p> <p>vi. any provisions in the local authority's executive arrangements with respect to the appointment of committees of the executive; and</p> <p>vii. in the case of a local authority which is operating executive arrangements which include a mayor and council manager form of executive, any roles of committees appointed by the elected mayor to advise the executive in accordance with paragraphs 3(14) and (15) of Schedule 1 to the Act;</p>		
m	in the case of a local authority which is operating executive arrangements which include a mayor and council manager form of executive, a description of the roles, functions, rights, responsibilities and duties of the deputy mayor appointed in accordance with paragraph 3(3) of Schedule 1 to the Act;	N/a	
n	<p>a description of the roles of any committees or sub-committees appointed by the authority in accordance with section 101 of the Local Government Act 1972 (c.70) including:</p> <p>i. the membership, terms of reference and functions of such committees or sub-committees; and</p> <p>ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees whether specified in the authority's standing orders or otherwise;</p>	<p>Article 8</p> <p>Functions scheme – other</p> <p>Council rules</p> <p>Planning rules</p>	
o	a description of those powers of the council which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;	Functions scheme – officer	
p	<p>a description of the roles of the local authority's Standards Committee and any parish council sub-committee of the Standards Committee appointed in accordance with sections 53 or 55 of the Act including:</p> <p>i. the membership, terms of reference and functions of that committee or sub-committee; and</p>	<p>Article 8</p> <p>Function scheme - other</p>	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	ii. any rules governing the conduct and proceedings of meetings of that committee or sub-committee whether specified in the authority's standing orders or otherwise;	Council procedure rules	
q	a description of the roles of any area committees appointed by the authority to exercise functions in accordance with regulations 16A of the Local Government (Committees and Political Groups) Regulations 1990 (SI 1990/1553) or, as the case may be, section 18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000/2851) including: <ul style="list-style-type: none"> i. the membership, terms of reference and functions of such committees; and ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise; 	N/a	
r	a description of any joint arrangements made with any other local authorities under section 101(5) of the Local Government Act 1972 including: <ul style="list-style-type: none"> i. the terms of those arrangements; ii. the membership, terms of reference and functions of any joint committees established under those arrangements; and iii. any rules governing the conduct and proceedings of meetings of those joint committees whether specified in the authority's standing orders or otherwise 	Article 9	
s	a description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with section 101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000;	Article 9	
t	a description of the roles of officers of the local authority including: <ul style="list-style-type: none"> i. the management structure for officers of the authority; ii. any arrangements made under section 101 of the Local Government Act 1972 or, as the case may be, section 14, 15 or 16 of the Act for the discharge of functions by officers 	Part 7 Article 10	

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	<p>of the authority;</p> <p>iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer;</p> <p>iv. the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Act;</p> <p>v. any rules governing the recruitment, appointment, dismissal and disciplinary action for officers of the authority;</p> <p>vi. any protocol established by the authority in respect of relationships between members of the authority and officers of the authority;</p>	<p>Codes</p> <p>Function scheme – council</p> <p>Function scheme – other – employment panel</p> <p>Protocol</p>	<p>Phase 2</p> <p>Phase 2</p>
u	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority, committees and sub-committees of the authority, joint committees established with any other local authority, the executive and committees of the executive;	Access to information rules	
v	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities;	Access to information rules	
w	a register stating: <ul style="list-style-type: none"> i. the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and ii. the name of every member of each committee of the local authority's executive for the time being; 	Part 7	
x	a description of the rules and procedures for the management of its financial, contractual and legal affairs including: <ul style="list-style-type: none"> i. procedures for auditing of the local authority; ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise; iii. rules, regulations and procedures in respect of contracts 	<p>Finance and contract procedure rules</p> <p>Article 10</p> <p>Functions scheme- council</p>	Phase 2

	Requirement of Direction	Relevant part of Council's Constitution	Comment
	and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and iv. rules and procedures in respect of legal proceedings brought by and against the local authority;	Functions scheme - officers	
y	a description of the register of interests of members and co-opted members of the authority required under section 81 of the Act, together with the procedures for publicising, maintaining and updating that register.	Code of conduct	Phase 2
x	a description of the rules and procedures for review and revision of the authority's constitution and executive arrangements or, as the case may be, alternative arrangements	Article 1 Functions scheme- other –audit	

