

# **Herefordshire Council**

## **Constitution**

**20 May 2022**

**(Updates last made December 2025)**



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## **SCHEMES OF DELEGATION**

The latest schemes of delegation, ordered by directorate, can be found at:  
<http://councillors.herefordshire.gov.uk/ecSDDisplayclassic.aspx?NAME=SOD01>

## **CHANGE LOG**

Record of changes made to approved constitution, including technical changes, typographical and grammatical corrections and modifications agreed by Council.





# PART 1

## INTRODUCTION AND SUMMARY

### **1.1 Our constitution**

- 1.1.1 Herefordshire Council, which is a unitary authority operating executive arrangements through a leader and cabinet, has agreed this constitution which 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. Some of these processes are required by the law, while others are a matter for the council to choose.

The constitution is divided into different parts which set out the basic rules governing the council's business as well as some of the detailed rules.

- 1.1.2 Article 1 of the constitution commits the council to providing clear community leadership and operating in a way which is transparent, efficient and accountable and upholds the values of the council. The remaining articles and parts of the constitution explain the rights of the public and how the key parts of the council operate:

- (a) Part 2 explains how key parts of the council work;
- (b) Part 3 says who does what;
- (c) Part 4 contains detailed rules about how particular things operate;
- (d) Part 5 provides more details and guidance about how councillors and council staff work together and how the public can participate;
- (e) Part 6 sets out the allowances that councillors are paid;
- (f) Part 7 explains the cabinet and scrutiny committee roles and the council's management structure.

### **1.2 How the council operates**

- 1.2.1 The council comprises 53 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community of Herefordshire, but they have a special duty to their constituents, including those who did not vote for them.
- 1.2.2 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The monitoring officer trains and advises on the code of conduct, including in relation to parish councils.

- 1.2.3 All councillors meet together as full Council. Meetings of full Council are normally open to the public and the councillors decide the council's overall policies and set the revenue budget and capital programme each year. At its annual meeting, full Council appoints one councillor to be the leader of the council.

### **1.3 How decisions are made**

- 1.3.1 Most day to day service decisions are taken by the staff of the council and in particular by their managers. Elected councillors sitting as the full Council will decide an overall framework of policies governing how services are to be provided.
- 1.3.2 The leader of the council approves the scheme of delegation of executive functions. The council's cabinet of councillors will make recommendations to the council about the policy framework and will itself take decisions that ensure services are provided within that framework.
- 1.3.3 For most "key" decisions to be made by the cabinet or by cabinet members the council is required to publish, in advance, information about the matter to be decided; who will be making the decision, the date or timescale for the decision, and the place where the decision will be made.
- 1.3.4 The cabinet can only make decisions which are in line with the council's overall budget and policy framework. If it wishes to make a decision which is contrary to the budget and policy framework, this must be referred to full Council to decide.
- 1.3.5 Full Council will appoint committees with power to carry out its non-executive and other functions (e.g. planning and licensing). Non-executive functions are those which the cabinet does not have the power to carry out.
- 1.3.6 The cabinet is held to account by the scrutiny committees appointed by full Council.

### **1.4 The council's staff**

- 1.4.1 The council has people working for it (called 'officers') to give professional advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the council. This protocol is included within the constitution.

### **1.5 Citizens' rights**

- 1.5.1 Citizens have a number of rights in their dealings with the council. These are set out in more detail in Article 3. Some of these are legal rights, while others are given at the discretion of the council, depending on the council's own processes.
- 1.5.2 Where members of the public use specific council services, for example as a parent of a school pupil or as a social care user, they may have additional rights. These are not covered in this constitution. Details of such rights may be obtained directly from the service concerned or from the council's customer services.

- 1.5.3 The council welcomes participation by its citizens in its work. A guide to public participation is included in part 5.



# PART 2

## THE ARTICLES



## Article 1 - The council and the constitution

This article explains the council's priorities and values, and the constitution which is published on the council's website. The council has decided to operate a leader and cabinet model of governance.

### **2.1.1 Strategic priorities and values of the council**

#### **2.1.2 Priorities**

2.1.3 The council has a [corporate plan](#) that sets out its priorities in order to improve the quality of life of the people in the county and the measures used to show how far those priorities have been met. The corporate plan is reviewed every four years. A delivery plan that sets out what actions the council will take to achieve the priorities of the corporate plan is agreed each year by the cabinet and progress is reported on a quarterly basis.

#### **2.1.4 Values**

2.1.5 Clause not used.

2.1.6 Everyone who is elected or appointed to public office, works for the council, or provides services on the council's behalf is required to follow general principles of ethical conduct. These principles are described in more detail in [part 5 section 1](#) of the constitution.

### **2.1.7 Powers of the council**

2.1.8 The council's duties and powers are set out in the law of England. A duty requires the council to act in a particular way. A power gives the council discretion to act. The arrangements are complex and detailed.

2.1.9 The council must meet high ethical and other standards in everything it does; it must comply with legal requirements; and it must use public money and other resources economically, efficiently and effectively, accounting fully for its actions. In order to discharge these responsibilities, members and senior officers must ensure the proper governance of the council's affairs and the stewardship of its resources. The council has therefore adopted a code of corporate governance (Part 5 section 1) which sets out how this will be done.

2.1.10 Powers are exercised by the council and its functions carried out in accordance with the functions scheme (part 3). The council operates the leader and cabinet model of executive arrangements. A description of these executive arrangements is set out in a schedule to this part 2.

### **2.1.11 The constitution**

2.1.12 This constitution and its appendices form the constitution of the County of Herefordshire District Council (known as Herefordshire Council).

### **2.1.13 Purpose of the constitution**

2.1.14 The purpose of the constitution is to set out in a single place and clear language how the council works and how it makes decisions to

- (a) enable the council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- (b) support the active involvement of citizens in the process of council decision-making
- (c) help councillors represent their constituents more effectively
- (d) enable decisions to be taken efficiently and effectively
- (e) create a powerful and effective means of holding decision-makers to public account
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions
- (h) provide a means of improving the delivery of services to the local community

#### **2.1.15 Meaning of the constitution**

- 2.1.16 If the constitution gives the council a choice about what to do, the council must choose the option that it thinks is closest to the purpose of the constitution in paragraph 2.1.14

#### **2.1.17 Review and changes to the constitution**

- 2.1.18 Reviews and changes to the constitution will be in accordance with the functions scheme (part 3).

#### **2.1.19 Suspension of the constitution**

- 2.1.20 The only power to suspend the constitution is in accordance with the council procedure rules (part 4).



## Article 2 - Councillors

This article explains who councillors are, what they must do and how long they serve.

You can find out who your councillor is and how to stand for election as a councillor on our website and at council customer service centres.

### **2.2.1 Number of councillors and areas they represent**

2.2.2 The council has 53 elected members called councillors. Each councillor represents an area of the county known as a ward. The voters of each ward elect a councillor to represent them.

### **2.2.3 Who can be a councillor**

2.2.4 Anybody may stand for election as a councillor provided they are

- (a) registered to vote in local government elections in the county, or have lived or worked there for the 12 months preceding the day of election, and are
- (b) not stopped by law from holding office as a councillor

### **2.2.5 Elections**

2.2.6 Anyone over 18 residing in the county is entitled to vote and be included on the electoral register.

2.2.7 The running of the elections is the responsibility of the returning officer. Electoral registration is the responsibility of the electoral registration officer.

2.2.8 The chief executive of the council is the electoral registration officer and returning officer. The council has an elections office that helps the chief executive discharge these functions.

2.2.9 Electoral registration and elections are subject to strict rules and further information can be obtained from the council's elections office or the Electoral Commission.

### **2.2.10 When elections happen and how long councillors are elected for**

2.2.11 Elections for all wards will usually take place on the first Thursday in May every four years with effect from 2003. People elected as councillors start being councillors on the fourth day after being elected and finish on the fourth day after the next election.

### **2.2.12 Roles and functions of all councillors**

2.2.13 All councillors must:

- (a) together be the makers of overall policy for the county in relation to its functions
- (b) contribute to plans and policies jointly with partners in matters that require co-operation and collaboration between those partners
- (c) represent, and speak up for their communities
- (d) deal with individual casework and speak up for citizens

- (e) balance different interests within their ward and represent it as a whole
- (f) be involved in council decision making
- (g) be available to represent the council on other bodies
- (h) maintain the highest standards of conduct and ethics; and
- (i) together be the corporate parents for children looked after by the council.

#### **2.2.14 Rights to information**

- 2.2.15 Councillors have rights of access to council information in accordance with the access to information rules (part 4 section 2).

#### **2.2.16 Responsibilities**

- 2.2.17 Councillors must follow the councillor code of conduct (part 5 section 2) and must follow this constitution and the rules, principles and codes within it whilst conducting council business.

#### **2.2.18 Allowances**

- 2.2.19 Councillors will be entitled to receive allowances in accordance with the councillors' allowance scheme (part 6).

#### **2.2.20 Ceasing being a councillor**

- 2.2.21 A councillor<sup>1</sup> will cease being a councillor if:-
- (a) they resign by giving written notice, or
  - (b) they fail to attend meetings of the council for a period of six months without prior approval of the council meeting, or
  - (c) if they are stopped by law from holding office, or
  - (d) the period for which they were elected has come to an end and they have not been re-elected.

#### **2.2.22 Political or other groups**

- 2.2.23 Councillors may join a political group of two or more councillors who belong to the same political party or have some other common interest. Political groups are recognised by law and in the constitutional arrangements within the council.
- 2.2.24 The number of places that each political group has on the council determines how many places are allocated to members of that political group on council committees and other bodies.
- 2.2.25 There is no constitutional or legal requirement that a member of a group must vote on any matter in the same way as their political group. Usually on policy matters a political group will have a collective view and will vote together on the issue.
- 2.2.26 There are certain functions of the council that are regulatory or quasi-judicial e.g. planning. A political group may not direct its members how to decide such matters.

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<sup>1</sup> 2.2.21 (a), (b), (c) and (d) will also apply to the Council's Independent Persons and Co-optees. (as of 11 October 2024)

## Article 3 – Citizens and the council

Herefordshire Council is keen to engage with citizens living or working in the county and involve them in council activities. This article describes how Herefordshire citizens can take part.

### **2.3.1 Citizens' rights**

#### **2.3.2 Citizens have the right:**

- (a) to take part in question time at any meeting of the council where the agenda includes public question time;
- (b) to speak during public speaking time at meetings of the planning and regulatory committee;
- (c) to contribute to investigations by scrutiny committees;
- (d) to be consulted or in some other way participate in council decision making in accordance with the arrangements the council has for such consultation and participation;
- (e) to access information in accordance with the access to information rules; and
- (f) to attend any public meeting.

### **2.3.3 Citizens' responsibilities**

#### **2.3.4 A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community. In particular, citizens are encouraged to:**

- (a) vote at every opportunity;
- (b) respect the expression of differing opinions in public debate;
- (c) promote tolerance and respect between their fellow citizens; and
- (d) seek information about the decision-making role of councillors and respecting the council procedures which give effect to a representative democracy.

The rights and responsibilities of citizens are set out in more detail in the public participation guide (part 5 section 8).



## Article 4 - The Council meeting

This article explains the role of the Council meeting (which is when all councillors attend a formal meeting) and the role of the chairperson.

### **2.4.1 Council meetings**

### **2.4.2 Types of Council meetings**

2.4.3 There are three types of Council meeting:-

- (a) The annual meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

### **2.4.4 Rules applying to Council meetings**

2.4.5 The council rules (in Part 4 section 1) will apply to Council meetings.

### **2.4.6 Functions of the council meeting and functions scheme**

2.4.7 The functions of the Council meeting are set out in the functions scheme (part 3)

### **2.4.8 Chairperson of the Council**

### **2.4.9 Election**

2.4.10 The chairperson of the council and the vice-chairperson are elected by Council annually.

### **2.4.11 Functions**

2.4.12 The chairperson of the council and, in their absence, the vice-chairperson will have the following roles and functions:

- (a) to uphold and promote the purpose of the constitution;
- (b) to decide what the constitution means if there is a dispute, on advice from the monitoring officer;
- (c) to chair Council meetings so that decisions can be taken efficiently and with regard to the rights of councillors and the interests of the community;
- (d) to make sure that Council meetings are a place for debating matters of concern to the local community and the place at which members who are not on the cabinet are able to hold the cabinet to account;
- (e) to promote public involvement in the council's activities and in the democratic process;
- (f) to be the conscience of the council;
- (g) to attend those civic and ceremonial functions which they or the council consider appropriate; and
- (h) to approve, as urgent, decisions which will not be subject to call in, when no chair of a scrutiny committee is available.

#### **2.4.13 Roles**

2.4.14 The chairperson of the council fulfils several roles:

- (a) **Ceremonial role** - The chairperson is the ceremonial head of the whole council and its countywide representative at civic and social occasions. The chairperson has considerable discretion in exercising the ceremonial aspects of the office.
- (b) **Apolitical role** - It is important that the chairperson maintains an apolitical stance especially when chairing Council meetings. The chairperson must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to any relevant procedure rules.
- (c) **Chairperson's announcements** - Any group leader or committee chairperson may approach the chairperson before a Council meeting to suggest items for the chairperson to use in making announcements to Council. The chairperson has complete discretion as to which items they may think appropriate to announce.
- (d) **Rules of debate** - The chairperson's role in conducting meetings is to enforce the council rules at the Council meeting as set out in part 4.
- (e) **Casting vote** - If there are equal numbers of votes for and against, the chairperson will have a second or casting vote. There will be no restriction on how the chairperson chooses to exercise a casting vote.

## Article 5 - The Leader and the cabinet

The leader of the council is the councillor who is the political head of the council. This article explains how the leader is elected and what they do. It also explains how the cabinet works and what it does. The leader and cabinet model are part of the council's executive arrangements.

### **2.5.1 Leader of the council**

### **2.5.2 Election**

2.5.3 At the annual meeting Council will elect a councillor to be the leader of the council ("the leader").

### **2.5.4 Role**

2.5.5 The leader is the political leader of the council who, together with the chief executive, provides overall leadership of the council and its staff.

2.5.6 The leader will normally chair meetings of the cabinet, will lead in the formulation, co-ordination and presentation of the cabinet's policies and will work closely with the chief executive on the carrying out of policies by the council.

### **2.5.7 Ceasing being leader of the council**

2.5.8 The leader will stay as the leader of the council until:

- (a) the date of the council's next annual meeting; or
- (b) they resign from office; or
- (c) they are suspended from being a councillor, although they may resume office at the end of the period of suspension; or
- (d) they are no longer a councillor; or
- (e) they are removed from office by resolution on notice at a Council meeting; or
- (f) by simple resolution of a motion without notice at a meeting of Council following a change in political control of the council, as signalled to the monitoring officer, a change in political control being a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the council.

If Council passes a resolution to remove the leader as outlined in (e) or (f) above, it will elect a new leader at that or a subsequent meeting.

### **2.5.9 The cabinet**

### **2.5.10 Role**

2.5.11 The cabinet has responsibility for all functions of the council which are not by law, or under the functions scheme set out in part 3, the responsibility of another part of the council.

### **2.5.12 Membership**

2.5.13 The cabinet must consist of a minimum of the leader and two other councillors up to a maximum of 10 councillors including the leader. The leader appoints the

cabinet members and shall designate one of the cabinet members as deputy leader.

#### **2.5.14 Functions of individual members of the cabinet**

- 2.5.15 The leader will decide what functions will be carried out by individual cabinet members. The leader will notify the chief executive and the monitoring officer of these functions in writing. The monitoring officer will make sure that they are set out in part 7 of the constitution and Council be informed at its next meeting. Changes to the functions of individual cabinet members will only take effect when the leader has notified the monitoring officer.

#### **2.5.16 Meetings of the cabinet**

- 2.5.17 Meetings and other activities of the cabinet must comply with the cabinet rules (part 4 section 4).

#### **2.5.18 Cabinet support members**

- 2.5.19 The leader may appoint cabinet support members to provide informal support to one or more portfolio areas, subject to the total special responsibility allowance budget allocated for leader and cabinet members not being exceeded. Cabinet support members are not members of the executive, have no delegated executive authority, and may not take executive decisions.

#### **2.5.20 Description of executive arrangements**

- 2.5.21 The following parts of the constitution comprise the executive arrangements:-
- Article 5 in part 2 of the constitution – the leader of the council and the cabinet
  - The cabinet rules (part 4 section 4)
  - Article 6 in part 2 of the constitution – scrutiny
  - The scrutiny rules (part 4 section 5)
  - Article 9 in part 2 of the constitution – joint arrangements
  - Article 11 in part 2 of the constitution – decision making
  - The functions scheme in part 3
  - Cabinet portfolios scheme in part 7
  - Budget and policy framework rules in part 4 section 3
  - Access to information rules in part 4 section 2



## Article 6 – Scrutiny

Scrutiny is a statutory role fulfilled by councillors who are not members of the cabinet.

The role of the scrutiny committees is to help develop policy, to carry out reviews of council and other local services, and to hold decision makers to account for their actions and decisions.

### **2.6.1 The scrutiny committees**

2.6.2 Council has decided that there will be five scrutiny committees. The remit of those scrutiny committees is set out in part 3 section 4 of the constitution, and how they operate is in accordance with the functions scheme and scrutiny rules.

### **2.6.3 Composition**

2.6.4 Each committee will comprise seven members of the council. The Scrutiny Management Board members include the other four Scrutiny Committee Chairpersons, an elected chair and vice chair person and other elected members as required to make the committee politically balanced.

### **2.6.5 Role**

2.6.6 Between them the scrutiny committees oversee and scrutinise the work of the leader and cabinet and the council as a whole. This allows members outside the cabinet and citizens to have a greater say in council matters by investigating issues of local concern. This can include questioning cabinet members, committee chairpersons, or senior officers of the council, and inviting people from outside the council to give opinions and expert advice.

2.6.6a The role of a scrutiny committee is also to influence the council's policies, providing early insight and shape to a policy whilst it is in development.

2.6.7 The scrutiny committees also have the power to scrutinise the services provided by organisations outside the council e.g. NHS services and the work of the community safety partnership.

2.6.8 The scrutiny committees can make reports and recommendations to the leader, Council and some partner organisations. The decision takers are not required to implement the recommendations but do have to consider any recommendations made.

2.6.9 The scrutiny committees can 'call-in' an executive decision which has been made but not yet implemented. This enables them to consider whether the decision has been taken in accordance with the principles of good decision making. They may recommend that the decision taker reconsiders the decision. They may also be consulted by the leader, other cabinet members or Council on forthcoming decisions and the development of the budget and policy framework.

2.6.10 The Scrutiny Management Board is responsible for the strategic direction and oversight of the scrutiny function and work programme. The SMB undertake scrutiny activity on items that cross across more than one function of the other four scrutiny committees. This includes the budget process.

- 2.6.11 The council appoints a statutory scrutiny officer with statutory responsibilities to promote the role of the council's scrutiny committees within the council, and support the work of the scrutiny committees by providing help and advice to scrutiny members and also to those being scrutinised. (This role cannot be held by the head of paid service, the chief finance officer or the monitoring officer.)
- 2.6.12 The public can be involved in the scrutiny process and help shape and inform decision making and policy by:
- (a) asking questions on a matter that is the function of the committee or is on a committee agenda;
  - (b) submitting evidence for consideration by a scrutiny committee or one of its task and finish groups;
  - (c) suggesting items for inclusion in the work programme of the committee.

## Article 7 - The audit and governance committee

This article explains the audit and governance committee which has been established by council

### **2.7.1 Role**

- 2.7.2 The audit and governance committee is responsible for proving assurance on the council's audit, governance (including risk management and information governance) and financial processes in accordance with the functions scheme.

### **2.7.3 Composition**

- 2.7.4 The audit and governance committee comprises seven members of the council plus an additional independent expert who is not a councillor and is appointed by Monitoring Officer (in consultation with the Chair of Audit & Governance) under delegation from the Audit & Governance committee. This co-opted member has the voting rights as set out in Part 3 paragraph 3.5.9b. As such they are a 'co-opted member' as defined in s.27(4) of the Localism Act 2011 and would be required to comply with the Councillor Code of Conduct in Part 5 Section 2 of this Constitution.



## Article 8 - Planning, licensing and other functions

This article describes the following committees which council has established:

- (a) The planning and regulatory committee
- (b) Health and wellbeing board
- (c) Employment panel
- (d) Standards panel
- (e) Independent panel

### **2.8.1 Planning and regulatory committee**

### **2.8.2 Composition**

2.8.3 The committee comprises 15 councillors, one of whom will be appointed by Council to be the standing chairperson of the licensing sub-committee. The committee shall act as the council's Licensing Committee for the purposes of section 6 of the Licensing Act 2003.