4. This direction shall have effect from 19th December 2000.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Draft Code of Conduct – Consolidated Feedback

No.	Name	Feedback
1	Parish Councillor A	For transparency, it would help to define who the monitoring officer is and how they are contactable.
2	Parish Councillor B	I have read through the code of conduct and totally agree with every word.
3	Humber, Ford and Stoke Prior Group Parish Council	<p>I am writing as Clerk to Humber, Ford & Stoke Prior Group Parish Council in response to the consultation on the draft revised Code of Conduct.</p> <p>I am concerned that for something which is a central and important part of all local councils' governance, the consultation period is too short to allow many parish councils an adequate opportunity to be involved in commenting on or contributing to what will – in due course – be recommended as the new Code they themselves should adopt. Our Council and some others only meet bi-monthly, so would need to call an Extraordinary Meeting to consider the draft, and in any case, it is a short consultation period for something so important.</p> <p>I understood that Herefordshire Council's view was that they recommended that parish councils adopt the same Code as for Herefordshire Council itself, as this clearly is the simplest and most efficient thing. However, the process of producing the revised draft Code – as far as I am aware – seems not to have included parish councils, and the short consultation period seems to indicate that this is being seen as something which really about Herefordshire Council and not us. The revised draft Code is very different from what we have had – and may be much better, being shorter and simpler – but there may also be matters which could improve it further, such as including references to some more practical “what to do and what not to do” advice, which could be contained in guidelines or annexes. Certainly I would consider that, although the draft Code is simpler and easier to understand, it does not do the job of explaining what – in practice – councillors should and should not do.</p> <p>I understand that this point has already been raised with the Governance department through Anthony Bush, who have responded that the deadline for the consultation cannot be extended because of the timetable for adopting it. This seems entirely to miss the whole point of a consultation, which surely is to get the views of those who have a stake in the matter, and not simply to tick a box in a process so that that process can be completed within an arbitrary timescale. Parish Councils have an important stake in the new draft Code, and this consultation does not give adequate time for them to be involved. Unless this is allowed, you will probably end up with many parish councils which feel – quite rightly – little sense of ownership of the revised Code, and may make their own amendments and additions, which will weaken the coherence of council governance across the county.</p>

No.	Name	Feedback
4	North Bromyard Group Parish Council	Following the recent meeting of the Parish Council, I have been asked to confirm that councillors unanimously agreed to support the draft code of conduct as distributed on 21st March 2017.
5	Ross-on-Wye Town Council	<p>I can confirm that following the meeting of the Council's Policy and Management Committee it has been agreed to support the proposed changes to the Code.</p> <p>Please would you confirm after 19th May whether your Members adopted the new Code so that I can put to my Council that we adopt the same one?</p>
6	Marden Parish Council	Marden Parish Council has instructed me to respond that it considers that the requirement relating to gifts should go up to £50 not down to £10.
7	Weston under Penyard parish council	<p>Weston under Penyard parish council considered the revised code and the following comments are:</p> <ul style="list-style-type: none"> • It is poorly written and a pale imitation of the version produced by Herefordshire Council in 2012. • In particular the "schedule 2 interests" are described in a very confusing manner and the text could be considerably improved. <p>The council is unlikely to adopt the proposed new code of conduct as it stands even if Herefordshire Council does adopt it.</p>
8	Cusop Parish Council	<p>Cusop Parish Council considered this at its last meeting and decided that it had no comment to make at this stage other than to draw attention to an apparent discrepancy in the handling of "other declarable interests".</p> <p>The last paragraph of the main text states that there is an other decalarable interest "If a matter to be considered affects to a greater extent than others in a member's ward". In the following table, under the heading 'Do I have to declare this interest', it is indicated that other declarable interests are treated in the same way as Schedule 1 interests, ie "If the matter under discussion is related to the interest".</p> <p>A "related" matter is a significantly tighter measure than an "affected" one - as the attached 2013 article from Local Government Lawyer makes clear. If this article is correct and still up to date, the distinction has a particular impact on planning applications, so restricting other declarable interests only to</p>