### **2.8.4 Role**

2.8.5 The committee determines all policy and guidance in relation to its functions other than for functions which have been reserved to Council (in para 2.a and 3.a of Part 3 Section 1) or delegated to an officer (Part 3 Section Appendix), and:

2.8.6 The committee may establish one or more sub-committees consisting of three members of the planning and regulatory committee to fulfil functions delegated to the licensing sub-committee as set out in the functions scheme at part 3 section 5.

### **2.8.7 Health and wellbeing board**

### **2.8.8 Composition**

2.8.9 The following shall be members of the health and wellbeing board:

- Herefordshire Council Leader of Council;
- Herefordshire Council Portfolio Holder with responsibility for Adults, Health and Wellbeing
- Herefordshire Council Portfolio Holder with responsibility for Children and Young People;
- Herefordshire Council Corporate Director – Community Wellbeing
- Herefordshire Council Corporate Director – Children and Young People
- Herefordshire Council Corporate Director – Economy and Environment
- Herefordshire Council Director of Public Health
- A nominated representatives from the Integrated Care

Board;

- A nominated representative from Wye Valley NHS Trust;
- A nominated representative from Herefordshire & Worcestershire Health and Care NHS Trust;
- A nominated representative from Healthwatch Herefordshire;
- A nominated representative from the Voluntary and Community Sector
- A nominated representative from West Mercia Police;
- A nominated representative from Herefordshire and Worcestershire Fire and Rescue Service
- A nominated representative from Herefordshire General Practice;
- A nominated representative from the Herefordshire Safeguarding Adults Board

2.8.10 Council has delegated authority to the Leader of the Council to appoint the chairperson of the board annually from the members of the executive appointed to the board; one of the board members representing NHS Herefordshire and Worcestershire Integrated Care Board will be appointed vice chairperson annually by the board.

2.8.11 The members of the board marked with an \* are those specified in the Health and Social Care Act 2012, the other board members are additional as deemed appropriate by council after consultation with the board. If Board members are unable to attend they can nominate a substitute.

2.8.12 All board members shall be voting members unless the council otherwise directs.

#### **2.8.13 Role**

2.8.14 The board will carry out the statutory functions as required by the Health and Social Care Act 2012, and any other functions delegated to it, as set out in part 3 section 5 of the constitution. To act as a partnership forum in which key leaders from the local health and care system work together to improve the health and wellbeing of Herefordshire residents.

#### **2.8.15 Employment panel**

#### **2.8.16 Composition**

2.8.17 The employment panel comprises six councillors.

#### **2.8.18 Role**

2.8.19 To fulfil specific employment functions in relation to specified senior management roles; to review the annual pay policy statement for recommendation to Council; and to be a consultee on employee terms, conditions and employment policies.

#### **2.8.20 Independent panel**

2.8.20a Statutory provisions require that the council takes into account any advice, views or recommendations of an independent panel before a chief executive can be dismissed, for any reason other than redundancy, permanent ill-health or the expiry

of a fixed term contract unless the authority has undertaken to renew that fixed term contract.

2.8.21 Council has appointed an independent panel as a committee of the Council, comprising only independent persons (at least two) appointed in accordance with procedure rule 2.8.20a above to review the decision to dismiss statutory officers (in accordance with JNC agreements) and prepare a report for Council.

2.8.21a An “independent person” means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -

- (a) a relevant independent person who has been appointed by the authority under section 28(7) of the localism act 2011 and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

## **2.8.22 Standards panel**

## **2.8.23 Composition**

2.8.24 The standards panel will consist of an independent person the chair of the audit and governance committee and two other members of audit and governance committee and a parish councillor nominated by Herefordshire Association of Local Councils. One of the members from the audit and governance committee shall chair the panel.

2.8.25 The three members from audit and governance committee shall be appointed at the first audit and governance meeting after the Council AGM. The committee may also appoint up to two further substitute members who should only substitute if any of the three standing members are unavailable.

## **2.8.26 Role**

To consider and determine complaints that cannot be resolved by the monitoring officer.

2.8.27 The members of the panel will also receive copies of all decisions made by the monitoring officer under the code of conduct complaint process and may directly provide feedback of their views on the decision or meet informally with the monitoring officer. Where requested by the Chairperson of the panel, the monitoring officer will convene a meeting to discuss a specific decision.





## Article 9 - Joint arrangements

This articles explains how the council works with other bodies.

### **2.9.1 Joint arrangements generally**

### **2.9.2 Joint arrangements for Council functions**

2.9.3 The council may establish joint arrangements with one or more local authorities to exercise Council, or a mixture of Council and executive functions, or to advise the council on any matter. These arrangements may involve the appointment of a joint committee with these other local authorities, including the determination of terms of reference.

### **2.9.4 Joint arrangements for cabinet functions**

2.9.5 The cabinet may establish joint arrangements with one or more councils to exercise executive functions. These arrangements may involve the appointment of joint committees, including the determination of terms of reference.

2.9.6 Joint executive arrangements have been made in respect of:

- West Mercia Energy (with Shropshire Council, Telford & Wrekin Council, and Worcestershire County Council), and
- West Mercia Police and Crime Panel (with Shropshire Council, Telford & Wrekin Council, Bromsgrove District Council, Malvern Hills District Council, Redditch Borough Council, Worcester City Council, Wychavon District Council, Wyre Forest District Council and Worcestershire County Council).

2.9.7 (Not used).

### **2.9.8 Appointments to joint committees**

- 2.9.9
- (a) Except as in (b) below, the cabinet may appoint only members of the cabinet to a joint committee dealing solely with cabinet functions, and those members need not reflect the political composition of the council as a whole.
  - (b) Councillors who are not members of the cabinet may only be appointed to a joint committee where the relevant functions do not extend to more than two-fifths of the county by area or population. In such cases, the cabinet may appoint a councillor who represents a ward wholly or partly in the area covered by the joint committee.

### **2.9.10 Access to information**

2.9.11 The rules on access to information and confidentiality as set out in part 4 section 2 will apply to members of joint committees in the same way as they do to members of the council.

**2.9.12 Delegation to and from other local authorities**

- 2.9.13 Full Council or the cabinet may delegate their respective powers and functions to another local authority or the executive of another local authority.
- 2.9.14 The decision whether or not to accept such delegation from another local authority will be taken by full Council or the cabinet as appropriate.
- 2.9.15 The council has made no such delegations to date.

**2.9.16 Contracting out**

- 2.9.17 Full Council, for functions it is responsible for, and the leader or cabinet members, for executive functions, may contract out to another body or organisation functions which may be carried out by an officer subject to the relevant legislative requirements.

**2.9.18 Consultative committees****2.9.19 Standing advisory council on religious education (SACRE)**

- 2.9.20 In accordance with the Education Act 1996 (as amended) the council has established a Herefordshire SACRE to provide advice on matters concerned with the provision of religious education and collective worship.
- 2.9.21 The council appoints the membership in accordance with the legislation, in four groups, as follows:
- Group (A) One Roman Catholic representative (nominated by the Roman Catholic hierarchy);  
One Free Church representative (nominated by Churches together in Herefordshire);  
One representative of other faiths as a whole;  
One representative of the Bahá'í faith;  
One representative of the Muslim faith;  
One representative of the Sikh faith;  
One representative of the Jewish faith;  
One representative of the Buddhist religion;  
One representative of the Hindu faith;  
One representative of the Quaker faith;  
One representative of Humanism.

Other than for the Roman Catholic and Free Church representatives the representatives should, as far as possible, be nominated by the appropriate local faith group.

- Group (B) Three Church of England representatives (nominated in consultation with the Diocesan Education Authority).
- Group (C) Three teachers' representatives, with one drawn from each of the primary, secondary and special education sectors (nominated through recommendation of recognised teacher associations) and one co-opted member.
- Group (D) Three Herefordshire Council members as local education authority representatives

## **2.9.22 Other bodies**

### **2.9.22.1 Agreed Syllabus Conference**

2.9.22.2 The Council is required to convene an Agreed Syllabus Conference (ASC) to review the Agreed Syllabus every five years or upon request by SACRE more frequently.

2.9.22.3 This conference will have the same composition as SACRE. There is no provision for co-opted members.

## **2.9.23 Safeguarding arrangements**

2.9.24 In accordance with legislative requirements the council has established an adults safeguarding board. This is chaired by an independent person accountable to the chief executive of the council for the effective operation of the board; and works closely with the director for adults and communities. Herefordshire Safeguarding Adults Board (HSAB) main statutory objective is to assure itself that local safeguarding arrangements and partners act to help and protect those at Risk.

2.9.25 The multi-agency arrangements for protecting and safeguarding children is delivered by the Herefordshire Safeguarding Children's Partnership, which brings together the following agencies:

- The Local Authority - Herefordshire Council: Represented by Chief Executive and the Director of Children's Services.
- The chief officer of police for a police area: Represented by the Superintendent Policing Commander (Herefordshire) - West Mercia Police.
- The Herefordshire Clinical Commissioning Group: Represented by the Head of Safeguarding & Designated Nurse for Safeguarding Adults and Children.

2.9.26 [No longer used].

2.9.27 On the 1 July 2019 Herefordshire Adoption Service joined a regional adoption agency Adoption Central England (ACE) following central government's requirement that all local authority adoption services are redesigned into regional adoption agencies by 2020. Adoption panels are required by law and membership is set out in detailed regulations. Elected members do not sit on this panel.

2.9.28 Herefordshire Fostering Panel has a crucial role in the provision and monitoring of foster care for children and young people. There is no fixed panel membership or maximum number of members. An Independent Chair is appointed, and the membership must be drawn from a Central list of persons with the appropriate qualifications and/or experience, in accordance with the Fostering Services (England) Regulations 2011. Elected members are not appointed to the Panel due to their status as a member of the Council but they may be selected by the Panel itself due to their expertise. However, the elected member cannot be the chairman (under regulation 22) or considered to be an independent member for the purposes of the quorum (under regulation 23)

2.9.29 Corporate Parenting Board - The Children and Social Work Act 2017 sets out the corporate parenting principles for the council as a whole to be the best parent it can be for children in its care.

2.9.29a The Corporate Parenting Board is an advisory body. It has two main functions:

- To support and make recommendations to the Cabinet Member for Children Young People and Schools on matters related to corporate parenting.
- To advise, guide and provide leadership to the county council on issues relating to care experienced children and its corporate parenting responsibility.

2.9.29b Lead responsibility for Corporate Parenting sits with the Cabinet member for Children and Families who chairs the meeting. Membership of the Panel includes the Cabinet Support member for children looked after and elected members nominated by each political group leader.

2.9.29c The Council's Improvement Board for children services is chaired by a DFE advisor, membership is agreed by the board itself. Elected members on the board include the Leader of the Council and the Cabinet Member of children's and families. The role of the board is to oversee implementation of the improvement plan and report on progress against the objectives in the plan.

### **2.9.30 Community safety partnership board**

2.9.31 In accordance with legislative requirements the council has established a community safety partnership, chaired by the cabinet member with responsibility for community safety. Their role is to work together in formulating and implementing strategies to tackle local crime and disorder in the area.

### **2.9.32 Other partnerships**

2.9.33 The council may, from time to time, work in partnership with one or more organisations in order to achieve a shared objective or aim, or in accordance with statutory requirement. The council has an agreed framework for partnerships' governance and maintains a register available for public inspection of such partnerships which are considered strategic.

## Article 10 - The chief executive and other staff

This article sets out that the council will have a chief executive, who is in charge of the council's staff and works with councillors to carry out the aims and objectives of the council. The article also sets out other senior staff posts and indicates which senior staff posts also have additional roles as the head of paid service, the monitoring officer and the chief finance officer.

### **2.10.1 Chief executive**

2.10.2 The council employs a chief executive who carries out the functions in the functions scheme at part 3 on behalf of the council and the cabinet.

### **2.10.3 Senior officers**

2.10.4 The council will employ people in senior posts (corporate directors and service directors) who will assist the chief executive. The functions of the chief executive that can be exercised by senior officers are set out in the functions scheme.

### **2.10.5 Designation of statutory officers**

2.10.6 Council is required by law to designate senior officers as the head of paid service, the monitoring officer, the chief finance officer (herein referred to as S151 officer) and the statutory scrutiny officer. The head of paid service, statutory scrutiny officer and chief finance officer cannot also be the monitoring officer; the head of paid service, chief finance officer and monitoring officer cannot also be the statutory scrutiny officer.

2.10.7 The chief executive is designated as the head of paid service and is responsible for the way in which the discharge of the council's functions by officers is co-ordinated, the number and grade of officers needed and how they are organised and deployed in the council, and reporting to Council as necessary.

2.10.8 The director of governance and law is designated as the monitoring officer and is responsible for maintaining the constitution, ensuring decision-making is fair and lawful and reporting any actual or potential breach of a legal requirement to the Council meeting or cabinet, and for dealing with complaints that councillors have breached the councillor code of conduct and reporting as necessary to the audit and governance committee. The director of governance and law is authorised to issue, defend, settle or take part in any legal proceedings on the council's behalf where such action is necessary to give effect to decisions of the council or where they consider that such action is necessary to protect the council's interests.

2.10.9 The chief finance officer is designated as the section 151 officer appointed to fulfil the role set out in that section of the Local Government Act 1972 and is responsible for the proper administration of the council's financial affairs including reporting the actual spending or potential misspending of money to the Council meeting or cabinet.

2.10.10 The democratic services manager is designated as the statutory scrutiny officer and is responsible for promoting the role of the council's scrutiny committees, providing support to the council's scrutiny committees and their members, and for providing support and guidance to all members and officers of the authority in relation to functions of the authority's scrutiny committees.

2.10.11 The council will provide the statutory officers with such officers, accommodation and other resources as are in the opinion of each of those officers sufficient to allow their individual duties, as specified in law, to be performed.

**2.10.12 Conduct**

2.10.13 Officers will comply with the code of conduct for employees (part 5 section 3) and will follow the protocol on member/officer relations (part 5 section 4).

**2.10.14 Employment**

2.10.15 The recruitment, selection and dismissal of officers will comply with the employment rules (part 4 section 9).

## Article 11 - Decision-making

This article sets out how the council takes decisions.

### **2.11.1 Principles of decision making**

2.11.2 When the council takes a decision it will:

- (a) be clear about what the council wants to happen, how it will be achieved, who is accountable for the decision and who is accountable for implementing it and monitoring implementation;
- (b) consult properly and have regard to the professional advice from its officers;
- (c) have regard to the public sector equality duty and respect for natural justice and human rights;
- (d) make the decision public unless there are good reasons for it not to be;
- (e) give due weight to all material considerations, only take relevant matters into account, and make sure the action is proportionate to what the council wants to happen;
- (f) explain what options were considered and give the reasons for the decision; and
- (g) follow proper procedures.

### **2.11.3 Responsibility for decision making**

2.11.4 The council's activities are described in law as functions. The council as a whole cannot make every decision. The council has adopted the leader and cabinet executive arrangements and therefore, unless stated, all functions are exercised by the cabinet.

How the council and cabinet discharge those functions is set out in the functions scheme.

### **2.11.5 Decision rules**

2.11.6 The decision making procedures for all council, cabinet and committee meeting decision making is set out in part 4.

### **2.11.7 Codes**

2.11.8 In making decisions and conducting its business the council and the bodies and person(s) exercising functions on its behalf will have regard to the codes and guidance set out in part 5 of this constitution.





# **PART 3**

## **THE FUNCTIONS SCHEME**



## Section 1 - Council Functions

The table below details the functions listed in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 “the regulations” that are the responsibility of the council and the general delegation arrangements

### 3.1.1 Table of functions

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
1	Adopting and changing the constitution including standing orders	<p>Council meeting only</p> <p>Audit and Governance committee (finance procedure rules and contract procedure rules. Chief executive employee code of conduct (in consultation with employment panel)</p> <p>Monitoring officer (limited to technical changes or those required by, and consequential changes to correct any error, resolve an inconsistency within the constitution or as a result of a subsequent decision of Council or Cabinet</p>
2a	<p>Budget and policy framework</p> <p><b>Policy</b> The adoption of the following plans and strategies:</p> <p>Annual library plan (if secretary of state requests) under s1(2) of the Public libraries and museums Act 1964</p> <p>Children and young people’s plan under the children and young people’s plan (England) regulations 2005</p> <p>Crime &amp; disorder reduction strategy under s5 &amp; 6 of the Crime and Disorder Act 1998</p> <p>Development plan documents under s15 of the Planning and Compulsory Purchase Act 2004</p> <p>Licensing authority policy statements under s349 of the Gambling Act 2005</p> <p>Local transport plan under s108(3) of the Transport Act 2000</p>	Council meeting only, recommended from cabinet

	<p>Youth justice plan under s40 of the Crime and Disorder Act 1998</p> <p>And additionally:</p> <p>Corporate plan – now known as the County Plan</p> <p>Economic development strategy</p>	
2c	<p><b>Budget</b></p> <p>Approve a balanced Revenue Budget and specifically</p> <ul style="list-style-type: none"> <li>• Approve the Council Tax Base</li> <li>• Approve the rate of Council Tax and relevant precepts</li> <li>• Approve the Gross Revenue Budget</li> <li>• Approve the net spending limit for each major service element (Directorate)</li> </ul> <p>And in doing so adopt the following plans or strategies to support the delivery of council budget -</p> <ul style="list-style-type: none"> <li>• Revenue Budget for the next financial year</li> <li>• Capital Investment Budget for the next financial year</li> <li>• Medium Term Financial Strategy</li> <li>• Reserves Strategy</li> <li>• Statutory council tax calculations</li> <li>• Treasury Management Policy, Treasury Management Practices and prudential indicators including the Minimum Revenue Provision</li> <li>• Capital strategy (including an asset management plan)</li> </ul>	Council meeting only, recommended from cabinet
3	<p>Amending the budget and policy framework can be executive if council agree see 2000/2853 reg 4 a (ii) which requires a specific delegation per adoption</p>	<p>When approving a policy or strategy Council will specify the degree of in-year changes to the document which may be undertaken by Cabinet</p>

3a	<b>Other policies</b>  Licensing authority policy statements under s5 Licensing Act 2003  Taxi and private hire policy  Pay policy statement under s38 of the Localism Act 2011  Sex Establishment Venue policy under the Local Government (Miscellaneous Provisions) Act 1982 Tattooing, Body Piercing and Skins Policy under the Local Government (Miscellaneous Provisions) Act 1982	Council meeting only     Pay policy statement - Council meeting only, recommended from employment panel  Delegation to Monitoring officer, following consultation with the chief executive, to make in year technical updates to the statement to reflect changes to post holder details or approved changes to local or national pay policy
4	Approving or amending any application to the secretary of state in respect of any housing land transfer	Council meeting only
5	Consider the review of the effectiveness of the system of internal control required and approve the annual governance statement	Audit and Governance committee
6	Subject to the urgency procedure in the access to information rules, making a decision contrary to the policy framework or the budget, or part of it	Council meeting only
7	Electing the chairperson of council	Council meeting only
8	Appointing the vice chairperson of council, committee chairpersons and committee vice-chairpersons	Council meeting, Health and Wellbeing Board: the Leader of the Council appoints chairperson from those members of the executive appointed to the Board, the Board appoints vice chair
9	Appointing the leader of the council	Council meeting only
10	Setting the terms of reference of committees, deciding on their size, composition and allocating seats proportionately to political groups	Council meeting only
11	The appointment by the authority of up to four independent persons under the Localism Act 2011 and the appointment of the additional independent expert to the Audit and Governance Committee.	Audit & Governance Committee but delegated further to Monitoring Officer (in consultation with the Chair of Audit and Governance Committee).
12	Discharge of council functions by another authority	Council meeting only

13	Arrangements for joint exercise of council functions or a mix of council and executive functions	Council meeting
14	Agreeing the members' allowances scheme	Council meeting only
15	Functions relating to name and status of Herefordshire Council or parish councils within the county as listed in schedule 1 section E of the regulations	Council meeting only
16	Functions relating to community governance reviews as listed in schedule 1 section EB of the regulations	Council meeting only
17	Confer title of honorary alderman or to admit to be an honorary freeman	Council meeting only
18	Functions relating to town and country planning and development control as listed in schedule 1 section A of the regulations including enforcement	See appendix 1
19	Powers relating to the protection of important hedgerows and preservation of trees	Chief executive
20	Rights of way functions as listed in schedule 1 section I i of the regulations	Chief executive
21	Licensing and registration functions as listed in schedule 1 section B of the regulations	See appendix 1
22	Functions relating to smoke free premises as listed in schedule 1 section FA of the regulations	Chief executive
23	Health and safety at work enforcement functions as listed in schedule 1 section C of the regulations	Chief executive
24	Elections functions as listed in schedule 1 section D of the regulations	Chief executive Employment panel for appointment of returning officer and electoral registration officer Monitoring officer for making temporary appointments to parish councils If a polling station cannot be used the Returning Officer has delegated powers to use another polling station as a temporary solution.
25	Make, amend, revoke, re-enact or enforce byelaws	Council meeting
26	Power to promote or oppose local or personal bills	Council meeting only
27	Approval of the appointment of chief executive	Council meeting only
28	Power to appoint staff, and to determine the terms and conditions on which they	Chief executive for all staff other than those within the remit of the employment panel

	hold office (including procedures for their dismissal)	Employment panel will also be a consultee for all terms and conditions (including policies). Employment panel for officers listed within their remit
29	Approval of pay and severance packages in excess of £100,000	Council meeting only
30	Duty to make arrangements for the proper administration of financial affairs	s.151 officer
31	Power to appoint officers for particular purposes (otherwise called the appointment of proper officers)	Chief executive
32	Duty to designate posts to fulfil the functions of: the head of paid service, the monitoring officer, the s151 officer, statutory scrutiny officer, and to provide staff etc.	Council meeting only
33	To adopt revise or replace a members code of conduct	Council meeting only
34	Power to make a limestone pavement order	Chief executive
35	Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments	Audit and governance committee
36	Power to make closing order in respect to take away food shops	Chief executive
37	Permit a co-opted member of a scrutiny committee to vote at meetings of the committee	Council meeting only
38	Recruitment of panel members to Independent remuneration panel	Solicitor to the council
39	Powers relating to complaints about high hedges	Chief executive
40	Powers to make an order identifying a place as a designated public place in relation to alcohol consumption	Chief executive
41	Power to make or revoke an order designating a locality as an alcohol disorder zone	Chief executive
42	Power to apply for an enforcement order against unlawful works on common land	Chief executive
43	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference including instituting proceedings	Chief executive
44	The appointment of a local auditor under Section 7 of the Council meeting only Local Audit and Accountability Act 2014	Council meeting only

45	Power to make payments or provide other benefits in cases of maladministration	Chief executive
46	Functions relating to pensions as listed in schedule 1 section H of the regulations	Chief executive
47	All other matters which by law, must be the responsibility of the Council	Council meeting only unless a specific delegation given from council as listed in the attached appendix



### 3.1.1 Appendix

The table below details all other functions which by law, must be the responsibility of the Council and the specific expressed delegation arrangements

#### 3.1.1A Table of functions

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
47A	Adoption of neighbourhood development plans, and to approve any consequential amendments to the countywide policies map.	Cabinet Member Infrastructure from 20 May 2016
47B	Granting of dispensations under s33 (2) Localism Act 2011	Subsection (b) (d) and (e) audit and governance committee Subsection (a) and (c) monitoring officer with appeal to audit and governance committee from 28 September 2012
47C	Council tax reduction scheme under S13A, Local Government and Finance Act 1992, as amended	Council
47D	Recruitment of up to four independent persons pursuant to Section 28 (7) of the Localism Act 2011	Audit & Governance Committee but delegated further to the Monitoring Officer (in consultation with Chair of Audit & Governance Committee).
47E	Make in year amendments to the capital programme to reflect additional external funding secured in year	Chief finance officer following consultation with the Cabinet Member Finance and Corporate Services from 13 July 2018



## Section 2 - Local Choice Functions

The table below details who has the responsibility for these functions and the delegation arrangements

### 3.2.1 Allocation of functions

3.2.2 These are functions which in law may be, but need not be the responsibility of the Cabinet and it is for full Council to decide by whom they shall be exercised. The local choice functions are for convenience listed in the table below and any changes to the local choice functions prescribed from time to time shall be taken to be incorporated below.

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
1 Any function under a local act other than a function specified or referred to in regulation 2 or schedule 1 of the Local authority (functions and responsibilities) (England) Regulations 2000.	Cabinet	In accordance with the cabinet delegation arrangements
2 The determination of an appeal against any decision made by or on behalf of the authority.	Cabinet	Chief executive
3 The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools pursuant to section 52 of the Education Act 2002 and the subordinate legislation made under that section.	Cabinet	Chief executive
4 The making of arrangements pursuant to sections 94(1) (1A) and (4) of the 1998 School Standards and Framework Act (admissions appeals)	Cabinet	Chief executive

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
5 The making of arrangements pursuant to section 95(2) of, and schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Cabinet	Chief executive
6 Any function relating to contaminated land.	Cabinet	Chief executive
7 The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Chief executive
8 The service of an abatement notice in respect of a statutory nuisance.	Cabinet	Chief executive
9 The passing of a resolution that schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Cabinet	Chief executive
10 The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Chief executive
11 The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Chief executive
12 The obtaining of information under section 330 of the Town and Country Planning Act 1990.	Cabinet	Chief executive

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
13 The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Chief executive
14 The making of agreements for the execution of highways works.	Cabinet	Chief executive
15 The appointment of any individual (a) to any office other than an office in which he is employed by the authority; (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.	(a) Cabinet  (b & c) Council where allocation of seats is politically proportionate (b & c) cabinet	(a) Chief executive  (b & c) Chief executive
16 The making of agreements with other local authorities for placing staff at the disposal of those other authorities	Cabinet	Chief executive



## Section 3 - Cabinet Functions

This section details the responsibilities of the cabinet and the delegation arrangements.

### **3.3.1 The leader**

3.3.2 The leader of the council determines:

- (a) the size of the cabinet
- (b) the appointment of a deputy
- (c) the appointment of cabinet members
- (d) the appointment of cabinet support members
- (e) the appointment of champions
- (f) the allocation of portfolios and responsibility to cabinet members
- (g) the cabinet functions that can be carried out by cabinet members individually (paragraph 3.3.11)
- (h) the cabinet functions that can be carried out by the chief executive (section 7 of this part)

3.3.3 Where cabinet member portfolios cut across the various functions of the council and in cases of uncertainty as to which cabinet member is responsible for any function, the leader shall decide which cabinet member(s) will deal with it.

### **3.3.4 Cabinet functions**

3.3.5 The cabinet shall make decisions in relation to all of the council's areas of responsibility other than those specified as:

- (a) Council functions, or
- (b) Scrutiny functions, or
- (c) Functions cabinet has arranged to be exercised by or with another council's cabinet.

3.3.6 Cabinet shall also formulate or prepare the documents consisting of the budget and policy framework and shall make recommendations to Council on their implementation.

3.3.7 In relation to the budget documents once the overall budget has been agreed at the beginning of the year by full council, subsequent decisions of cabinet that may impact on that budget need only be recommended back to full council:

- If the decision is likely to cause the authority's overall budget envelope to be exceeded, or
- If it is contrary to the authority's borrowing or capital expenditure budget.

### **3.3.8 Cabinet meeting**

3.3.9 A cabinet meeting will be convened for decisions that are:

- (a) key and relate to more than one cabinet portfolio, or
- (b) of sufficient public interest that a decision at a public meeting is required, or
- (c) reserved to cabinet by virtue of the financial procedure rules and associated guidance (see part 4 section 7).

### **3.3.10 Delegation of cabinet functions**

3.3.11 The leader has decided to delegate to individual cabinet members key decisions that relate to their portfolio.

3.3.12 A cabinet member cannot take a decision contrary to the advice of the chief executive, monitoring officer, s.151 officer or relevant director(s) such a decision must be referred to a cabinet meeting.

3.3.13 The leader has decided to delegate to the chief executive all functions that fall outside the definitions above. The chief executive can only take non key decisions under this general delegation. Key decisions can only be taken by the chief executive following a specific decision containing an officer delegation. The monitoring officer is responsible for consulting with the leader and if applicable, the relevant cabinet member to assist the leader in determining whether any matter is one that should be determined at a cabinet meeting, an individual cabinet member or by the chief executive.

### **3.3.14 Key decisions**

3.3.15 A key decision is a decision:-

taken at a cabinet meeting, by an individual cabinet member, or a joint committee of the executive;

and is:

- (i) Any decision in relation to an executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned.

A threshold of £500,000 is regarded as significant.

- (ii) Any other executive decision which in the opinion of the monitoring officer is likely to be significant having regard to
  - the strategic nature of the decision and / or
  - whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards in Herefordshire) affected.



- (iii) Any substantive decision to bring forward proposals to Council to approve or amend an item within the budget and policy framework (not being subject to call-in).
- (iv) Any substantive decision made to approve or amend a policy framework where Council has granted the executive power to do so (being subject to call-in).

### **3.3.16 CABINET SHAREHOLDER COMMITTEE**

#### **3.3.17 OVERVIEW**

The Shareholder Committee forms part of the overall governance arrangements for Herefordshire County Council ("**the Council**") in relation to companies and other legal entities which are wholly or partly owned or controlled by the Council (including where such control comes about indirectly, such as via a loan agreement) (each a "**Subsidiary**" and together the "**Subsidiaries**").

#### **3.3.18 CONSTITUTION**

- 3.3.19 The members of the Shareholder Committee will be set to 4 Cabinet Members to be nominated by the Leader.
- 3.3.20 Each Shareholder Committee member may nominate an alternate Cabinet Member to attend a meeting in their place.
- 3.3.21 The Shareholder Committee will be supported by Council officers as required.
- 3.3.22 The Shareholder Committee will appoint a Chair of the Shareholder Committee. If an appointed Chair is not present at the start of a meeting of the Shareholder Committee, those members present will appoint one of the members present to chair that meeting.
- 3.3.23 Additional advisors, who do not need to be officers or members of the Council, may be invited to attend the Shareholder Committee as required.

#### **3.3.24 ROLE OF THE SHAREHOLDER COMMITTEE**

- 3.3.25 The Shareholder Committee will have a role in ensuring proper governance of the Council's Subsidiaries, such role to include:
  - 3.3.25.1 monitoring information from each Subsidiary, in particular on financial and other risks and escalating such risks within the Council as appropriate;
  - 3.3.25.2 exercising decisions relating to the Council's role as shareholder, member, owner, lender, or other position of significant control over the Subsidiary, where those decisions have been delegated to the Shareholder Committee;
  - 3.3.25.3 making reports and recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority.
- 3.3.26 It is expected that each Subsidiary will enter into a form of agreement with the Council (whether as owner, controller or lender) setting out the basis of the relationship between them (each a "**Memorandum of Agreement**").

3.3.27 A detailed description of the Shareholder Committee's role in relation to each Subsidiary will be set out in the relevant Memorandum of Agreement.

3.3.28 Authority to make decisions on behalf of the Council is delegated to the Shareholder Committee for each Subsidiary as follows:

3.3.28.1 The following decisions are delegated to the Shareholder Committee for all Subsidiaries:

Altering in any respect the articles of association of a Subsidiary (or any other governing document such as the Rules of a Community Benefit Society)
Altering the rights attaching to any of the shares in a Subsidiary
Permitting the registration of any person as a shareholder or member of a Subsidiary
Nominating directors to be appointed on the board of a Subsidiary and notifying a Subsidiary to remove directors from its board
Increasing the amount of a Subsidiary's issued share capital
Passing any resolution for a Subsidiary's winding up or presenting any petition for its administration
Altering the name of any Subsidiary
Adopting, reviewing or amending a Subsidiary's Business Plan
Where a Subsidiary fails to produce a Business Plan as required by its Memorandum of Agreement, producing that Subsidiary's Business Plan
Directing the board of a Subsidiary to take or to refrain from taking a particular action

3.3.29 Any Memorandum of Agreement entered into with a Subsidiary may identify additional decisions which are delegated by Cabinet to the Shareholder Committee in relation to that Subsidiary only.

3.3.30 Decisions which are not delegated to the Shareholder Committee in accordance with 3.3.28 above will be taken through the usual decision-making processes in accordance with the Council's governance and constitutional framework. This will include decisions relating to the issue of loan capital in relation to any Subsidiary and to any approvals relating to any intra-group loans.

### 3.3.31 **OPERATION OF THE SHAREHOLDER COMMITTEE**

3.3.32 The Shareholder Committee will meet three times per year, or more frequently if required.

3.3.33 The quorum for a meeting of the Shareholder Committee is a minimum of 3 members.

3.3.34 Meetings will be held in public or otherwise in line with the Council's democratic meeting protocol. There may be particular matters or agenda items which are required to be considered in private due to commercial confidentiality, and these will be handled in accordance with the Council's usual democratic protocol.

- 3.3.35 Minutes and agendas will be managed and published in accordance with the Council's usual democratic protocol.
- 3.3.36 The Shareholder Committee shall make its decisions as follows:
- 3.3.36.1 At meetings of its members by consensus of those present, unless any member of the Shareholder Committee requires a vote, in which event a majority decision will be taken with each member of the Shareholder Committee present having a single vote. Advisors and officers present to support the Shareholder Committee will not have a vote. The Chair of the meeting has a casting vote in the event that there is no clear majority; or
- 3.3.36.2 In cases of urgency, by a decision made by the Leader or by an alternate Cabinet Member nominated by the Leader in consultation with the Chief Executive.
- 3.3.37 After each meeting, the Chair shall approve the minutes and authorise the implementation of the Shareholder Committee's decisions, including where relevant the signature of any documents by appropriate Council signatories.
- 3.3.38 The Shareholder Committee will review the Terms of Reference annually and make any necessary recommendations to Cabinet.



## Section 4 - Scrutiny Functions

The council is required to appoint one or more scrutiny committee. This section details those arrangements.

### 3.4.1 Scrutiny functions

#### 3.4.2 The committees have the power:

- (a) to review, influence policy or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (b) to make reports or recommendations to the executive with respect to the discharge of any functions which are the responsibility of the executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to council with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to council or the cabinet on matters which affect the authority's area or the inhabitants of that area
- (f) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and to make reports or recommendations to the council with respect to the discharge of those functions. In this regard crime and disorder functions means:
  - (i) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
  - (ii) a strategy for combatting the misuse of drugs, alcohol and other substances in the area; and
  - (iii) a strategy for the reduction of re-offending in the area
- (g) to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and make reports and recommendations to a responsible person on any matter it has reviewed or scrutinised or to be consulted by a relevant NHS body or health service provider in accordance with the Regulations (2013/218) as amended. In this regard *health service* includes services designed to secure improvement—
  - (i) in the physical and mental health of the people of England, and
  - (ii) in the prevention, diagnosis and treatment of physical and mental illness

- (iii) And any services provided in pursuance of arrangements under section 75 in relation to the exercise of health-related functions of a local authority.

(h) to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

(i) To track actions and undertake an annual effectiveness review.

### **3.4.3 Scrutiny rules**

3.4.4 When the scrutiny committees are exercising scrutiny functions the scrutiny rules in part 4 section 5 must be followed.

### **3.4.5 Scrutiny committee remits**

3.4.5a The following is not an exhaustive list and if the remit of the committee is unclear the scrutiny management board have the responsibility for deciding which committee should scrutinise a matter.

3.4.5b Additionally forward plan and coordination meetings will take place informally, with the leader as chairperson to discuss the forward plan with Scrutiny Committee Chairpersons, Vice-Chairpersons.

<b>Committee</b>	<b>Scrutiny of:</b>
Health Care and Wellbeing scrutiny committee	<ul style="list-style-type: none"> <li>• Adult social care (including adult safeguarding)</li> <li>• Health and wellbeing board</li> <li>• Housing</li> <li>• Adults mental and physical health &amp; wellbeing</li> <li>• Safe Herefordshire campaign</li> <li>• Outbreak control plan</li> <li>• New models of care accommodation</li> <li>• Talk Communities</li> <li>• Homelessness</li> <li>• All ages whole system commissioning strategy</li> <li>• Independent living services and Assistive technology plan</li> <li>• Adults and Communities budget and policy framework</li> <li>• Statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services affecting the area and to make reports and recommendations on these matters</li> </ul>

Committee	Scrutiny of:
Children and Young People scrutiny committee	<ul style="list-style-type: none"> <li>• Children's social care including safeguarding</li> <li>• Online teaching &amp; home learning</li> <li>• Signs of Safety</li> <li>• Children and families policy framework items</li> <li>• Statutory education scrutiny powers</li> <li>• Children's mental and physical health &amp; wellbeing</li> <li>• Schools investment programme</li> <li>• Children's Improvement Board and the oversight of the required improvement journey.</li> </ul>
Connected Communities scrutiny committee	<ul style="list-style-type: none"> <li>• Talk Business programme, advice and support</li> <li>• Development Investment plans – town, market town, rural, Hereford City</li> <li>• Hereford Enterprise Zone</li> <li>• Higher education development</li> <li>• Adult and community learning programme</li> <li>• Apprenticeships</li> <li>• Fastershire programme</li> <li>• Digital connectivity</li> <li>• Heritage, culture &amp; tourism</li> <li>• Social Value procurement policy</li> <li>• Planning</li> <li>• Licensing</li> <li>• Regulatory</li> <li>• Capital highway maintenance, Asset management &amp; infrastructure repair</li> <li>• Council housing</li> <li>• Statutory community safety and policing scrutiny powers</li> </ul>
Environment and Sustainability scrutiny committee	<ul style="list-style-type: none"> <li>• Core strategy</li> <li>• Waste &amp; recycling</li> <li>• Transport incl. active travel</li> <li>• Climate &amp; ecological emergency</li> <li>• Climate and nature impact assessment on infrastructure proposals</li> <li>• Environmental and energy efficiency standards</li> <li>• Nature strategy - Stewardship of natural resources &amp; green spaces</li> <li>• Integrated wetlands &amp; water quality</li> </ul>

Committee	Scrutiny of:
	<ul style="list-style-type: none"> <li>• Statutory flood risk management scrutiny powers</li> </ul>
Scrutiny Management Board	<ul style="list-style-type: none"> <li>• To undertake the scrutiny role in relation to areas which are cross cutting nature eg. Corporate Strategy and Finance (Budget), People and Performance and Corporate Support.</li> <li>• Where a matter falls within the remit of one or more Scrutiny Committees, decide which Committee will consider it and whether a spotlight, task and finish or standing panel review is appropriate</li> <li>• Budget</li> <li>• Treasury Management</li> <li>• Approve an annual work programme for itself and the other scrutiny committees</li> <li>• Oversee communications to members and public in relation to scrutiny matters</li> <li>• The coordination of an annual effectiveness review</li> <li>• Oversight of performance of Council's companies, e.g. Hoople</li> </ul>



## Section 5 - Other functions

This section contains a description of the bodies who have functions delegated to them by Council.

Those functions are those carried out as follows:

- Town and country planning, development control (the planning functions) and licensing functions
- Audit and governance functions
- Standards panel functions
- Employment functions
- Health and wellbeing board

### **3.5.1 Planning and regulatory committee**

3.5.2 When the committee carries out its planning functions it will follow the planning rules (part 4 section 8) and the planning code (part 5 section 6)

3.5.3 The committee functions are detailed in appendix one to the council functions scheme.

3.5.4 The committee will determine applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the service director, regulatory, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the service director, regulatory, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or

- (g) in any other circumstances where the service director, regulatory, believes the application is such that it requires a decision by the planning and regulatory committee.

### **3.5.5 Licensing functions**

3.5.6 The Council has delegated its licensing functions to the Planning and Regulatory committee. The committee shall have responsibility (including policy and strategy) for all licensing matters (including as licensing committee under Licensing Act 2003) other than for functions which have been reserved to Council (in para 2.a and 3.a of Part 3 Section 1) or delegated to an officer (Part 3 Section Appendix). The licensing committee has delegated functions to the licensing subcommittee or officers in accordance with Part 3 Section the Appendix.

3.5.7 The licensing sub-committee determines the following;

- (a) Applications for personal licences (if police objection);
- (b) Applications for personal licences with unspent convictions;
- (c) Applications for premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (d) Applications for provisional statements (if relevant representation are made as specified in the Licensing Act 2003);
- (e) Applications to vary premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);
- (f) Applications to vary designated premises supervisor (if police objection);
- (g) Requests to be removed as a designated premises supervisor
- (h) Applications for transfer of premises licence (if police objection);
- (i) Applications for interim authorities (if police objection);
- (j) Applications to review premises licences/club premises certificate;
- (k) Deciding whether to object when the authority is a consultee and not the relevant authority considering an application;
- (l) Determination of objections to temporary event notices;
- (m) Determination of application to vary premises licence at community premises to include alternative licence condition (if police objection)
- (n) Revocations of licences where convictions come to light
- (o) Appeals in relation to refusals (full or part) for a pavement licence under Business and Planning Act 2020
- (p) Applications for licensing Sex Establishments under the Local Government (Miscellaneous Provisions) Act 1982.

### **3.5.8 Audit and governance functions**

3.5.9 The purpose of an audit committee is to provide independent assurance to Cabinet and Full Council on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance

processes. The responsibility for functions are set out in paragraphs 3.5.9(e) to paragraph 3.5.15.