No.	Name	Feedback
		<p>"related" matters would lead to a much narrower range of planning applications being declarable. It is not clear if this is what the code intends.</p> <p>There is also the question of whether Schedule 2 interests are intended to be restricted to "related" matters as well or extended to "affected" matters.</p>
9	Longtown Group Parish Council	Longtown Group Parish Council has looked at the revised draft code of conduct and have asked me to advise you that they are happy with the amendments.
10	Ledbury Town Council	Ledbury Town Council resolved to not make any comment on the revised Code of Conduct at this time as Members are aware that NALC and CALC's across the country are in discussion with the Government re strengthening the Code. They felt it may be prudent to wait until such time as the outcome of these discussions are known.
11	Herefordshire Councillor A	<p>Schedule 2 Interests:</p> <p>The actual meaning and more importantly, the intent of Schedule 2, is unclear and badly written. If members are expected to sign-up to a revised Code, then all legal requirements and instructions, as laid down within the schedules, must be clear and totally unambiguous.</p> <p>Examples should be given to ensure Members are left in no doubt regarding any interests etc. that they should declare. The examples given within the columns at the end of the draft document, are confusing and unhelpful.</p> <p>The document should not contain words or phrases written in 'council speak' and only plain English should be used. The final point in the right-hand column of Schedule 2 is particularly confusing:</p> <p>i.e. 'Any body which is not open to the public without formal membership'</p> <p>This sentence has no clear meaning and could refer to any number of outside interests that could be enjoyed by a Member, but would not affect and would not influence that Member's duties as an elected Councillor. This could result in a Member declaring membership of a body that was outside the scope and spirit of the Schedule, which could result in possible embarrassment, or even later harassment by others, to that Member.</p>

No.	Name	Feedback
		<p>Under the sub-heading: <i>Other Declarable Interests</i>, the sentence stating, 'if a matter to be considered affects to a greater extent than others in a members ward' is meaningless as written!</p> <p>Finally, it's quite clear that insufficient care has been taken in the preparation of this document, which appears to have simply been cut and pasted from the previous Code.</p> <p>If a revised Code of Conduct is considered to be so vitally important, then before it's introduced it must be totally re-worked and re-written as an entirely new document, before Members are required to sign-up to it.</p>
12	Herefordshire Councillor B	<p>1. <u>The timing of such a revision mid-term is inappropriate.</u> Councillors signed up to the current code of conduct upon being elected to that office back in 2015 (or subsequently if at a by-election). Without any statutory requirement, there is nothing requiring councillors to sign up to an amended code mid-term which therefore makes the current proposition somewhat meaningless and confusing. Whilst some may volunteer to adhere to the new code, others may not and are under no obligation to do so. Confusingly, it could be applied to any newly elected councillors at any by-election after any new code is adopted making them formally subject to a different code of conduct. All this will undoubtedly cause confusion and make matters worse. I would recommend that the proposals be withdrawn and re-considered in 18 months' time with a view to any new code being adopted in time for the May 2019 election.</p> <p>2. <u>Declaration of hospitality or gift worth £10, reduced from £25.</u> The requirement is to declare whether or not the offer is accepted. This was increased to £25 a few years ago and in line with other councils (e.g. Worcestershire CC) and with MPs apparently able to receive up to £50 hospitality or gifts before making declarations. I would not wish to see it increased beyond £25, but wonder what has occurred to bring the suggestion forward to reduce it against the 'flow'. Any hospitality offer which is refused is normally within the £25 band relating to events where I may be invited as Chairman, but, for whatever reason, I do not accept. It would become a nonsense if I have to declare all such minor items which may be just over £10 in value, but which are declined, especially if offered to me in my official position rather than as an individual councillor. However, if it is to be amended to the lower figure, then I suggest that any offer made to and declined by</p>