- 3.5.9a To help maintain its independence the Committee is able to meet privately and separately with the External Auditor and the Head of Internal Audit to seek assurance that effective and strong financial management arrangements are in place.
- 3.5.9b The membership of the Audit Committee shall comprise seven members of the council and may also include an independent expert who is not a councillor but is appointed by council. Voting rights of the expert can only be exercised if the committee is making recommendations or advising on a particular item. The expert is not able to exercise a vote in relation to any decision making function of the committee. The minutes of the meeting should state in what capacity the independent expert is voting.
- 3.5.9c For the avoidance of doubt the independent expert is not an independent persons appointed by the council as set out in procedure rule 4.9.26. An independent expert means a person with no material current or prior business or personal relationship with the council or its members and who has a particular skill or extensive knowledge of a specified subject.
- 3.5.9d The Committee will meet approximately 8 times a year and a quorum of three elected members is required for decisions of the Committee to be ratified.
- 3.5.9e The Committee shall:
- (a) – review and examine, and where required in depth examine, matters relating to internal audit, external audit, governance, assurance statement, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements
  - (b) – monitor the development and operation of risk management processes and receive assurance from internal and external sources of the effectiveness of arrangements.
  - (c) enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence
  - (d) – contribute towards making the authority, its committees and departments more responsive to the audit function
  - (e) review compliance with the relevant standards, code of conduct, codes of practice and corporate governance policies
  - (f) – act within the Council's Constitution.

**3.5.10 Internal audit**

- (a) To review and agree the internal audit charter, the internal audit plan which will include the budget and resource plan
- (b) To agree any significant additional internal audit consulting services which are not included in the internal audit plan
- (c) To consider the Head of Internal Audit's annual report and opinion, and a summary of internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements
- (d) To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary
- (e) To consider reports dealing with the management and performance of the providers of Internal Audit Services to include the approval of appointment of the Internal Audit Services or recommend the removal of the Internal Audit Services
- (f) To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale
- (g) To be able to call senior officers and appropriate members to account for relevant issues within the remit and responsibilities of the Committee
- (h) To seek assurance and confirm the independence of the internal audit and review safeguards in place to limit impairments
- (i) The Committee will not receive detailed information on investigations relating to individuals. The general governance principles and control issues may be discussed, in confidential session if applicable, at an appropriate time, to protect the identity of individuals and so as not to prejudice any action being taken by the Council.

**3.5.11 External audit**

- (a) Review and agree the External Auditors annual plan, including the annual audit Fee and annual letter and receive regular update reports on progress
- (b) To consider specific reports from the External Auditor
- (c) To meet privately with the External Auditor if required
- (d) To comment on the scope and depth of external audit work and to ensure it gives value for money
- (e) To recommend appointment of the council's local (external) auditor
- (f) Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.

**3.5.12 Governance**

- (a) To maintain an overview of the council's Constitution, conduct a biennial review and recommend any changes to council other than changes to the

contract procedure rules, finance procedure rules which have been delegated to the committee for adoption

- (b) To monitor the effective development and operation of risk management and corporate governance in the council
- (c) To monitor the effective development and operation of the assurance framework and partnership governance for the council
- (d) To monitor the effective development and operation of value for money framework for the council management
- (e) To maintain an overview and agree changes to the council policies on whistleblowing and the 'Anti-fraud and corruption strategy'
- (f) To monitor the effectiveness and operation of the anti-fraud and corruption strategy
- (g) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption
- (h) To annually conduct a review of the effectiveness of the council's governance process and system of internal control which will inform the Annual Governance statement
- (i) The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance
- (j) To annually review the council's information governance requirements
- (k) To agree the annual governance statement (which includes an annual review of the effectiveness of partnership arrangements together with monitoring officer, s151 officer, caldicott guardian and equality and compliance manager reviews)
- (l) To undertake community governance reviews and to make recommendations to Council.
- (m) To annually review the council's Information Governance arrangements.
- (n) To annually review the council's arrangements for Complaints including Corporate Complaints and Children's Statutory and Complaints Policy.
- (o) To oversee the council's arrangements for Regulatory Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2016 under its Policy.
- (p) To oversee the council's arrangements in relation to the shareholder governance and function for the companies that the Council's has either ownership or membership.

### **3.5.13 Waste contract**

- (a) To review, in conjunction with external advisers advising the council as lender, the risks being borne as a result of the funding provided by the council to Mercia Waste Management Ltd and consider whether the risks being borne by the council, as lender, are reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice

- (b) To monitor the administration of the loan to the waste project in line with best banking practice having regard to any such external advice, including the terms of any waivers or amendments which may be required or are desirable
- (c) Consider what steps should be taken to protect the interests of the council as lender in the event of a default or breach of covenant by Mercia Waste Management Ltd, and make recommendations as appropriate to Council, the council's statutory officers or cabinet as appropriate to ensure the appropriate enforcement of security and litigation in relation to the loan to Mercia Waste Management Ltd
- (d) Consider and recommend appropriate courses of action to protect the position of the council as lender to the waste project:
  - (i) make recommendation as appropriate to Council with regards to its budget and policy framework and the loan to the waste project
  - (ii) generally to take such other steps in relation to the loan within the scope of these terms of reference as the committee considers to be appropriate.

#### **3.5.14 Code of conduct**

To promote and maintain high standards of conduct by members and co-opted members of the Council

- (a) To support Town and Parish Councils within the county to promote and maintain high standards of conduct by members and co-opted members of the Council
- (b) To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Council
- (c) To keep the code of conduct under review and recommend changes/replacement to Council as appropriate
- (d) To publicise the adoption, revision or replacement of the Council's Code of Conduct
- (e) To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment
- (f) To twice yearly review overall figures and trends from code of conduct complaints which will include number of upheld complaints by reference to individual councillors within unitary, town and parish councils with the independent persons in attendance who can provide feedback on decision making and trends for complaints / suggestions for training.
- (g) To grant dispensations under Section 33 (2)(b)(d) and (c) Localism Act 2011 or any subsequent amendment
- (h) To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer
- (i) To review any dispensations which have been granted by the monitoring officer under 33 (2)(a) and (c) Localism Act 2011 at the next available meeting of the committee.

#### **3.5.15 Accounts**

To review and approve the Statement of Accounts, external auditor's opinion and reports on them and monitor management action in response to the issues raised by external audit.

### **3.5.16 Standards panel**

- 3.5.17 Council has agreed that the arrangements for determining breaches of the code of conduct for members will include consideration and determination of complaints where the matter cannot be resolved by the Monitoring Officer.
- 3.5.18 The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the monitoring officer and produce a report.
- 3.5.19 The members of the panel will also receive copies of all decisions made by the monitoring officer under the code of conduct complaint process and may directly provide feedback of their views on the decision or meet informally with the monitoring officer. Where requested by the Chairperson of the panel, the monitoring officer will convene a meeting to discuss a specific decision.
- 3.5.20 The Independent Person and parish councillor (as co-opted members) may take part in any discussion but do not have a vote where a decision is to be made by the Standards Panel.
- 3.5.21 When a Code of Conduct complaint has been upheld by the Monitoring Officer or the Standards Panel, to promptly publish the name of the councillor, the council, the nature of the breach and any recommendation or sanction applied for a period of 6 years from the date of decision.
3. 5.22 The Monitoring Officer (in consultation with the Chair of Stands Panel) may also publish for such period as considered appropriate (but no more than 6 years) other decision notices that do not amount to a breach.

### **3.5.23 Employment functions**

- 3.5.24 Council has agreed that an employment panel be established and will fulfil the following functions:
- (a) Be the appropriate body to fulfil the employment functions as set out in part 4 section 9 of the procedure rules in relation to: the head of paid service (to include returning officer and electoral registration officer functions), corporate director community wellbeing, corporate director children and young people, corporate director economy and environment, director of public health, monitoring officer and s151 officer.
  - (b) Review the annual pay policy statement and make recommendations to Council
  - (c) Be a consultee on all terms and conditions including policies for all staff
  - (d) Approve the performance and development framework for annual assessment of the chief executive



**3.5.25 Health and wellbeing board functions**

3.5.26 Herefordshire Council has established a health and wellbeing board in accordance with the provisions of the Health and Social Care Act 2012

3.5.27 The functions of the board are:

- (a) To encourage those who arrange the provision of any health or social care services in Herefordshire to work in an integrated manner for the purpose of advancing the health and wellbeing of the people of Herefordshire.
  - (b) To provide such advice, assistance or other support as it thinks appropriate, for the purpose of encouraging the making of prescribed arrangements under S 75 National Health Service Act 2006.
  - (c) To encourage those who arrange for the provision of any health related services in Herefordshire to work closely with the health and wellbeing board.
  - (d) To encourage the close working of those providing health or social care services with those who arrange for the provision of health related services in Herefordshire.
  - (e) To prepare a health and social care joint strategic needs assessment (Understanding Herefordshire) for the county
  - (f) To prepare a health & wellbeing strategy to meet those needs
  - (g) Reviewing whether the commissioning plans and arrangements for the NHS, public health and social care (including Better Care Fund submissions) are in line with and have given due regard to the health and wellbeing strategy
  - (h) To prepare and publish a local Pharmaceutical Needs Assessment under S206 of the 2012 Act.
- and additionally:
- (i) To give its opinion, as appropriate, to Herefordshire Council, the Clinical Commissioning group or NHS commissioning Board, as to whether they are discharging their duty to have regard to any assessment of relevant needs prepared by the Council, the Clinical Commissioning Group or NHS commission Board in the exercise of their functions.
  - (j) To sign off annual plans and periodic performance submissions for the better care fund



## Section 6 - Additional arrangements

### **3.6.1 Establishment of working groups**

3.6.2 Council, the cabinet and any committee may from time to time establish working groups. The working group terms of reference and membership must be agreed by the parent body before the working group commences its work.

3.6.3 Working groups have no formal decision making responsibilities but may provide advice or recommendations

### **3.6.4 Independent remuneration panel**

3.6.5 Before the council makes or amends a scheme for member's allowances, it shall have regard to the recommendations made in relation to it by an independent remuneration panel. This panel comprises of at least three members none of whom–

(a) is also a member of an authority in respect of which it makes recommendations or is a member of a committee or sub-committee of such an authority; or

(b) is disqualified from being or becoming a member of an authority

3.6.6 The independent remuneration panel shall produce a report;  
(a) as to the responsibilities or duties in respect of which the following should be available–

(i) special responsibility allowance;

(ii) travelling and subsistence allowance; and

(iii) co-optees' allowance;

(b) as to the amount of such allowances and as to the amount of basic allowance;

(c) as to whether dependants' carers' allowance should be payable to members of an authority, and as to the amount of such an allowance;

(d) as to whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated;

(e) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;

(f) as to which members of an authority are to be entitled to pensions in accordance with a scheme; and

(g) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

- 3.6.7 The report will be published and considered at a council meeting when deciding the scheme of allowances.

**3.6.8 Political management**

- 3.6.9 The council comprises councillors who may choose to be members of political or other groups, as referred to in article 2 (2.2.22). Those groups are an important part of the way the council operates.

The leader of the council, who is elected by Council, is usually from the political group comprising the majority of councillors and the leader usually appoints members from their political group to be cabinet members.

- 3.6.10 Each political group appoints a group leader. The political group leaders have no authority to take decisions on behalf of the council but do fulfil important informal political management functions.

- 3.6.11 In particular, the political group leaders have the following roles:

- (a) to provide leadership to the respective groups on all matters related to council business
- (b) to act as a link between the political and other groups and to meet regularly with other group leaders to discuss matters relating to the political management of the council
- (c) to ensure that the views of his or her group are made known to Council, the cabinet and the chief executive
- (d) to ensure that members of their group are supported and abide by the council's codes of conduct
- (e) to help identify whether there is any consensus or other ways that the groups can work together on matters related to Council functions. For example attending group leader meetings with the Chief Executive, in order to promote cross-party working, address issues of common concern and to agree appropriate actions
- (f) to notify the chief executive of appointments to committees and any substitutes
- (g) to attend Council and other meetings as set out in the constitution as a recognised group leader for the purpose of fulfilling these functions. For example presenting views of the group at cabinet meetings.

**3.6.12 Champions**

- 3.6.13 The leader of the council may from time to time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.

- 3.6.14 Such appointments will be made following consultation with political group leaders and the chief executive.

- 3.6.15 Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.



## **Member Champion Role Profile for the Civilian Military Task Group (CMTG)**

In line with Herefordshire Council's constitution,

- The leader of the council may from time to time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.
- Such appointments will be made following consultation with political group leaders and the chief executive.
- Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.

### **Purpose**

The purpose of the CMTG Champion is to:

- act as a positive focus for the local community at elected Member level in respect of the Armed Forces Community Covenant for Herefordshire.

### **Key duties and responsibilities**

The key duties and responsibilities of the Armed Forces Champion are to:

- together with relevant organisations develop and progress appropriate initiatives and activities to achieve the aims of the armed forces community in Herefordshire;
- represent the views of such organisations to officers, the council, the Executive, Overview and Scrutiny Panels and other committees on all relevant aspects of the council's activities;
- act as an advocate on behalf of the armed forces community covenant within the council as an organisation and to the wider community;
- become familiar with the needs and priorities of the armed forces community in order to accurately address their needs;
- act as a conduit between the CMTG and the council in order to make relevant departments aware of relevant issues and where necessary explain the council's position on specific issues of concern to the CMTG and to individuals involved;
- publish an annual report on work undertaken over each year for consideration by the council;
- where appropriate, appoint sub-groups to support the work of the CMTG where this would not overlap with other established liaison or consultative mechanisms, in line with the requirements of the council's constitution.

## **Key skills**

The key skills required of the Champion are:

- the ability to foster cross-party co-operation and to engage with relevant outside groups and officers;
- the ability to campaign with enthusiasm and persistence on behalf of their relevant section of community;
- good communication skills;
- good presentation and public speaking skills;
- good media skills.

## **Knowledge**

The key knowledge required of the Champion are:

- up to date knowledge of the issues of concern to the relevant section of the community.

Agreed – July 2018

## **Member Champion Role Profile**

In line with Herefordshire Council's constitution,

- The leader of the council may from time to time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.
- Such appointments will be made following consultation with political group leaders and the chief executive.
- Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.

### **Purpose**

The purpose of the Champion is to:

- act as a positive focus for the local community at elected Member level in respect of the relevant section of the community or range of activities designated by the council so as to ensure that full consideration is given to the impact of council activities and decisions upon the section of community or range of activities

### **Key duties and responsibilities**

The key duties and responsibilities of the Champion are to:

- make contact with relevant local organisations concerned with the designated section of the community or range of activities and to establish effective and regular consultation arrangements with those organisations;
- represent the views of such organisations to officers, the council, the Executive, Overview and Scrutiny Panels and other committees on all relevant aspects of the council's activities;
- act as an advocate on behalf of the relevant section of the community or range of activities within the council as an organisation and to the wider community;
- become familiar with the needs and priorities of the relevant section of the community or range of activities concerned and to weigh up interests expressed in order to provide sound advice on the implications of alternative courses of action;
- feedback decisions of the council and to explain the council's position on specific issues of concern to relevant organisations and to individuals involved;
- publish an annual report on work undertaken over each year for consideration by the council;
- appoint Panels to support their work where this would not overlap with other established liaison or consultative mechanisms, in line with the requirements of the council's constitution.

## **Key skills**

The key skills required of the Champion are:

- the ability to foster cross-party co-operation and to engage with relevant outside groups and officers;
- the ability to campaign with enthusiasm and persistence on behalf of their relevant section of community;
- good communication skills;
- good presentation and public speaking skills;
- good media skills.

## **Knowledge**

The key knowledge required of the Champion are:

- up to date knowledge of the issues of concern to the relevant section of the community.

Agreed – July 2018



## Section 7 - Officer Functions

- 3.7.1 The intention of the Council is that decision taking should be delegated in the interests of speed where that is consistent with the democratic process in terms of accountability and openness.
- 3.7.2 The various levels of decision making are:-  
Council – Committees – delegations to officers.  
Leader - Cabinet (either collectively or by individual Cabinet member) – delegations to officers.
- 3.7.3 A purpose of this Constitution is to encourage delegation of decision making to individual officers. This constitution delegates decisions to the chief executive. Where such decisions have been delegated it remains open to the officer making the delegation to call back for their own decision, issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.
- 3.7.4 The chief executive has the ability to take six types of decisions.
- 3.7.5 Operational decisions  
An operational decision involves the day to day management of the council. They are usually incidental to a function being exercised by the council. Such decisions are taken by the chief executive, in accordance with the scheme of delegation and any financial or contracting requirements specified in the finance or contracts procedure rules and will be classed as operational so long as:
- Is within an approved budget
  - Is not in conflict with the council's policies, strategies or relevant service plans
  - Does not amend existing or raise new policy issues
- Such operational decisions will not be recorded unless they relate to:
- The letting of contracts with a value (over the lifetime of the contract) of £50k or more
  - The disposal or purchase of land or assets with a value of £50k or more
  - The granting or revoking of a permission or license
  - A change to an individual's legal rights
  - A change to a service (e.g. opening hours, location or service level)
- 3.7.6 Executive decisions  
The cabinet has delegated non key decisions to the chief executive. These will be decisions concerning a function being exercised by the council which is below the key decision threshold. As these are executive functions the requirements to publish the decision, reports and call in provisions apply.
- 3.7.7 Council decisions  
The council has decided that some of its decisions can be taken by the chief executive. Where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or awards a contract (above £50k) or incurs expenditure (£50k) which in either case materially affects the council's financial position there is a requirement to publish the decision.

3.7.8 Local choice decisions

The council has delegated certain further functions to the chief executive. As a result these become executive or council decisions and will follow the procedures for those type of decisions.

3.7.9 All necessary decisions in cases of emergency.

For the purposes of this scheme, 'emergency' shall mean any situation in which the chief executive believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual, or that the interests of the council may be compromised. 'All necessary decisions' includes decisions to take such action as is necessary within the law to protect life, health, safety, the economic, social or environmental wellbeing of the county, its communities and individuals living, working or visiting, and to preserve property belonging to the council or others.

3.7.10 Implementing decisions

There is implied authority for the chief executive to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary. There will also be express authority within certain decisions, delegating further decisions to a named officer, usually a Director, to take certain actions within the parameters of the recommendation from Council, Committee or Cabinet decisions.

3.7.11 All of these six types of decisions can be taken by the chief executive without consultation with elected members, however where executive decisions are being taken by officers cabinet members are normally briefed by a director before taking the decision as the cabinet member can decide to take the decision themselves.

3.7.12 The chief executive is unable to make all of these decisions on behalf of the council and therefore he has a sub delegation scheme which provides for his decision to be taken by a senior officer.

3.7.13 Any officer of the council who has been authorised by the chief executive to carry out any of the chief executive's functions of the council may delegate those functions to other officers. In the case of executive decisions, it is not appropriate for those delegations to be given to any officer below the level of assistant director in the organisation structure.

3.7.14 The chief executive will maintain a chief executive's scheme of delegation detailing all relevant delegations, including the delegation of any proper officer functions as required in a number of statutes and statutory provisions relating to the functions of the council which require that one of the council's officers is the "proper officer" for the purposes of that statutory provision.

3.7.15 The council designates the chief executive as its proper officer for all such purposes other than the s151 officer, monitoring officer and scrutiny officer and unless otherwise stated where the chief executive has delegated the responsibility for fulfilling any proper officer function to another officer.

3.7.16 The chief executive's scheme of delegation will be regularly reviewed and updated to ensure that it contains all relevant delegations.

3.7.17 The chief executive's scheme of delegation will be published on the council's website.

3.7.18 By way of clarification, an officer decision which is to implement a key decision of cabinet or a cabinet member, is not itself a further key decision.



Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Town and country planning and development control		
Power to determine application for planning permission.	Chief Executive unless within Terms of Reference of Planning and Regulatory Committee (Part 3 Section 5) or Redirection granted under Part 4 Section 8	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
Power to determine applications to develop land without compliance with conditions previously attached.	Chief Executive unless within Terms of Reference of Planning and Regulatory Committee (Part 3 Section 5) or Redirection granted under Part 4 Section 8	Section 73 of the Town and Country Planning Act 1990
Power to grant planning permission for development already carried out.	Chief Executive unless within Terms of Reference of Planning and Regulatory Committee (Part 3 Section 5) or Redirection granted under Part 4 Section 8	Section 73A of the Town and Country Planning Act 1990
Power to make determinations, give approval and agree certain other matter relating to the exercise of restrictions on permitted development	Chief Executive unless within Terms of Reference of Planning and Regulatory Committee (Part 3 Section 5) or Redirection granted under Part 4 Section 8	Article 4 and Article 5 to the Town and Country Planning (General Permitted Development) (England) Order 2015
Power to decline to determine application for planning permission.	Chief executive	Sections 70A, 70B and 70C of the Town and Country Planning Act 1990
Duties relating to the making of determinations of planning applications.	Chief executive	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Planning and regulatory committee	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)
Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Chief executive	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)
Power to enter into agreement regulating development or use of land.	Chief executive	Section 106 of the Town and Country Planning Act 1990
Power to issue a certificate of existing or proposed lawful use or development.	Chief executive	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
Power to serve a completion notice.	Chief executive	Section 94(2) of the Town and Country Planning Act 1990
Power to grant consent for the display of advertisements.	Chief executive	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783)
Power to authorise entry onto land.	Chief executive	Section 196A of the Town and Country Planning Act 1990
Power to require the discontinuance of a use of land.	Chief executive	Section 102 of the Town and Country Planning Act 1990

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to serve a planning contravention notice, breach of condition notice or stop notice.	Chief executive	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990
Power to issue a temporary stop notice.	Chief executive	Section 171E of the Town and Country Planning Act 1990
Power to issue an enforcement notice.	Chief executive	Section 172 of the Town and Country Planning Act 1990
Power to apply for an injunction restraining a breach of planning control.	Chief executive	Section 187B of the Town and Country Planning Act 1990
Power to determine applications for hazardous substances consent, and related powers.	Planning and regulatory committee and chief executive	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Chief executive	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act
Power to require proper maintenance of land.	Chief executive	Section 215(1) of the Town and Country Planning Act 1990
Power to determine application for listed building consent, and related powers.	Planning and regulatory committee and chief executive	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Duties relating to applications for listed building consent.	Chief executive	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and [regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519)] 9 and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01 10
Power to serve a building preservation notice, and related powers.	Chief executive	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to issue enforcement notice in relation to demolition of [listed] 11 building in conservation area.	Chief executive	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Powers to acquire a listed building in need of repair and to serve a repairs notice.	Chief executive	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to apply for an injunction in relation to a listed building.	Chief executive	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
Power to authorise stopping up or diversion of highway.	Chief executive	Section 247 of the Town and Country Planning Act 1990
Power to execute urgent works.	Chief executive	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
Licensing and registration		



Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to issue licences authorising the use of land as a caravan site ("site licences").	Chief executive	Section 3(3) of the Caravan Sites and Control of Development Act 1960
Power to license the use of moveable dwellings and camping sites.	Chief executive	Section 269(1) of the Public Health Act 1936
Power to license hackney carriages and private hire vehicles.	Chief executive	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
	Chief executive	(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
Power to license drivers of hackney carriages and private hire vehicles.	Chief executive	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
Power to license operators of hackney carriages and private hire vehicles.	Chief executive	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
Power to register pool promoters.	Chief executive	Schedule 2 to the Betting, Gaming and Lotteries Act 1963
Power to grant track betting licences.	Chief executive	Schedule 3 to the Betting, Gaming and Lotteries Act 1963
Power to license inter-track betting schemes.	Chief executive	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to grant permits in respect of premises with amusement machines.	Chief executive	Schedule 9 to the Gaming Act 1968
Power to register societies wishing to promote lotteries.	Chief executive	Schedule 1 to the Lotteries and Amusements Act 1976
Power to grant permits in respect of premises where amusements with prizes are provided.	Chief executive	Schedule 3 to the Lotteries and Amusements Act 1976 14
Power to issue cinema and cinema club licences.	Chief executive	Section 1 of the Cinema Act 1985
Power to issue theatre licences.	Chief executive	Sections 12 to 14 of the Theatres Act 1968
Power to issue entertainments licences.	Chief executive	Section 12 of the Children and Young Persons Act 1933 section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964 , sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982
Any function of a licensing authority.	Chief executive unless relevant representation has been made and not withdrawn then the licensing sub-committee	Licensing Act 2003 and any regulations or orders made under that Act
Powers and functions relating to late night levy requirements.	Chief executive	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011and any

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
		regulations made under that Chapter
Duty to comply with requirement to provide information to Gambling Commission.	Chief executive	Section 29 of the 2005 Act
Functions relating to exchange of information.	Chief executive	Section 30 of the 2005 Act
Functions relating to occasional use notices.	Chief executive	Section 39 of the 2005 Act
Gambling premises licence	Chief Executive unless relevant representation has been made and not withdrawn then licensing sub-committee	Section 162 Gambling Act 2005
Power to resolve not to issue a casino premises licence	Licensing subcommittee	Section 166 of the 2005 Act
Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Chief executive	Section 304 of the 2005 Act
Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.	Chief executive	Section 284 of the 2005 Act
Power to institute criminal proceedings	Chief executive	Section 346 of the 2005 Act
Power to exchange information	Chief executive	Section 350 of the 2005 Act

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Functions relating to the determination of fees for premises licences.	Chief executive	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007
Functions relating to the registration and regulation of small society lotteries.	Chief executive	Part 5 of Schedule 11 to the 2005 Act
Power to license sex shops and sex cinemas.	Licensing subcommittee	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
Power to license performances of hypnotism.	Chief executive	The Hypnotism Act 1952
Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Chief executive	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
Power to license pleasure boats and pleasure vessels.	Chief executive	Section 94 of the Public Health Acts Amendment Act 1907
Power to register door staff.	Chief executive	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995.
Power to license market and street trading.	Chief executive	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994
Power to license night cafes and take-away food shops.	Licensing subcommittee	Section 2 of the Late Night Refreshment Houses Act 1969

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to license dealers in game and the killing and selling of game.	Chief executive	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972
24. Power of register and license premises for the preparation of food.	Licensing subcommittee	Section 19 of the Food Safety Act 1990
Power to license scrap yards.	Licensing subcommittee	Section 1 of the Scrap Metal Dealers Act 1964
Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	Chief executive	The Safety of Sports Grounds Act 1975
Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Chief executive	Part III of the Fire Safety and Safety of Places of Sport Act 1987
Power to issue fire certificates.	Chief executive	Section 5 of the Fire Precautions Act 1971
Power to license premises for the breeding of dogs.	Chief executive	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999
Power to license pet shops and other establishments where animals are bred or kept for the	Chief executive	Section 1 of the Pet Animals Act 1951 ; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
purposes of carrying on a business.		1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
Power to register animal trainers and exhibitors.	Chief executive	Section 1 of the Performing Animals (Regulation) Act 1925
Power to license zoos.	Licensing subcommittee	Section 1 of the Zoo Licensing Act 1981
Power to license dangerous wild animals.	Chief executive	Section 1 of the Dangerous Wild Animals Act 1976
Power to license knackers' yards.	Licensing subcommittee	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999
Power to license the employment of children.	Chief executive	Part II of the Children and Young Persons Act 1933 , byelaws made under that Part, and Part II of the Children and Young Persons Act 1963
Power to approve premises for the solemnisation of marriages.	Chief executive	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995
Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—	Chief executive	Regulation 6 of the Commons Registration (New Land) Regulations 1969
(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the		

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Acquisition of Land Act 1981 or		
(b) an order under section 147 of the Inclosure Act 1845	Chief executive	
Power to register variation of rights of common.	Chief executive	Regulation 29 of the Commons Registration (General) Regulations 1966
Power to license persons to collect for charitable and other causes.	Chief executive	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
Power to grant consent for the operation of a loudspeaker.	Chief executive	Schedule 2 to the Noise and Statutory Nuisance Act 1993
Power to grant a street works licence.	Chief executive	Section 50 of the New Roads and Street Works Act 1991
Power to license agencies for the supply of nurses.	Chief executive	Section 2 of the Nurses Agencies Act 1957
Power to issue licences for the movement of pigs.	Chief executive	Article 12 of the Pigs (Records, Identification and Movement) Order 1995
Power to license the sale of pigs.	Chief executive	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
Power to license collecting centres for the movement of pigs.	Chief executive	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
Power to issue a licence to move cattle from a market.	Chief executive	Article 5(2) of the Cattle Identification Regulations 1998

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Chief executive	Sections 115E, 115F and 115K of the Highways Act 1980
Power to permit deposit of builder's skip on highway.	Chief executive	Section 139 of the Highways Act 1980
Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.	Chief executive	Section 115G of the Highways Act 1980
Power to license planting, retention and maintenance of trees etc. in part of highway.	Chief executive	Section 142 of the Highways Act 1980.
Power to authorise erection of stiles etc. on footpaths or bridleways.	Chief executive	Section 147 of the Highways Act 1980.
Power to license works in relation to buildings etc. which obstruct the highway.	Chief executive	Section 169 of the Highways Act 1980.
Power to consent to temporary deposits or excavations in streets.	Chief executive	Section 171 of the Highways Act 1980.
Power to dispense with obligation to erect hoarding or fence.	Chief executive	Section 172 of the Highways Act 1980.



Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to restrict the placing of rails, beams etc. over highways.	Chief executive	Section 178 of the Highways Act 1980.
Power to consent to construction of cellars etc. under street.	Chief executive	Section 179 of the Highways Act 1980 67.
Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Chief executive	Section 180 of the Highways Act 1980.
Power to sanction use of parts of buildings for storage of celluloid.	Chief executive	Section 1 of the Celluloid and Cinematograph Film Act 1922
Power to approve meat product premises.	Chief executive	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994
Power to approve premises for the production of minced meat or meat preparations.	Chief executive	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995
Power to approve dairy establishments.	Chief executive	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995
Power to approve egg product establishments.	Chief executive	Regulation 5 of the Egg Products Regulations 1993
Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw	Chief executive	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
meat and selling or supplying both raw meat and ready-to-eat foods.		
Power to approve fish products premises.	Chief executive	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998
Power to approve dispatch or purification centres.	Chief executive	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to register fishing vessels on board which shrimps or molluscs are cooked.	Chief executive	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to approve factory vessels and fishery product establishments.	Chief executive	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Power to register auction and wholesale markets.	Chief executive	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
Duty to keep register of food business premises.	Chief executive	Regulation 5 of the Food Premises (Registration) Regulations 1991
Power to register food business premises.	Chief executive	Regulation 9 of the Food Premises (Registration) Regulations 1991.
Power to issue near beer licence.	N/a	Sections 16 to 19 and 21 of the London Local Authorities Act 1995 and, to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.] 71

Council function	Who has the function been delegated to?	Provision of Act or Statutory Instrument
Power to register premises or stalls for the sale of goods by way of competitive bidding.	N/a	Section 28 of the Greater London Council (General Powers) Act 1984
Power to register motor salvage operators.	Chief executive	Part I of the Vehicles (Crime) Act 2001
Functions relating to the registration of common land and town or village greens.	Chief executive	Part 1 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008



# PART 4

## PROCEDURE RULES



## Section 1 - Council and committee meeting rules

Underlined paragraph numbers denote rules that apply to committees in accordance with rule 4.1.4.

**\* denotes rules which cannot be suspended**

### **4.1.1 Council procedure rules**

4.1.2\* These rules set out how meetings of full Council, committees and other bodies will be conducted.

### **4.1.3 Application**

4.1.4\* All of these rules apply to the meetings of full Council. Only rules 4.1.7-10, 4.1.22 – 37 and 4.1.147 – 176 apply to meetings of committees, sub-committees and other decision making bodies; they do not apply to meetings of cabinet. For ease of reference the paragraph numbers of those rules applying to all meetings are underlined.

4.1.5\* Where there is any inconsistency between these council and committee rules and the meeting specific rules that follow in the remainder of part 4 of the constitution, the latter shall prevail.

4.1.6\* In the application of these rules to meetings other than full Council meetings, greater informality may be exercised at the discretion of the chairperson of the meeting.

### **4.1.7 Interpretation**

4.1.8\* The ruling of the chairperson at the meeting as to the construction or application of the rules that apply to that meeting shall not be challenged at the meeting.

### **4.1.9 Appointment of chairperson**

4.1.10\* If at any meeting the chairperson and vice-chairperson appointed by Council are absent, or if no chairperson or vice-chairperson has been appointed by Council, the meeting shall appoint a chairperson for that meeting only. The monitoring officer or his/her representative at the meeting shall at the start of the meeting invite nominations for chairperson and will take a vote on a show of hands for those members nominated for chairperson.

### **4.1.11 Council meetings**

4.1.12\* There are three types of Council meeting: annual, ordinary, and extraordinary. The table at paragraph 4.1.13 below sets out when these may take place.

## 4.1.13\*

	Type of meeting	When
1	The annual meeting	<ul style="list-style-type: none"> <li>In a year when there have been ordinary elections, within 21 days of the retirement of outgoing councillors</li> <li>In other years in either March, April or May</li> </ul>
2	Ordinary meetings	<ul style="list-style-type: none"> <li>A minimum of five meetings a year as set out in a programme decided by Council and, except that one ordinary meeting will be reserved as the budget meeting, with business as outlined in the table at 4.1.15 below.</li> </ul>
3	Extraordinary meetings	<p>The chief executive may be requested to call a meeting by:</p> <ul style="list-style-type: none"> <li>Council, by resolution;</li> <li>the chairperson of the council;</li> <li>the monitoring officer; or</li> <li>any five members of the council if they have <ul style="list-style-type: none"> <li>signed a requisition stating the grounds for the extraordinary meeting and the business to be conducted at that meeting;</li> <li>presented it to the chairperson; and</li> <li>the chairperson has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.</li> </ul> </li> </ul> <p>The chief executive will determine whether the stated business can wait until the next ordinary meeting of Council and, if it cannot, will call an extraordinary meeting.</p>

## 4.1.14 Business to be carried out

4.1.15\* The business to be carried out at meetings of the council is as set out below; those items marked with \* are compulsory items the order of which cannot be altered.

	Item of business	Type of meeting		
		Annual	Ordinary	Extra-ordinary
1	Elect a person to preside if the chairperson and vice-chairperson of the council are not present	✓ *	✓ *	✓ *
2	Elect the chairperson of the council	✓ *		



	Item of business	Type of meeting		
		Annual	Ordinary	Extra-ordinary
3	Appoint the vice-chairperson of council	✓ *		
4	Receive any apologies for absence	✓ *	✓ *	✓ *
5	Receive any declarations of interest	✓ *	✓ *	✓ *
6	Approve the minutes of the previous meeting(s)	✓ *	✓ *	
7	Receive any announcements from the chairperson and/or chief executive	✓	✓	
8	Elect the leader of the council	✓ *		
9	Appoint the chairpersons and vice-chairpersons of committees and other bodies	✓ *		
10	Appoint at least one scrutiny committee and such other committees as Council considers appropriate to deal with matters which are neither reserved to Council nor are cabinet functions	✓ *		
11	Decide the size and terms of reference of those committees	✓ *		
12	Decide the allocation of seats on committees and other bodies to political or other groups in accordance with the political balance rules	✓ *		
13	Make such appointments to committees or outside bodies as are reserved to Council	✓ *		
14	Approve a programme of ordinary meetings of Council for the year	✓	✓	
15	Consider any other business specified in the summons to the meeting	✓	✓	✓
16	Receive any questions from, and provide answers to, members of the public. In the case of extraordinary meetings and budget questions must relate to items on the agenda		✓	✓

	Item of business	Type of meeting		
		Annual	Ordinary	Extra-ordinary
17	Receive recommendations on statutory plans or other matters that are reserved to Council		✓	
17a	Review effectiveness of committee during previous year	✓		
18	Consider and debate any petitions which have reached the threshold for Council consideration		✓	
19	Receive the following reports from the leader of the council (on which they may be questioned and if so, answer questions): <ul style="list-style-type: none"> <li>the work of the cabinet since the last meeting including a summary of those matters decided by the cabinet, cabinet member or any executive joint committee, and any decisions taken under the urgency provisions;</li> <li>the first meeting following the annual meeting (except in a year when there are ordinary elections) an annual report on the priorities of the cabinet and progress made in meeting those priorities; and</li> <li>any report to Council required by a scrutiny committee</li> </ul>		✓	
20	Consider motions and debate those motions in the order in which they have been received, at the budget meeting motions must relate to the agenda or be time critical. Report will also include progress of all outstanding resolutions.		✓	
21	Receive any questions from and provide answers to members of the council. At the budget meeting questions must relate to items on the agenda		✓	

#### 4.1.16 Time of meetings

- 4.1.17\* Meetings of full Council will usually be at 10.00 am or any other such time as the chairperson agrees, and will continue for a maximum of three hours. Where the chairperson considers that the meeting may exceed 3 hours, then notice will be

given at the time of publication of the agenda that the meeting will become an all day meeting

- 4.1.18\* At the expiry of three hours, the chairperson may determine:
- (a) that the meeting continue beyond three hours duration; or
  - (b) that the remaining business to be conducted at the meeting be:
    - (i) deferred to the next meeting; or
    - (ii) deferred to an extraordinary meeting called for the purpose of dealing with any remaining business; or
    - (iii) put to the vote immediately in the order that the business appears on the agenda or in any order determined by the chairperson; or
    - (iv) some business be put to the vote immediately and other business deferred in accordance with rules (i) and (iii) above; or
  - (c) The meeting be adjourned to resume later that day after a specified break provided that the remaining business can reasonably be expected to last no more than two additional hours and cannot be deferred until the next meeting.
- 4.1.19\* The chairperson has discretion to:
- order the adjournment of any meeting;
  - following consultation with the leader of the council, alter the date or time of any meeting;
  - cancel or postpone a meeting in the event of an emergency or where there is no business requiring Council approval

#### **4.1.20 Notice of meetings**

- 4.1.21\* The monitoring officer will, through publication on the council's website, give five clear working days' notice to the public of the time and place of any meeting (or otherwise in cases of urgency as in accordance with the access to information rules (part 4 section 2).

#### **4.1.22 Conduct of the meeting**

- 4.1.23\* The chairperson's powers and responsibilities in relation to the conduct of a meeting may be exercised by the person presiding at the meeting. A decision by the chairperson on the meaning of the constitution cannot be challenged at a meeting.

#### **4.1.24 Quorum (minimum number of members)**

- 4.1.25\* Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of voting members, or three voting members, whichever is the greater.
- 4.1.26\* If a quorum is not reached within 15 minutes after the time appointed for the start of the meeting, the meeting will be adjourned without debate.

**4.1.27\*** During any meeting if the person chairing the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.

**4.1.28\*** Subject to 4.1.29 remaining business will be considered at a time and date fixed by the person chairing the meeting. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

**4.1.29\*** The meeting will resume immediately if it becomes apparent to the person who was chairing it within 10 minutes of the adjournment under 4.1.27 that there are sufficient members present to constitute a quorum.

#### **4.1.30 Variations in order of business**

**4.1.31\*** The chairperson has discretion to vary the order of business in setting the agenda other than where indicated in the table at paragraph 4.1.15 above. The compulsory order of business for ordinary meetings of Council applies to all cabinet and committee meetings of the council.

**4.1.32\*** A proposed variation at the meeting may be moved by the chairperson or any other member. Where moved by the chairperson there is no need for it to be seconded. The variation will be put to the vote immediately without debate.

#### **4.1.33 Petitions**

**4.1.34** The chairperson will be available 30 minutes before an ordinary Council meeting to receive petitions. During the meeting, as part of chairperson's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairperson who will respond in writing to the petition organiser. All petitions received, and responses provided will be published on the council's website.

**4.1.35** If a petition has been signed by more than 5% of those registered to vote in Herefordshire, and has not been rejected by the monitoring officer it may be debated at a meeting of Council if the petition organiser wishes. This will normally be at the next scheduled ordinary meeting of Council, other than the meeting which is reserved for the budget. Guidance on how to submit a petition and reasons why a petition might be rejected are set out in the Public Participation Guide (Part 5 Section 8).

**4.1.36** Where a petition is to be debated at full Council, the petition organiser will be given three minutes to present the petition at the meeting and the petition will then be discussed by councillors. A maximum of 30 minutes will be allowed at any meeting to consider up to two petitions. This may be extended at the discretion of the chairperson.

**4.1.37** Council will decide how to respond to the petition at this meeting. They may decide to:

- (a) take the action the petition requests (if it relates to a matter reserved to Council);
- (b) not to take the action requested for reasons put forward in the debate;

- (c) refer the matter to the relevant scrutiny committee to investigate further and report back (if it relates to a matter reserved to Council); or
- (d) refer the matter to cabinet or a committee to respond (and in doing so may make recommendations they would wish that body to consider).

#### **4.1.38 Questions on notice**

**4.1.39** Appropriate questions may be asked by members of the public who live or work in Herefordshire and by elected members at the following public meetings of the council:

- Full Council
- Cabinet
- Audit and governance committee
- Health and wellbeing board
- Employment panel
- Scrutiny committees\*

**4.1.40** A 'question on notice' means that the question must be in writing (including email) and submitted to the council **3 clear working days** before the day of the meeting (not including the day of the meeting).

Members of the public are encouraged to submit questions as soon as agenda papers are released, however the following deadlines are set out below:

Meeting Day Question deadline – (Where the day given below is a bank holiday, the deadline will be the previous working day.)

Day of the meeting	Deadline for questions (5pm in all cases)
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Thursday
Thursday	Friday
Friday	Monday

**4.1.41** If you have asked a question, you will also be able to ask a supplementary question. All supplementary questions if not asked in attendance at the meeting must be provided in writing **90 minutes** before the meeting.

**4.1.41a Scrutiny Committees:** supplementary questions (whether a written question or question raised in attendance) from the public will not be considered at a meeting if the question is not first provided in writing at least 90 minutes before the meeting.

**4.1.41b Scrutiny Committees:** A question (whether an initial or supplementary question) from the public will not be accepted if the same or similar question has been raised to council, cabinet or other committee in the previous **6 months** or if an answer has already been provided by Council (whether from an officer, member, council, cabinet or other committee

4.1.42 At each public meeting a period of up **to 30 minutes** or **15 minutes** at other public meetings of the council where written questions are permitted will be allocated for questions and supplementary questions. This period may be varied at the discretion of the chairperson.