		<p>the Chairman or Vice-Chairman in that official capacity should be excluded. (The same argument may well apply to the Mayors in the City and market towns)</p> <p>In the absence of any rationale to the contrary, I am not convinced as to why £25 is too high. I should also point out that this point is identified in B3 of Schedule 1 and therefore it is unnecessary to repeat it (whatever sum is identified) in Schedule 2.</p> <p>I see no reason to vary the current requirement and would suggest that it remain at £25.</p> <p>3. Requirements in addition to the Nolan Principles listed in Schedule 1</p> <p>I am concerned that the proposals suggest extending the requirements outside the widely accepted Nolan principles and impose additional unnecessary requirements.</p> <p>I am supportive of the original principles and thereby accept the interests identified in Schedule 1, but do not see that they need further definition or addition. The proposals in Schedule 2 are unnecessary and potentially confusing. By way of example, it refers to membership of any body which is not available to members of the general public. By inference, this means disclosure of membership to any body to which the public <u>may</u> be admitted does NOT have to be declared. Likewise, I am somewhat at a loss to appreciate why organisations which are reliant on public donation, voluntary or non-charitable appear to be non-declarable. Moreover, to identify what is 'included' might infer that items not mentioned are excluded: again this is wrong. The suggestion to add issues outside Schedule 1 appears to be without merit or good reason. It should also be noted that appropriate controls are already in place in Schedule 1 which covers the relevant Nolan points, namely:</p> <p><i>E.1 Be as open as possible about their decisions and actions and should give reason for their decisions and actions</i></p> <p><i>E.2 Complete and maintain an up to date register of interests</i></p> <p><i>E.3 Do draw attention to any code of conduct interest when performing their duties as a Member</i></p> <p><i>F.2 Declare any private interests that relate to their duties as a Member and resolve any such conflict in a way that protects the public interest</i></p> <p><i>B.3 Should declare gifts and hospitality that they are offered whether accepted or not where the value exceeds £.....</i> (see comments made in (2) above)</p> <p>I suggest that Schedule 2 is not appropriate or necessary and should be deleted.</p>
13	Herefordshire Councillor C	All relate to Schedule 2 'Other Interests' (at the bottom of the penultimate page)

		<p>Its not clear if these other interests should be disclosed under Schedule 2 or just if a particular matter arises to which they are pertinent. It would be helpful to clarify this.</p> <p>It says close association when I think it means close associate. Its not clear whether this associate could be a friend or a business partner or either. It would be helpful to clarify.</p> <p>The question of whether schedule 2 relates to a partner, even if not a civil partner, is not clear. It would be sensible to add in, 'Partner (whether in a civil partnership or living together as a partner)'</p>
15	Herefordshire Councillor D	My only comment is that reducing the limit for gifts and hospitality to £10 is too low. If I go to the LGA in London, I will be very lucky to find a lunch and drink for less than £10 so in my view, the limit should be kept at £25. If a reduction is really deemed necessary, no less than £15. At £10, it will require a full time member of staff to file all the declarations!
15	Herefordshire Councillor E	No further comment
16	Herefordshire Councillor F	No comments from me
17	Herefordshire Councillor G	Looks fine to me.



Meeting:	Audit and governance committee
Meeting date:	10 May 2017
Title of report:	Work programme for 2017/18
Report by:	Democratic services officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To provide an update on the Committee's work programme for 2017/18.

Recommendation(s)

THAT:

Subject to any updates made by the committee, the work programme for 2017/18 for the audit and governance committee be agreed.

Alternative options

- 1 There are no alternative options as regards whether or not to have a work programme as the committee will require such a programme in order to set out its objectives for the coming year.

Reasons for recommendations

- 2 The work programme is recommended as the committee is required to define and make known its work for the coming year. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.

Further information on the subject of this report is available from
Caroline Marshall, democratic services officer on Tel (01432) 260249

3 The committee is asked to consider any further adjustments.

Key Considerations

4 The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.

Community impact

5 A clear and transparent work programme provides a visible demonstration of how the committee is fulfilling its role as set out in the council's constitution.

Equality duty

6 This report does not impact on this area.

Financial implications

7 There are no financial implications.

Legal implications

8 The work programme reflects any statutory or constitutional requirements.

Risk management

9 The programme can be adjusted in year to respond as necessary to risks as they are identified; the committee also provides assurances that risk management processes are robust and effective.

Consultees

10 The interim director of resources and monitoring officer have contributed to the work programme

Appendices

Appendix A – audit and governance work programme 2017-18

Background papers

- None identified.

**Audit and Governance Work Programme
2017/18**

Function area	Report	Purpose
July 2017		
Governance (quarterly)	Corporate risk register	To consider the status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework.
Accounts (Annual)	Draft statement of account	To note the draft statement of accounts
Waste contract (Annual)	Energy from waste (EFW) Loan Update	To provide assurance to the audit and governance committee on the status of the energy from waste (EfW) loan arrangement.
Governance (annual)	Anti-fraud and corruption strategy	To approve the anti-fraud and corruption strategy
Governance (every meeting)	Work programme	To note the current work programme of the committee
September 2017		
Governance (Quarterly)	Corporate risk register	To consider the quarterly status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework.
Internal audit (Bi-annual)	Internal tracking of audit recommendations	Monitor implementation of action plans agreed in response to recommendations made by internal audit
Internal audit	Progress report on 2017/18 internal audit plan	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.
Internal audit (Annual)	SWAP annual report	To consider SWAP's annual report and opinion, and a summary of the internal audit activity and the level of assurance it can give over the council's corporate governance arrangements
Accounts (annual)	Signing of accounts	To approve the statement of account
Governance (as and when there are working groups)	Working group update	To provide an update and the work of the two working groups.
External audit	External auditor report	Update on progress to date in order to comment on the scope and depth of external audit work and ensure that it gives value for money.

**Audit and Governance Work Programme
2017/18**

Function area	Report	Purpose
Governance (annual)	Statement on Internal Control	Review the council's Statement of Internal Control and recommend its adoption to council
External audit (Every three years)	Appointment of the Council's local (external) auditor	To recommend the appointment of the council's local (external) auditor to council.
Internal/external audit (annual)	Review of performance of internal and external audit	<ul style="list-style-type: none"> To consider a report dealing with the management and performance of the providers of internal audit services Ensure that there are effective relationships between external and internal audit and that the value of the combined internal and external audit process is maximised.
Governance (every meeting)	Work programme	To note the current work programme of the committee
November 2017		
External audit (annual)	Annual audit letter	To review the annual audit letter
Internal audit	Progress report on 2017/18 internal audit plan	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.
Governance (annual)	Raising Concerns at Work policy	To review and approve, if necessary, any changes to the policy.
Governance (annual)	Information governance review	To review the council's information governance requirements to include all complaints (inc. children's social care), information requests, breaches of Data Protection Act, corporate governance and Regulation of Investigatory Act.
Governance (as and when there are working groups)	Working group update	To provide an update
Governance (every meeting)	Work programme	To note the current work programme of the committee
January 2018		
Governance (Annual)	Annual governance statement progress	<ul style="list-style-type: none"> Review of the effectiveness of the council's governance process and system of internal control. Update on the progress of the annual governance statement

**Audit and Governance Work Programme
2017/18**

Function area	Report	Purpose
Governance (Annual)	Constitution Review	Conduct an overview of the council's constitution and recommendation to council of any changes
Governance (Annual)	Code of Conduct Review and complaints	<ul style="list-style-type: none"> • Review the code of conduct and recommend any changes to the code to council • Review code of conduct complaints
Governance (Annual)	Contract procedure rules, finance procedure rules and the anti-fraud and corruption strategy	Review of procedure rules/strategy and approve any amendments to the rules.
Governance (as and when there are working groups)	Working group update	To provide an update.
Governance (Quarterly)	Corporate risk register	To consider the quarterly status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework.
Governance (every meeting)	Work programme	To note the current work programme of the committee
March 2018		
Internal audit (Annual)	Internal audit charter	To consider the internal audit plan for 2018/19.
Internal audit	Internal audit plan for 2018/19	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.
External audit (Annual)	Progress report on 2017/18 internal audit plan	Review and agree the external auditors annual plan, including the annual audit fee and annual letter.
External audit (Annual)	External auditors annual plan	To note progress of the working group
Governance (as and when there are working groups)	Working Group Update	Monitor implementation of action plans agreed in response to recommendations made by internal audit
Governance (Bi-annual)	Internal tracking of audit recommendations	To note the work programme for 2018/19.
Governance (Annual)	Future work programme for 2018/19	To consider the quarterly status of the council's corporate risk register in order to monitor the effectiveness of the performance,
Governance (Quarterly)	Corporate risk register	

**Audit and Governance Work Programme
2017/18**

Function area	Report	Purpose
		risk and opportunity management framework.