**4.1.43 Urgent questions**

4.1.44 Elected members are able to ask a question that relates to an urgent matter provided they have the prior written consent of the member to whom the question is to be put, and the question is delivered, along with the members written consent to the monitoring officer by **9.30 am** on the day of the meeting, or half an hour before the start of the meeting whichever is the earlier.

**4.1.45 Supplementary questions**

4.1.46 A questioner may ask one supplementary question. A supplementary question must be a question and not a statement and arise directly out of the original question or the reply and must take no longer than one minute to ask. Questions asked on the day of the meeting, that have not been submitted by the deadline of **90 minutes** before the start of the meeting, will be acknowledged at the meeting. A response will either be given on the day or in writing in the minutes of the meeting.

Depending on the number of public questions, it will be at the discretion of the chairperson as to how they manage the taking of all supplementary questions

The chairperson may reject a supplementary question if the chairperson considers that it is inappropriate.

**4.1.46a Scrutiny Committees:** all supplementary questions raised by the public must be submitted in writing at least **90 minutes** prior to the start of the meeting. Any received after this time will be considered at the next meeting of the committee or a written response will be provided.

**4.1.46b Scrutiny Committees:** all supplementary questions raised by the public who are in attendance at the meeting shall be limited to and in accordance with the written supplementary question already submitted.

**4.1.47 Order of questions**

4.1.48 Questions and supplementary questions will be answered in the order in which they are received, unless grouping the questions into themes is appropriate.

**4.1.49 Number of questions**

4.1.50 One question and one supplementary question per person is allowed at any meeting of the council.

**4.1.51 Scope of public questions**

4.1.52 Questions must relate to the function of the committee or relate to a matter on the relevant agenda. The monitoring officer can redirect questions to the correct officer, executive member, committee, panel or meeting. They should be of a strategic nature, i.e. not personal to the questioner or a person employed by the council. Questions can be addressed to any chairperson or cabinet member and must relate either to something that the council is responsible for or that affects the county. It is accepted that questioners may highlight their experiences to support their question.

**4.1.52a Scrutiny Committees:** questions will only be accepted for scrutiny committees if it relates to the agenda, task or final group terms of reference or final report, or to the management of the committee's programme or its recommendations. This means that it will be the scrutiny chair (on behalf of the committee) or the Statutory Scrutiny Officer who will respond to the question.

4.1.53 The Monitoring Officer will reject a question if it is not appropriate to be asked at a public meeting, reasons for rejection or redirection may include but are not limited to:

1. It is not about a matter for which the council has a responsibility, or which affects Herefordshire; or
2. It requires the disclosure of confidential or exempt information; or
3. It relates to an identifiable individual or employee of the council; or
4. it is more than 140 words; or
5. It relates to a planning or licensing application.
6. It is deemed to substantively relate to a request for data (including statistical information) under EIR or FOI rules. For these purposes, a dataset is a collection of factual, raw data that Herefordshire Council gathers as part of providing services and delivery of our functions as a public authority.

**4.1.53a Scrutiny Committees:** A question (whether an initial or supplementary question) from the public will not be accepted if the same or similar question has been raised to council, cabinet or other committee in the previous **6 months** or if an answer has already been provided by Council (whether from an officer, member council, cabinet or other committee).

4.1.54 If a question is deemed to be inappropriate, the person who submitted it will be notified in writing before the meeting and given the reasons. This is a decision for the Monitoring officer/deputy monitoring officer/legal officer in attendance at the meeting.

**4.1.55 Answers to questions**

4.1.56 Answers to accepted questions will be published two working days before the meeting normally at **5pm**. An answer to a supplementary question will be provided by the member to whom the question was put or his/ her nominee. The answer may be either a direct oral answer, a referral to an existing publication, or a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will normally be provided within **ten clear working days** of the meeting. A record of all questions,



supplementary questions and answers provided whether orally or in writing will be published on the website as an appendix to the minutes of the meeting.

**4.1.57 When questions cannot be asked at a public meeting:**

4.1.58 No questions may be asked at the annual meeting of council.

4.1.59 No questions may be asked at the budget meeting except in relation to reports published with the agenda.

4.1.60 No questions may be asked at an extraordinary meeting of council except in relation to reports published with the agenda.

4.1.61 A period of up to **30 minutes** at full Council or **15 minutes** at other public meetings of the council where written questions are permitted, will be allocated for questions and supplementary questions. This period may be varied at the discretion of the chairperson.

4.1.62 At meetings of full Council, members of the public may ask questions of members of the cabinet and any chairperson of a committee of the council; at other public meetings of the council where public questions are permitted the question should be addressed to the chairperson of that committee.

4.1.63 The cabinet may hold question and answer sessions with the public.

4.1.64 – 4.1.79 [No longer used following significant revisions to 4.1.38 to 4.1.79 inclusive]

**4.1.80 Motions**

4.1.81 There are two types of motion: those which can be moved during debate (known as motions without notice), and those for which notice is required. Except for motions which can be moved without notice under these council rules, written notice of every motion, signed by the proposer and the seconder, must be delivered, or submitted electronically to the monitoring officer not later than midday on the seventh working day before the date of the meeting (i.e. a Wednesday when the meeting is on a Friday of the following week). A member cannot propose more than one motion on notice per meeting.

4.1.82 Motions on notice may be amended in consultation with the monitoring officer at any time prior to the publication of the agenda by the member(s) who have signed the notice provided that such amendment shall not change the subject matter of the motion.

**4.1.83 Motions set out in the agenda**

4.1.84 Motions for which notice has been given will be listed on the agenda in the order in which notice was received, to a maximum of 3, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.



4.1.85 Up to one and a half hours will be allocated for debate on notices of motion but that time may be varied at the discretion of the chairperson.

**4.1.86 Scope**

4.1.87 Motions must be about matters for which the council has a responsibility or which affect the county. The chairperson may, on the advice of the monitoring officer, refuse a motion which is illegal, scurrilous, improper, (subject to paragraph 4.1.132) relates to a matter which has been the subject of debate or decision by Council in the previous six months, or is otherwise out of order. The member intending to give notice of the motion should consult the director(s) with responsibility for the matter, or their nominee, and the relevant cabinet member(s) and determine the context and possible consequences for what is proposed prior to submitting the motion.

4.1.88 If the motion requires referral to either cabinet or a committee of the council, a report must be at a Council meeting within six months of the date of debate on the motion.

**4.1.89 Exceptions**

4.1.90 Where, following publication of the agenda for a meeting of Council, an urgent matter directly affecting part or all of the county arises and it is not practical to defer consideration of the motion to the next ordinary meeting of Council a motion signed by two members may be accepted by the chairperson following consultation with the monitoring officer.

**4.1.91 Motions without notice**

4.1.92 The following motions may be moved without notice:

- (a) to appoint a person to preside at the meeting at which the motion is moved
- (b) to amend the minutes on a matter of accuracy
- (c) to change the order of business in the agenda where these procedure rules allow
- (d) to refer something to an appropriate body or individual to consider or reconsider
- (e) to withdraw a motion
- (f) to amend a motion (refer to para 4.1.102 below)
- (g) to proceed to the next business
- (h) that the question be now put
- (i) to adjourn a debate
- (j) to adjourn a meeting
- (k) that the meeting continue beyond three hours duration
- (l) to exclude the public in accordance with the access to information procedure rules

- (m) not to hear a member further or to require a member to leave the meeting
- (n) to give the consent of Council where its consent is required by this constitution
- (o) to suspend a specified council rule it is permitted to suspend
- (p) to request a recorded vote
- (q) to remove the leader following a change in political control.

#### **4.1.93 Rules of debate**

4.1.94 A debate will commence only when a proposal has been made, explained and seconded.

4.1.95 No member may speak unless called upon by the chairperson.

4.1.96 Speeches must be directed to the matter being debated.

#### **4.1.97 When a member may speak**

4.1.98 Members may speak as detailed in the table below. The flow chart attached at appendix 1 to this section summarises the process of debate:

<b>Purpose of speech</b>	<b>Who can make the speech</b>	<b>Length of speech</b>
Present a report	Leader Cabinet member Committee chairperson	5 minutes
Propose original motion	Proposer	5 minutes
Second the motion	Seconder (may reserve their right to speak until the end of the debate)	3 minutes
Propose an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Second an amended motion	Any member other than proposer/seconder of original motion	3 minutes
Speak during debate – <i>Please note that the time limit indicates that a member may only speak once during a debate.</i>	Any member other than proposer and seconder of amended motion and proposer of the original motion	3 minutes
Right of reply to debate on motion	Proposer of motion	3 minutes
Right of reply to debate on amended motion	Proposer of original motion	3 minutes
Respond to specific question	Cabinet member	2 minutes
Propose the budget	Leader or their nominee	10 minutes

Purpose of speech	Who can make the speech	Length of speech
Second the budget	Deputy Leader or their nominee	5 minutes
Respond to budget proposals	Group leaders	5 minutes
Right to reply to budget debate	Leader	5 minutes
Ask a question of the Leader under Leader's report	Any member	1 minute
Point of order	Any member	2 minutes
Personal explanation	Any member	2 minutes
Member in attendance	Any member who is not a member of the committee that is meeting	Chairpersons discretion

#### **4.1.99 Amendments to motions**

4.1.100 An amendment must be relevant to the motion and may alter the wording as long as the effect is not to negate the motion. Unless notice of the amended motion has already been given, the chairperson may require it to be written down or in its altered form to be written down and handed to them before it is discussed

4.1.101 Amendments will be considered in the order in which they are received or tabled. No further amendment may be moved until the amendment under discussion has been debated and voted on.

4.1.102 If an amended motion is not carried, other amendments to the original motion may be moved.

4.1.103 If an amended motion is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

4.1.104 After an amended motion has been carried, the chairperson will read out the substantive motion before accepting any further amendment, or if there is none, it is put to the vote.

4.1.105 Members intending to propose an amended motion should normally submit in written text the proposed amendment to the monitoring officer by 9.30am on the morning of the meeting or half an hour before the start of the meeting whichever is the earlier.

4.1.106 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment, in accordance with the budget and policy framework rules.

- 4.1.107 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is approved by Council the leader, on behalf of the cabinet, may indicate acceptance of the amendment.
- 4.1.108 Alteration of motion**
- 4.1.109 A member may alter a motion of which they have given notice with the consent of the seconder and the meeting. The meeting's consent will be signified without discussion.
- 4.1.110 A member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 4.1.111 Only alterations which could be made as an amendment may be made.
- 4.1.112 Withdrawal of motion**
- 4.1.113 A member may withdraw a motion which they have moved without the consent of either the meeting and/or the seconder.
- 4.1.114 Right of reply**
- 4.1.115 The proposer of an original motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.
- 4.1.116 If an amended motion is proposed, the proposer of the original motion has a right of reply at the close of debate on the amended motion, but may not otherwise speak on the amendment.
- 4.1.117 The proposer of an amended motion shall have no right of reply to the debate on the amendment.
- 4.1.118 Motions which may be moved during debate**
- 4.1.119 When a motion is under debate, no other motion may be moved except the following:
- (a) to withdraw the motion
  - (b) to amend the motion
  - (c) to proceed to the next business;
  - (d) that the question be now put
  - (e) to adjourn a debate
  - (f) to adjourn a meeting
  - (g) that the meeting continue for a further half hour
  - (h) to exclude the press and public in accordance with the access to information rules

- (i) that a member be not further heard or to exclude the member from the meeting.

#### **4.1.120 Closure motions**

4.1.121 A member may move without comment the following motions at the end of a speech of another member:

- (a) that the question be now put
- (b) to adjourn a debate
- (c) to adjourn a meeting.

4.1.122 If a motion that the question be now put is seconded and the chairperson thinks the item under discussion has been sufficiently discussed, the proposer of the original motion will have a right of reply before the matter is put to the vote. Any member who has reserved their right to speak later in the debate will not be heard.

#### **4.1.123 Point of order**

4.1.124 A member may raise a point of order at any time and the chairperson will hear it immediately. A point of order may only relate to the alleged breach of these council rules or the law. The member must indicate the section and the way in which they consider it has been broken. The ruling of the chairperson on the matter will be final and there will be no debate on the matter.

#### **4.1.125 Personal explanation**

4.1.126 A member may make a personal explanation at any time. A personal explanation shall only relate to some material part of an earlier speech by the member which may appear to have been misunderstood or misquoted in the present debate. The ruling of the chairperson on the admissibility of a personal explanation will be final.

#### **4.1.127 Conduct of the debate**

4.1.128 A member may indicate their wish to speak and shall wait to be called by the chairperson. If more than one member so indicates the chairperson shall call on them individually and in turn to speak.

#### **4.1.129 Motion to rescind a previous decision**

4.1.130 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion to the Council is signed by at least eighteen of the members of Council and sets out evidence of a change in circumstances or position or other information that materially affects the decision taken. The chairperson shall, following consultation

with the monitoring officer and chief finance officer, make the final determination as to whether the change identified has a material effect.

**4.1.131 Motion similar to one previously rejected**

4.1.132 A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least eighteen of the members of Council.

4.1.133\* Once a motion or amendment to which this rule applies has been dealt with, no member can propose a similar motion or amendment within the next six months.

**4.1.134 Voting majority**

4.1.135\* Unless this constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.

**4.1.136 Chairperson of the council's casting vote**

4.1.137\* If there are equal numbers of votes for and against, the chairperson will have a second or casting vote. There will be no restriction on how the chairperson chooses to exercise a casting vote.

**4.1.138 On the voices and show of hands**

4.1.139\* Unless a recorded vote is requested the chairperson will ask the meeting to signify agreement on the voices unless the decision on the voices is unclear in which case the chairperson will take the vote by a show of hands.

**4.1.140 Recorded vote**

4.1.141\* If at least eight members (or pro-rata for other committees to which these rules apply) present at the meeting requested it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and recorded in the minutes. All votes taken at a budget decision meeting and relating to a budget decision are to be recorded votes.

4.1.142\* Reference to a "budget decision meeting" for the purposes of 4.1.143 means a meeting of Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, or 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting.

**4.1.143 Right to require individual vote to be recorded**

4.1.144\* Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

**4.1.145 Voting on appointments**

**4.1.146\*** Where there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

**4.1.147 Keeping of minutes**

**4.1.148\*** Minutes of the proceedings of each meeting of the council will be prepared and will be published on the council's website.

**4.1.149 Signing the minutes**

**4.1.150\*** The chairperson will sign the minutes at the next available meeting. The chairperson will move that the minutes of the previous meeting be signed as a correct record. There will be no debate or questioning on matters arising from the minutes; only matters of accuracy may be determined.

**4.1.151\*** In the case of any question of the accuracy of the minutes this can only be raised where notice is given to the monitoring officer by 9.30am on the morning of the meeting at which this is to be raised or half an hour before the start of the meeting whichever is the earlier unless the chairperson determines otherwise at the meeting.

**4.1.152 No requirement to sign minutes of previous meeting at an extraordinary meeting**

**4.1.153\*** Where in relation to any meeting, the next meeting for the purposes of signing the minutes is an extraordinary meeting, then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purpose of signing of minutes.

**4.1.154 Exclusion of the public**

**4.1.155\*** The public and press may only be excluded either in accordance with the access to information rules (part 4 section 2) or in the case of disturbance by the public in accordance with these council rules 4.1.164.

**4.1.156 Members' conduct**

**4.1.157\*** When the chairperson stands during a debate any member(s) then speaking must discontinue and the council must be silent.

**4.1.158\*** If a member is guilty of misconduct by persistently disregarding the ruling of the chairperson of the council, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any member may move that that member is not further heard. If seconded, the motion will be voted on without discussion.

**4.1.159\*** If the member continues to behave improperly after such a motion is carried, any member may move either that the member leave the meeting or that the meeting

be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**4.1.160 \*** If there is a general disturbance making orderly business impossible, the chairperson may adjourn the meeting for as long as they think necessary.

**4.1.161 \*** The decision as to whether misconduct is taking place shall rest with the chairperson who will have due regard to the councillor code of conduct.

#### **4.1.162 Disturbance by the public**

**4.1.163 \*** If a member of the public interrupts proceedings, the chairperson will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.

**4.1.164 \*** If there is a general disturbance in any part of the meeting room open to the public the chairperson shall order that part to be cleared and the chairperson may for that purpose adjourn the meeting for as long as is needed, and may resume the meeting with or without members of the public being admitted and/or at another location deemed appropriate

#### **4.1.165 Suspension and amendment of council rules**

**4.1.166 \*** Any of the council rules may be suspended for all or part of the business of a meeting at which suspension is moved by a motion, [except rules 4.1.1 to 4.1.31, 4.1.135 to 4.1.167, and 4.1.173 to 4.1.176. For ease of reference the rules which cannot be suspended are identified by the symbol \\*](#)

**4.1.167 \*** Such a motion cannot be moved without notice unless at least two thirds of the whole number of members of the council is present. Suspension shall be limited to the duration of the meeting or the determination of a particular item of business if appropriate and as specified in the motion.

#### **4.1.168 Substitution**

**4.1.169** The monitoring officer on behalf of the chief executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted at a meeting for the member previously allocated to a place on a committee, sub-committee or other body to which the proportionality rules apply for the duration of that meeting. The giving of notice by email no later than 3.00pm on the last working day prior to the date of the meeting is encouraged.

**4.1.170** The monitoring officer (in consultation with the ungrouped member(s) concerned) may substitute another ungrouped member for an ungrouped member who has notified the monitoring officer in writing that they are unable to attend a meeting for the duration of that meeting. Such notification must be given no later than 3.00pm on the last working day prior to the date of the meeting.

#### **4.1.171 Recording, filming and reporting of meetings**

**4.1.172** Where meetings of the council are open to the public, any person attending may



record, film or report meetings, provided that in doing so there is no disturbance to the meeting.

#### **4.1.173 Interests under the councillors' code of conduct**

**4.1.174**\* Members must abide by the councillors' code of conduct (part 5 section 1) adopted by the council and declare all **Table 1 or Table 2** interests in accordance with the code. Where a member has identified and declared a table 1 interest, that member shall immediately vacate the room or chamber where the meeting is taking place (including any public area) unless a dispensation has been granted.

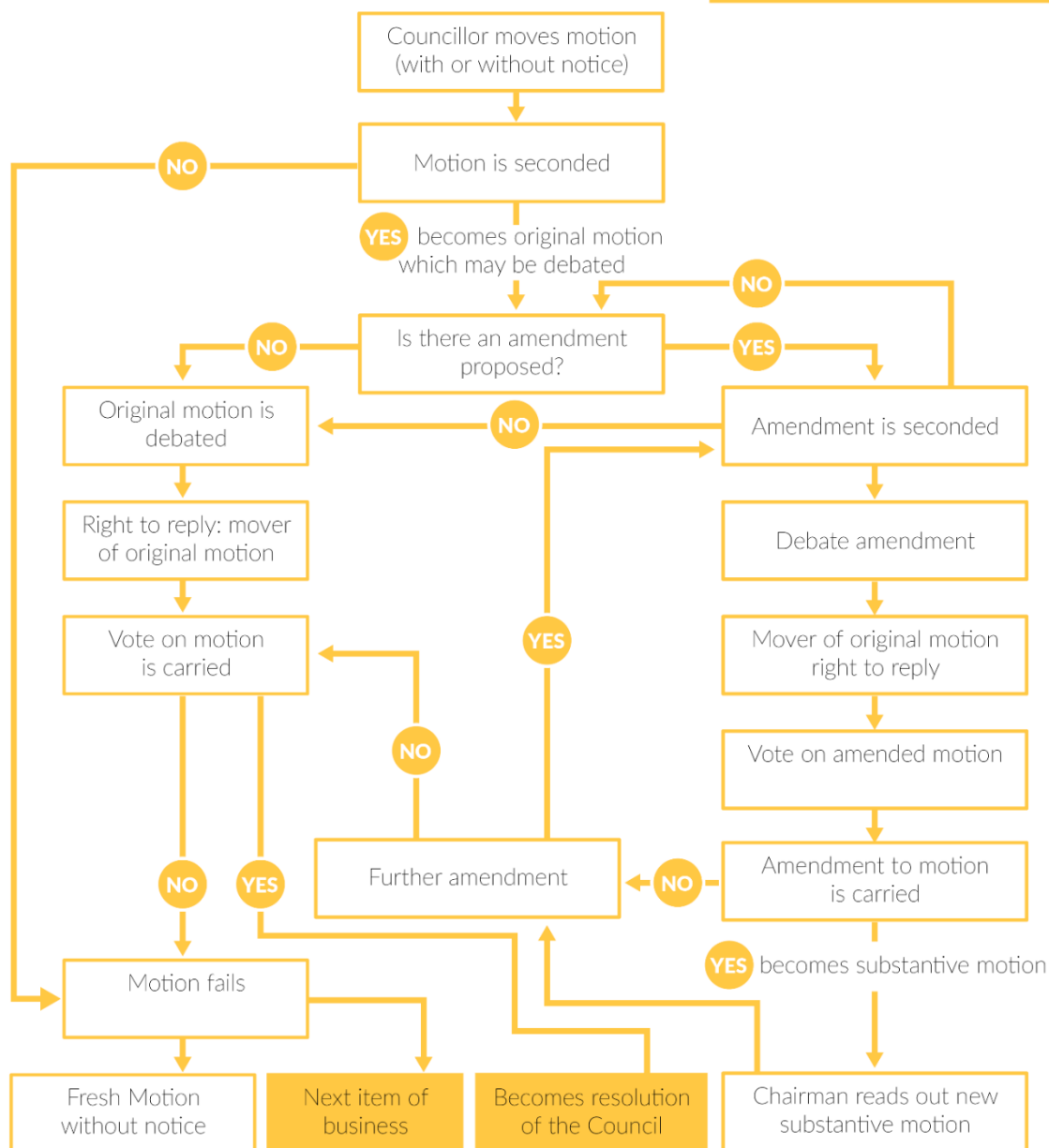
#### **4.1.175 Confidentiality**

**4.1.176**\* All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the council's business. Such determination shall ordinarily be made by the monitoring officer having regard to the access to information rules. Further, all members must comply with the obligations as to confidentiality set out in the councillors' code of conduct (part 5 section 1). Any alleged breaches shall be referred by the chairperson of the council to the monitoring officer for consideration and report if not previously referred by some other person. The chairperson may require the surrender of such material at the end of discussion of the relevant item.

## Appendix 1

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# Process for consideration of motions at Council



1. Amendments to motions can be moved at any time during the debate
2. Please note that this flowchart does not apply to the annual budget debate. The budget debate rules are set out in Part 4, Section 3 of the constitution

## Section 2 - Access to information rules

### **4.2.1 Meetings covered by these rules**

4.2.2 Rules 4.2.4 – 4.2.35 apply to all meetings of:

- (a) Council, or joint committees formed by Council
- (b) the cabinet, or joint committees formed by the cabinet
- (c) the audit and governance committee
- (d) a scrutiny committee
- (e) the planning and regulatory committee
- (f) the licensing sub committee
- (g) the employment panel
- (h) the health and wellbeing board
- (i) all sub-committees except as provided for by law or elsewhere in this constitution.

4.2.3 Rules 4.2.36-4.2.65 contain additional rules for meetings of the executive prescribed by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **4.2.4 Rights to attend meetings**

4.2.5 Members of the public and elected members may attend all meetings unless they have been excluded in accordance with the provisions of these rules (paragraphs 4.2.27-30).

### **4.2.6 Notice of meetings**

4.2.7 The council will give at least five clear working days' notice of any meeting by posting details of the meeting on the website and at the designated office (Shire Hall, St Peter's Square, Hereford), unless the meeting is convened at shorter notice in which case such notice will be given from the time that the meeting is convened.

### **4.2.8 Access to agenda and reports before the meeting**

4.2.9 Copies of:

- (a) the agenda, and
- (b) those reports which are open to the public

shall be made available for inspection at the designated office and on the council's website at least five clear working days before the meeting, unless paragraphs 4.2.10 or 4.2.11 apply.

4.2.10 If a meeting is convened with less notice, copies of the agenda and reports must be open to inspection from the time the meeting is convened.

- 4.2.11 If an item is added to an agenda which is open to inspection, copies of the additional item and the revised agenda must also be open to inspection from the time the item is added to the agenda.

#### **4.2.12 Consideration of items of business**

- 4.2.13 An item of business may not be considered at a meeting unless either:
- (a) a copy of the agenda including the item (or a copy of it) is open to inspection by a member of the public for at least five clear working days before the meeting, or if the meeting was convened with less notice, from the time the meeting is convened, or
  - (b) the chairperson of the meeting considers that for reasons which should be specified in the minutes, the item should be considered at the meeting as a matter of urgency.
- 4.2.14 Rules in paragraphs 4.2.39-48 apply if the item of business relates to a key decision.

#### **4.2.15 Supply of copies**

- 4.2.16 The council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the monitoring officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person;
- on payment of a charge for postage and any other costs.
- 4.2.17 The council may first direct a member of the public seeking copies of documents referred to in 4.2.16 to the council's website if copies of those documents are available there.
- 4.2.18 Except during any part of the meeting during which the public are excluded, the council will make available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and reports which are accessible to the public.

#### **4.2.19 Access to minutes and meeting documentation after the meeting**

- 4.2.20 The council will retain for six years and make available copies of the following:
- (a) the minutes of the meeting, for all meetings covered by these rules as set out by 4.2.2 above, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
  - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

- (c) the agenda for the meeting;
- (d) reports relating to items when the meeting was open to the public; and
- (e) records of decisions made by the executive in the form prescribed by regulations.

#### **4.2.21 Background papers**

#### **4.2.22 List of background papers**

4.2.23 When a copy of the whole or part of a report for a meeting is made available for inspection by the public, the proper officer (the director responsible for the report) will set out in the report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

but this does not include published documents, or documents which disclose exempt or confidential information (as defined by law and set out in paragraphs 4.2.27-30 below).

#### **4.2.24 Public inspection of background papers**

4.2.25 The council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

4.2.26 In respect of meetings of an executive decision-making body only, at least one copy of each of the background papers included in that list must be available for public inspection at the designated office and on the council's website from the time when copies of the report are made available to the public.

#### **4.2.27 Exclusion of access by the public to meetings**

4.2.28 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Confidential information is either information given to the council by a government department upon terms which forbid the disclosure of the information to the public, or information whose disclosure to the public is prohibited by or under any enactment or by an order of a court.

4.2.29 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Exempt information is categorised as:

- 1 Information related to any individual;
- 2 Information which is likely to reveal the identity of an individual;

- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice of by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

- 4.2.30 Information falling within category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
- a) the Companies Acts (as defined in section 2 of the Companies Act 2006)
  - b) the Friendly Societies Act 1974
  - c) the Friendly Societies Act 1992
  - d) the Co-operative and Community Benefit Societies and Credit Unions Act 1965 to 1978
  - e) the Building Societies Act 1986
  - f) the Charities Act 2011

“Financial or business affairs” includes contemplated, as well as past or current, activities

#### **4.2.31 Exclusion of access to reports**

- 4.2.32 If in the opinion of the monitoring officer any report contains confidential information (as defined at paragraph 4.2.28) or exempt Information (as defined at paragraph 4.2.29), and will or is likely to be considered during that part of the meeting from which the public are excluded, those reports will not be published with the agenda for the meeting. Such reports will be marked “Not for publication” and will include a statement of the category of information contained within the report which will or is likely to give rise to the exclusion of the public from the meeting.
- 4.2.33 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains confidential information as defined at paragraph 4.2.28, the chairperson will ask the public to leave the meeting during consideration of that item.
- 4.2.34 When a report is to be considered at a meeting which in the opinion of the monitoring officer contains exempt information as defined at paragraph 4.2.29, the chairperson will invite the members present at the meeting to consider whether in the circumstances the public press and members who are not members of the decision-making body should be excluded and, if the meeting agrees, the chairperson will ask those in attendance to leave the meeting during consideration of that item.

4.2.35 No recording devices of any description may be left in the chamber or room when members of the public and press are excluded in accordance with these access to information procedure rules relating to exempt and confidential information.

**4.2.36 Application of rules to executive decisions**

4.2.37 Rules 4.2.36-65 apply to the public meetings of cabinet and its committees or other executive decision maker in addition to rules 4.2.4-35 above. These are drawn from the The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations).

4.2.38 The requirements in these rules do not apply to meetings whose sole purpose is for officers to brief councillors.

**4.2.39 Private meetings of an executive decision-making body**

4.2.40 Where an executive decision-making body intends to hold a private meeting (meaning a meeting or part of a meeting of that body from which the public are excluded in accordance with paragraphs 4.2.27-30), then subject to paragraphs 4.2.49-51 (general exception) and paragraphs 4.2.52-54 (special urgency):

- (a) at least 28 clear calendar days before the private meeting a notice of that intention must be made available at the designated office and on the council's website, including a statement of reasons for the meeting to be held in private;
- (b) at least five clear working days before such a meeting a further notice of that intention must be made similarly available, including a statement of reasons for it to be held in private, details of any representations received about why the meeting should be open to the public and a statement of its response to any such representations.

4.2.41 Where the date by which such a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where agreement has been obtained that the meeting is urgent and cannot reasonably be deferred from:

- (a) the chairperson of the relevant scrutiny committee, or
- (b) if there is no such person or that chairperson is unable to act, the chairperson of the council, or
- (c) in the absence of both, the vice-chairperson of the council.

4.2.42 As soon as reasonably practicable after agreement has been obtained under 4.2.41, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be made available at the designated office and on the council's website.

4.2.43 The head of paid service, section 151 officer, and the monitoring officer, and their nominees are entitled to attend any meeting of the cabinet and its committees.

The cabinet may not meet formally unless the proper officer has been given reasonable notice that a meeting is to take place in accordance with these rules.

- 4.2.44 A private cabinet meeting may only take place in the presence of the monitoring officer or their nominee.
- 4.2.45 Notice of private meetings of the cabinet, or a joint executive committee, shall be served on the chairperson of the relevant scrutiny committee at the same time as notice is served on members of the cabinet. Where a scrutiny committee does not have a chairperson, the notice shall be served on all the members of that committee.
- 4.2.46 Where a matter under consideration at a private meeting of the cabinet, or a joint cabinet committee, is within the remit of a scrutiny committee, the chairperson of the relevant scrutiny committee or in their absence the vice-chairperson may attend and speak at that private meeting with the consent of the person presiding.
- 4.2.47 Publicity in connection with executive key decisions**
- 4.2.48 Where a decision maker intends to make a key decision, that decision must not be made until a document has been published 28 clear calendar days before the decision and made available for public inspection at the council's designated office and on its website stating:
- (a) that a key decision is to be made
  - (b) the matter in respect of which a decision is to be made
  - (c) where the decision taker is an individual, their name and title, if any, and where the decision taker is a decision making body, its name and a list of its members;
  - (d) the date on which, or the period within which, the decision is to be made;
  - (e) a list of the documents submitted to the decision taker for consideration in relation to the matter in respect of which the key decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.



**4.2.49 General exception**

- 4.2.50 Subject to 4.2.52-54, where the publication of the intention to make a key decision under 4.2.48 is impractical, the decision may still be taken if:
- (a) the monitoring officer has informed the chairperson of the relevant scrutiny committee, or, if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
  - (b) the monitoring officer has made copies of that notice available for public inspection at the designated office and published it on the council's website; and
  - (c) at least five clear working days have elapsed since the monitoring officer complied with (a) and (b).
- 4.2.51 As soon as reasonably practicable after paragraph 4.2.50 has been complied with, a notice setting out the reasons why compliance with paragraph 4.2.48 is impracticable must be published on the council's website.

**4.2.52 Special urgency**

- 4.2.53 If because of the date by which a decision must be taken, paragraph 4.2.49-51 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the chairperson of the body making the decision, has obtained the agreement of:
- (a) the chairperson of the relevant scrutiny committee; or
  - (b) if there is no chairperson of the relevant scrutiny committee or in his /her absence, the chairperson of the council, or
  - (c) in the absence of the chairperson of the relevant scrutiny committee or the chairperson of the council, the vice-chairperson of the council
- that the making of the decision is urgent and cannot reasonably be deferred.
- 4.2.54 As soon as reasonably practicable after agreement has been obtained in accordance with paragraph 4.2.53 a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred must be made available at the designated office and published on the council's website. Decisions taken by way of special urgency will not be subject to call-in.

**4.2.55 Reports to Council on executive decisions**

- 4.2.56 The leader will report to ordinary meetings of Council on executive decisions taken since the preceding meeting of Council. The report will include the number of decisions taken under the provisions of paragraphs 4.2.27-30, 4.2.49-51 and 4.2.52-56 and provide a summary of the matters in respect of which those decisions were taken.

**4.2.57 Report to Council where it is considered the key decision procedure has not been followed**

4.2.58 If an scrutiny committee thinks that an executive decision has been made which was a key decision but not treated as such the committee may require the cabinet to submit a report to the council meeting within such reasonable time as the committee specifies.

4.2.59 The report to the council meeting will set out the decision and the reasons for the decision, the decision maker, and if the cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

**4.2.60 Record of executive decisions**

4.2.61 As soon as reasonably practicable after an executive decision is made the monitoring officer, or if the monitoring officer was not present at the meeting, the person presiding, will produce a written statement of every such decision.

That statement will include:

- (a) a record of the decision and date it was made and by whom;
- (b) the reasons for the decision
- (c) any alternative options considered and rejected; and
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted.

**4.2.62 Inspection of documents following executive decisions**

4.2.63 Subject to 4.2.57-59, as soon as is reasonably practicable after an executive decision has been made, the monitoring officer will make available for inspection by the public at the designated office and on the council's website the above written statement (and any report or part of a report relevant to the decision and considered by the executive decision-maker). A copy of these documents must be supplied on request to a newspaper on payment of postage, copying and other necessary charge.

4.2.64 No written statement, report or document will be made available for public inspection which contains confidential information or where disclosure would give rise to the disclosure of exempt information, both as defined above.

**4.2.65 Additional rights of access to documents for members of scrutiny committees**

Subject to paragraphs 4.2.70-71 below, a member of a scrutiny committee (and a member of a scrutiny task and finish group) will be entitled to a copy of any document which is in the possession or control of the cabinet and contains material relating to

- (a) any business which has been transacted at a public or private meeting of the cabinet or executive decision-making body; or
- (b) any executive decision made by an individual member of the cabinet,
- (c) any executive decision made by an officer on behalf of the cabinet.

That copy document must be provided as soon as reasonably practicable and in any event no later than ten clear days after the request is received on behalf of the cabinet.

There is no entitlement under paragraphs 4.2.73-76 to disclose:

- (a) any document that is in draft form;
- (b) any document or part of a document that contains exempt or confidential information unless that information is relevant to:
  - (i) an action or decision the scrutiny member is reviewing or scrutinising or
  - (ii) any review contained in any programme of work of a scrutiny committee; or
- (c) the advice of a political adviser or assistant (if any).

Where it is determined that a member of a scrutiny committee is not entitled to a copy of a document (or part of one), that committee must be provided with a written statement setting out the reasons for that decision.

#### **4.2.66 Additional rights of access for councillors**

- 4.2.67 Subject to paragraphs 4.2.70 and 4.2.71 below, any document which is in the possession of the cabinet and which contains material relating to any business to be transacted at a public meeting must be available for inspection by any member of the council.
- 4.2.68 Any document which is required by the preceding paragraph to be available for inspection by any member of the council must be available for inspection for at least five clear working days before the meeting except that:
- (i) where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
  - (ii) where an item is added to the agenda at shorter notice a document that would be required to be available under paragraph 4.2.67 in relation to that item must be available for inspection when the item is added to the agenda;
- 4.2.69 Subject to 4.2.70 and 4.2.71 below, any document which is in the possession of the cabinet and which contains material relating to:
- (i) any business to be transacted at a private meeting; or
  - (ii) any decision made by an individual cabinet member or officer in accordance with the council's executive arrangements;

must be made available for inspection by any member of the council within 24 hours of the conclusion of the meeting or an executive decision having been made by an individual cabinet member or officer;

- 4.2.70 Paragraphs 4.2.67, 4.2.68, and 4.2.69 do not require a document to be available for inspection if it appears to the monitoring officer that it discloses exempt information unless the exempt information contained in the document is information of a description falling within:
- (i) paragraph 3 of Schedule 12A to the Local Government Act 1972 (financial or business affairs)(except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
  - (ii) paragraph 6 of Schedule 12A to the Local Government Act 1972 (notices being given or directions to be made);
- 4.2.71 Paragraphs 4.2.67 and 4.2.69 shall not apply to a document or part of a document where it appears to the monitoring officer that compliance with those rules in relation to that document or part of a document would involve the disclosure of advice provided by a political adviser or assistant;
- 4.2.72 The rights of a member to access information as set out in paragraphs 4.2.67 and 4.2.69 are additional to any common law rights they may have.
- 4.2.73 Inspection and supply of documents**
- 4.2.74 Any document required by the regulations to be open to inspection by members of the public must be available for inspection at all reasonable hours at the designated office, and on the council's website.
- 4.2.75 Any person entitled to inspect a document may make a copy of it, or require the council to supply a copy on payment of postage, copying or other necessary charge for transmission.
- 4.2.76 Any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to a document supplied or made available to that person unless doing so infringes copyright (other than that of the council).
- 4.2.77 Additional requirements relating to the recording and availability of council decisions made by officers**
- 4.2.78 This procedure rule is in addition to and without prejudice to any other requirement for officers to record and make available decisions they make and applies to decisions made by officers of the Council which are made under either:
- (a) a specific delegated authorisation; or
  - (b) a general delegation to officers to take such decisions and the effect of the decision is to:
    - (i) grant a permission or licence;
    - (ii) affect the rights of an individual; or
    - (iii) award a contract or incur expenditure which has a material effect on the budget.
- 4.2.79 For the purposes of these rules:
- (a) specific express authorisations are those decisions which contain a delegation from council, their committees or sub-committees;

- (b) general authorisations to officers are those set out in the council's scheme of delegation; and
  - (c) 'material effect' is deemed to be in excess of £50k.
- 4.2.80 Officers will reasonably determine whether the decisions they make affect the rights of an individual having regard to all relevant factors including the guidance provided by the government which suggests that this would involve a change to an individual's legal rights and that these decisions do not include decisions taken pursuant to an existing framework of rights.
- 4.2.81 A record of decision to which this rule applies will, as a minimum, contain the following information:
  - (a) the date the decision was taken;
  - (b) a record of the decision taken along with reasons for the decision;
  - (c) details of alternative options, if any, considered and rejected; and
  - (d) where the decision is made pursuant to a specific express authorisation, the name of any member who has declared a conflict of interest in relation to the decision.
- 4.2.82 As soon as reasonably practicable following the record of decision being made it will be available for inspection, along with any background papers, by members of the public:
  - (a) at all reasonable hours at the council's principal offices;
  - (b) on the council's website; and
  - (c) by such other means as the council considers appropriate, if anyand this extends to any record of decision that falls within the paragraph below.
- 4.2.83 The requirements of this section do not apply to any decision made by an officer where, other than under the Openness of Local Government Bodies Regulations 2014, there is a statutory obligation to produce a written record of the decision that includes the date of the decision, a record of the decision and the reasons for the decision.
- 4.2.84 Nothing in this rule requires or authorises the making available of confidential or exempt information.



## Section 3 - The budget and policy framework rules

### **4.3.1 The budget and policy framework**

- 4.3.2 Council is responsible for the adoption of items within the budget and policy framework as set out in the functions scheme (part 3 section 1) and the cabinet is responsible for implementing them.

### **4.3.3 Process for developing framework items**

- 4.3.4 The cabinet will publicise a timetable for making proposals to Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals.
- 4.3.5 The chairpersons of the a scrutiny committees shall take steps to ensure that the relevant committee work programmes include any such plan, strategy or budget to enable scrutiny members to inform and support the process for making cabinet proposals to Council in terms of the adoption of any item that forms part of the framework, including providing constructive challenge to the responsible cabinet member on policy proposals and exploring options for future policy development.
- 4.3.6 The cabinet shall have regard to such recommendations and other appropriate comments as are made to it in drawing up or amending draft proposals for submission to Council, and its report to Council shall reflect those recommendations and comments and the cabinet's response to them
- 4.3.7 The cabinet will determine the methods to be used to publicise the timetable to ensure that the appropriate consultees are informed about the process and the timetable for adoption of any such plan, strategy or budget. The consultation period shall, in each instance, normally be not less than four weeks unless the requirements of any statutory timetable or other council deadline make this impracticable.
- 4.3.8 Budget consultees should include parish councils, health partners, the schools forum, business ratepayers, council taxpayers, the trade unions, political groups on the council, the scrutiny committees and such other organisations and persons as the leader shall determine.
- 4.3.9 Following consultation and having had regard to the responses to the consultation, the cabinet will draw up firm proposals for the plan, strategy or budget under consideration for recommendation to Council.
- 4.3.10 The leader or relevant cabinet member will report the recommendations of cabinet to Council for any such plan, strategy or budget. The report from the cabinet to Council recommending the adoption of any of the strategies and plans that are part of the budget and policy framework will include a summary of the responses to consultation including scrutiny responses.
- 4.3.11 In reaching a decision, Council may adopt the cabinet's proposals, amend them, refer them back to the cabinet for further consideration, or, in principle, substitute

its own proposals in their place. Council should ensure that it takes into account the advice of its officers to ensure that any decision is properly informed by professional advice.

- 4.3.12 Where an amendment to a recommendation from the cabinet in relation to a budget and policy framework item is being proposed, members making such an amendment must have consulted with the relevant director to determine the context and possible consequences of the proposal and have secured confirmation from the chief finance officer that the action proposed is achievable before submitting the amendment. (see council and committee procedure rules 4.1.106 and 4.1.107)
- 4.3.13 Where an alternative budget is being proposed, the proposing group or member must have presented their proposals to the scrutiny committees (in accordance with paragraph 4.3.5 above) and secured confirmation from the chief finance officer that the alternative budget meets statutory requirements at least six clear working days before the meeting of Council at which the item is to be considered.
- 4.3.14 If Council accepts the recommendations of cabinet without amendment, Council may make a decision which has immediate effect.
- 4.3.15 If Council has objections to any part forming part of the Budget and Policy Framework it may resolve to amend it.
- 4.3.16 If an amendment to the Budget and Policy Framework has been submitted in accordance with Council's Constitution Part 4 Section 1 (Council and Committee meeting rules) and the Leader indicates, on behalf of Cabinet, that they accept the amendments, then the Budget and Policy Framework shall be deemed to include such amendments.
- 4.3.17 If the amendment isn't accepted by the Leader as outlined in paragraph 4.3.16, Council cannot amend Budget and Policy Framework until the following process has been followed. Council may however make an 'in principle' decision to amend the Budget and Policy Framework.
- 4.3.18 Council shall vote on the amendment and if passed as an 'in principle' decision, then it will instruct Cabinet to reconsider the amendment to the Budget and Policy Framework.
- 4.3.19 Council will specify a date by which the Cabinet may submit a response to Council in respect to the amended part of the Budget and Policy Framework. That date must be at least 10 working days after the date of the 'in principle' Council decision.
- 4.3.20 If Cabinet does not submit a response within the time specified, then the 'in principle' decision takes effect the day following the date specified by Council.
- 4.3.21 If Cabinet wishes to submit a response, then Cabinet will meet to consider Council's amended Budget and Policy Framework and may resolve to:
  - a. accept Council's amendments and make no further submissions, in which case the 'in principle' decision of Council takes effect immediately; or



b. disagree with Council's amendments, in which case the Cabinet must inform Council that Cabinet disagrees with Council's amendments and explain why; or  
c. make further amendments to the amended part of the Budget and Policy Framework, in which case Cabinet must submit any revised draft to Council together with Cabinet's reasons for those revisions.

4.3.22 If appropriate, Cabinet may wish to consult the relevant Overview and Scrutiny Committee (or in the case of urgency the Chair of the relevant Committee) in such reconsideration.

4.3.23 If Cabinet submits a response under para 4.3.21 b. or c. above then a further Council meeting will be held at least 5 working days after the date of submission of the response. The Chairperson of the Council shall set the date of the further Council meeting.

4.3.24 At any further Council meeting, Council must then consider the submissions made by Cabinet before finally approving the Budget and Policy Framework. Council shall approve either the Budget and Policy Framework (i) as originally submitted by Cabinet to the first Council meeting or (ii) as amended by Council at the first Council meeting or (iii) as recommended by any further Cabinet amendments. The decision shall then be made public and shall be implemented immediately

#### **4.3.25 Decisions outside the budget or policy framework**

4.3.26 Subject to the virement arrangements in the financial procedure rules, the cabinet, a committee of the cabinet, cabinet members, or officers may only take decisions that are in line with the budget and policy framework. If any of these bodies want to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by Council, unless it is an urgent decision as defined in these budget and policy framework rules.

4.3.27 If the cabinet, a committee of the cabinet, a cabinet member or officer want to make such a decision, they shall take advice from the chief executive, monitoring officer and chief finance officer as to whether the decision they want to take would be contrary to the policy framework or contrary to or not wholly in accordance with the budget. If the advice of any of those officers is that the decision would not be in line with the existing budget and policy framework, then the decision must be referred by that body to Council for decision, unless the decision is a matter of urgency in which case the provisions relating to urgent decisions apply as defined in these budget and policy framework rules.

#### **4.3.28 Urgent decisions outside the budget or policy framework**

4.3.29 The cabinet may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget if the decision is a matter of urgency. The decision may only be taken:

- (a) if it is not practical to convene a quorate Council meeting; and
- (b) if it is taken by cabinet collectively; and

- (c) if the chairperson of the relevant a scrutiny committee agrees that the decision is a matter of urgency.

4.3.30 The reason why it is not practical to convene a Council meeting must be clear and noted on the record of the decision.

4.3.31 The chairperson of the relevant scrutiny committee's agreement must be noted on the record of the decision.

4.3.32 In the absence of the chairperson of the relevant scrutiny committee, the consent of the chairperson of the council, and if they are unavailable or unable to act, the vice-chairperson of the council, will suffice.

4.3.33 Following the decision, the cabinet will provide a full report to the next Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

**4.3.34 In year changes to the budget and policy framework**

4.3.35 Any decisions that involve an in year change to the budget and policy framework must be approved or adopted by Council unless:

- (a) It is an urgent decision as provided for in these budget and policy framework rules
- (b) It will result in the closure or discontinuance of a service or part of service to meet immediate budgetary constraint
- (c) It is necessary to ensure compliance with the law, ministerial direction or government guidance
- (d) It relates to the policy framework and is in respect of a policy which would normally be agreed annually by Council following consultation, but where the existing policy does not provide for the matter under consideration
- (e) It is within the scope of a specific delegation Council has previously agreed
- (f) It is otherwise within the financial procedure rules

**4.3.36 Call-in of decisions outside the budget and policy framework**

4.3.37 Where the relevant scrutiny committee is of the opinion that a decision has been taken or is likely to be taken by the cabinet, a committee of the cabinet or a cabinet member that is contrary to or not wholly in accordance with the budget and policy framework, that committee shall seek advice from the chief executive, the monitoring officer and the chief finance officer.

4.3.38 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was contrary to or not wholly in accordance with the budget and policy framework, a report will be prepared and presented to Council.

4.3.39 If the chief executive, the monitoring officer and/or the chief finance officer are of the opinion that the decision was not contrary to or was wholly in accordance with the budget and policy framework, a report will be prepared and presented to the relevant scrutiny committee.

- 4.3.40 If the decision has yet to be made or has been made but not implemented, and a report is presented to council stating that the decision is one that is contrary to or not wholly in accordance with the budget and policy framework, no further action will be taken in respect of that decision or its implementation until Council has met and considered the matter. Council shall meet within ten days of the submission of a request for advice by the relevant scrutiny committee to the chief executive, chief finance officer or monitoring officer.



## Section 4 - Cabinet rules

### **4.4.1 The cabinet**

4.4.2 The leader and the cabinet comprise the executive of the council. The leader is also the chairperson of cabinet meetings. In his or her absence, the deputy leader chairs meetings of the cabinet.

### **4.4.3 Cabinet meetings – time and location**

4.4.4 The cabinet will meet in accordance with a programme of meetings and at a place and time to be agreed by the leader.

### **4.4.5 Public and private meetings of the cabinet**

4.4.6 There is a presumption that cabinet meetings will be held in public in accordance with the council's principles of openness in decision making set out in part 2 article 11 of this constitution. The access to information rules in section 2 of this part of the constitution set out the requirements covering public and private meetings.

### **4.4.7 Quorum**

4.4.8 The quorum of the cabinet is three.

### **4.4.9 Who may attend and speak at cabinet?**

4.4.10 When a cabinet meeting is held in public any person is permitted to attend. The press, public, and other members in attendance, can be excluded in accordance with the access to information rules (part 4, section 2).

4.4.11 In addition the following rules apply:

- (a) members of the public and elected members who have submitted a question for cabinet in accordance with the rules on questions on notice set out in the council and committee meeting rules (part 4, section 1) have the right to submit in writing or to attend to ask a supplementary question only.
- (b) where relevant to the agenda, the chairpersons of the scrutiny committees (or in their absence their vice chairpersons) have the right to attend cabinet meetings for the purpose of presenting any recommendations from their committee
- (c) group leaders have the right to attend cabinet meetings for the purpose of reporting the views of their group and they may ask questions of any cabinet member and/or the Leader on any matter under consideration at the meeting
- (d) ward member(s) have the right to attend and speak at a cabinet meeting where an item relating to an individual ward or a specified group of wards is included in the agenda
- (e) other members may be invited to speak at the discretion of the chairperson of the meeting.

- 4.4.12 Reports shall be presented by the relevant lead cabinet member. In addition, such officers as are required to assist in presenting reports or provide support, advice or information required by the cabinet will attend.
- 4.4.13 The chairperson shall invite any person in attendance under these rules to speak on an item in order to enable that person to fulfil the purpose of his/her attendance as outlined at paragraph 4.4.11 above. Questions from members shall be dealt with in accordance with the rules on questions on notice set out in the council and committee meeting rules (part 4, section 1). The chairperson has responsibility for the conduct of the meeting and the order in which those in attendance will be invited to speak.
- 4.4.14 Members of the cabinet will sit at the cabinet table and all other invitees and attendees will be accommodated separately so as to make it clear to the public and others in attendance which person is fulfilling which role.
- 4.4.15 The chairperson of the cabinet meeting will at the commencement of the meeting explain who is attending, in what capacity and for what purpose. The minutes will also reflect this.
- 4.4.16 The leader will agree with the monitoring officer who should be invited to which meeting of the cabinet and governance services will manage the process of invitation and attendance.
- 4.4.17 In general the meetings of the cabinet are to be used as a means of taking final soundings from those attending on an issue for decision and are not the forum for detailed questioning or scrutiny of decisions being taken.
- 4.4.18 Decision taking**
- 4.4.19. All decisions, notwithstanding the subject matter or who takes them, will be made having regard to the principles of decision making (part 2 article 11) and in accordance with the access to information rules as they apply (part 4 section 2).
- 4.4.20 Where the leader, any member of the cabinet, or an officer taking an executive decision has a conflict of interest (whether a disclosable pecuniary interest or another interest) such interest will be disclosed and recorded and the individual making the disclosure will take no further part in the decision-making relating to that item.
- 4.4.21 Where an individual is unable to take a decision because of a conflict of interest the decision will be taken by the leader, or if the leader has a conflict of interest, the cabinet. If the cabinet is inquorate because of a conflict of interest then the monitoring officer will be instructed to seek an appropriate dispensation.
- 4.4.22 The leader, the cabinet and individual cabinet members may meet informally with officers to receive information and briefings but no cabinet decisions will be taken at any such informal meeting.

**4.4.23 Form of business**

4.4.24 The cabinet will conduct the following business at its meetings:

- (a) Elect a person to preside at the meeting if the leader and deputy leader are not present
- (b) Receive any apologies for absence
- (c) Receive any declarations of interest, if any
- (d) Consider and approve the minutes of the last meeting (the only part of the minutes which may be discussed is their accuracy; once approved the chairperson will sign them as a correct record)
- (e) Receive and respond to any questions from members of the public submitted in accordance with the rules on questions on notice set out in the council and committee meeting rules (part 4, section 1)
- (f) Receive and respond to any questions from elected members submitted in accordance with the rules on questions on notice set out in the council and committee meeting rules (part 4, section 1)
- (g) Consideration of matters referred to the cabinet or reports from a scrutiny committee or Council
- (h) Consideration of reports from the statutory officers
- (i) Any other matters set out in the agenda for the meeting

4.4.25 The agenda for the cabinet meeting shall specify all the business to be conducted in accordance with the access to information rules (part 4 section 2) and shall identify any matter which is a key decision.

4.4.26 Reports to the cabinet will normally appear in the name of the cabinet member and incorporate relevant advice from appropriate officers. Exceptions shall include a report from a statutory officer. The author of a report will ensure that draft reports are the subject of consultation with the relevant director, any relevant ward members or other consultees, and in all cases the section 151 officer and the monitoring officer or their authorised nominee.

4.4.27 All reports to the cabinet and the associated record of decisions made (whether on a collective or an individual basis) shall accord with the council's corporate reporting style and associated systems so as to maintain transparency and probity in decision making.

**4.4.28 Questions on notice**

4.4.29 - [No longer used. Refer to rules on questions on notice set out in the council and  
4.4.46 committee meeting rules (part 4, section 1) and public participation guide (part 5, section 8)]

**4.4.47 Leader's report**

4.4.48 The leader will submit a report from the cabinet to each ordinary meeting of council (other than the budget meeting) on which they may be questioned and if

so, answer. This will report the work of the cabinet since the last report and will include:

- (a) A summary of those executive decisions taken by the cabinet, individual cabinet members, and joint executive committees and other activities of the cabinet since the previous Council meeting;
- (b) Any recommendations of the cabinet in respect of the budget and policy framework;
- (c) Any report to Council required by a scrutiny committee; and
- (d) A summary and particulars of any urgent decision made under paragraphs 4.4.53-55 (urgent decisions).

#### **4.4.49 Decisions subject to call in by scrutiny committees**

- 4.4.50 Other than decisions taken under the urgency provisions of the access to information rules (part 4 section 2) and recommendations made to Council on budget and policy framework items, cabinet decisions made but not implemented may be called-in in accordance with the scrutiny rules (part 4 section 5).

#### **4.4.51 Individual cabinet member or officer decisions**

- 4.4.52 Where individual cabinet members or officers make decisions on any matter which is an executive function they must comply with the provisions in the access to information rules (part 4 section 2).

#### **4.4.53 Urgent decisions**

- 4.4.54 There may be an urgent need to take a key decision where 28 days' notice of it is impracticable in the circumstances.
- 4.4.55 In that event the key decision may only be made in accordance with the general exception or special urgency provisions in the access to information rules (part 4 section 2).



## Section 5 - Scrutiny rules

### **4.5.1 Arrangements for scrutiny**

4.5.2 The scrutiny arrangements for the council are as laid out in part 2 article 6 and section 4 of the functions scheme. The council has decided that it will have five scrutiny committees which will have responsibility for all the scrutiny functions on behalf of the council as set out in part 3 section 4.

### **4.5.3 Who may sit on a scrutiny committee?**

4.5.4 All councillors except cabinet members may be members of a scrutiny committee. Cabinet Support members may sit on a committee but not in relation to the same portfolio that they support the executive. No member may be involved in scrutinising a decision in which they have been directly involved, or for a decision in the cabinet portfolio they provide support to as a cabinet support member. All other members can attend a meeting but can only speak at the discretion of the chairperson.

### **4.5.5 Co-option**

4.5.6 A scrutiny committee may co-opt non-voting people as and when required, for example for a particular meeting or to join a scrutiny group. Any such co-optees will be agreed by the committee having reference to the agreed workplan and/or scrutiny group membership.

4.5.7 The committee with responsibility for education shall include the following co-opted statutory education representatives, as appointed by Council:

- one representative as nominated by the diocese of Hereford
- one representative as nominated by the archdiocese of Cardiff
- three parent governors as elected from the school sector

Additionally, the committee may make up to:

- Two further appointments with such skills and experience as are determined beneficial by the committee.

4.5.7a The education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote. The additional representatives currently have no voting rights.

### **4.5.8 Quorum**

4.5.9 The quorum for a scrutiny committee is one quarter of the voting membership of the committee, or three members, whichever is the greater. If the number is a part number it is rounded up.

### **4.5.10 Ways of working – scrutiny groups**

4.5.11 Scrutiny committee's have a number of ways to undertake their work if the topic is not treated as a single on a committee agenda

a) **A specific committee meeting known as “spotlight” review**

b) **task and finish review** – properly focused to ensure members can swiftly reach conclusions and make recommendations back to the scrutiny committee.

c) **standing panel** – when a complex topic requires significant detail, which may take a longer period of time.

- 4.5.12 The relevant scrutiny committee will approve the scope of the activity to be undertaken, the membership, chairperson, timeframe, desired outcomes and what will not be included in the work. It will be a matter for the scrutiny group to determine:
- expert/specialist support required
  - officer input required
  - lines of questioning
  - witnesses (from the council or wider community)
  - evidence requirements
  - which aspects of the task are to be undertaken in private or public.
- 4.5.13 The scrutiny groups will be composed of at least one member of the relevant scrutiny committee, other councillors, and may also include, as appropriate, co-opted people with specialist knowledge and or expertise to support the task appointed by the committee in accordance with paragraph 4.5.6 above. It is unlikely that voting will be necessary in scrutiny groups. However, should there be a need to vote, for example on the formation of recommendations within a committee report, for the avoidance of doubt any councillor appointed to a scrutiny group will have the right to vote. No co-opted members of a scrutiny group will have voting powers (unless they are the statutory education co-optees listed in 4.5.7 above). Matters put to the vote will be determined on a simple majority with the chairperson having a casting vote.
- 4.5.14 To assist in the identification of members for scrutiny groups, the chairpersons of the scrutiny committees will ensure that group leaders are provided with the committee work programme, including potential activity. Group leaders will advise scrutiny chairpersons of those members suitable for such activities.
- 4.5.15 These scrutiny groups, as working groups of the committee, are not subject to the requirements of political proportionality or access to information rules.
- 4.5.16 Officer support will be provided to each scrutiny group, the level of which will be dependent on the matter being considered.
- 4.5.17 As working scrutiny groups of the committee, there is the discretion to meet either in public or in private. Where meeting in private there is no right of attendance by any member who is not a member of the scrutiny group.
- 4.5.18 If a scrutiny group chooses to meet formally in public it may exclude the press and public including other members in attendance from any such meeting in accordance with the access to information rules (Part 4 section 2).

- 4.5.19 Scrutiny groups will report their findings/outcomes/recommendations to the relevant scrutiny committee who will decide if the findings/outcomes/recommendations should be reported to the cabinet or elsewhere.
- 4.5.20 [No longer used]
- 4.5.21 Any changes proposed by the scrutiny group to the scope, timeframe or outcomes stipulated by the committee must be approved by the statutory scrutiny officer following consultation with the chairperson of the relevant scrutiny committee and will be reported to the relevant a scrutiny committee.
- 4.5.22 In the event of a scrutiny group being unable to agree recommendations or findings on a particular matter, a report will be made to the relevant a scrutiny committee for its consideration.
- 4.5.23 Appointment of chairperson and members of the scrutiny committees**
- 4.5.24 The chairpersons and vice chairpersons of the scrutiny committees are appointed at the annual meeting of Council. Council shall determine the number of members of the scrutiny committees annually or as required from time to time in compliance with the statutory rules on proportionality. The members of the committee shall be appointed by the chief executive on nomination by the group leaders.
- 4.5.25 Meetings of scrutiny committees**
- 4.5.26 The scrutiny committees will meet in accordance with the council's schedule of meetings, subject to the chairperson's power to cancel or postpone meetings in case of emergency or where there is no business. Where a scrutiny committee feels it is appropriate to hold additional meetings it may do so. The chairperson of a scrutiny committee may also call additional meetings if they consider it necessary or appropriate. In so doing, the chairperson shall have regard to the advice of the council's monitoring officer and statutory scrutiny officer.
- 4.5.27 Programme of work of scrutiny committees**
- 4.5.28 The scrutiny committees are responsible for setting their own work programmes with input from the regular forward plan and coordination meetings. The scrutiny management board's role will be to coordinate and approve an annual work programme for itself and the other scrutiny committees to help ensure there is an efficient use of committee's time and the potential for duplication of effort is minimised. Where a matter falls within the remit of one or more scrutiny committees, the scrutiny management board will decide which committee will consider it and whether a spotlight, task and finish or standing panel review is appropriate. In setting their work programme a scrutiny committee shall have regard to the resources (including officer time) available.
- 4.5.29 Scrutiny committee agendas**
- 4.5.30 At each of its ordinary meetings a scrutiny committee shall consider the following business, where appropriate:

- (a) minutes of the last meeting
- (b) questions from members of the public
- (c) questions from members of the council
- (d) any matter called-in in accordance with paragraphs 4.5.61-69 below
- (e) a review of its work programme, including requests received for inclusion of items from members of the public, ward members, cabinet or Council
- (f) consideration of any budget and policy framework items
- (g) any response to reports of the scrutiny committee
- (h) any item requested to be placed on the agenda by a member of the committee
- (i) any councillor call for action
- (j) any report from a task and finish scrutiny group;
- (k) any business otherwise set out on the agenda for the meeting including items as identified in the work programme.

4.5.31 Any member may give notice to the statutory scrutiny officer that they wish an item relevant to the functions of a committee and not excluded by law to be included in the agenda and discussed at a meeting of that committee. On receipt of such a request the statutory scrutiny officer shall ensure that it is included in the agenda for and discussed at a meeting of the relevant committee.

4.5.32 A scrutiny committee shall also respond, as soon as its work programme permits, to requests from Council and from the cabinet to review particular areas of council performance or policy. On receipt of any such request from cabinet a scrutiny committee shall firstly consider whether it wishes to conduct the review as requested. Where it does so, and in response to any request from Council, a scrutiny committee shall conduct the review as requested and report its findings and any recommendations back to the cabinet and/or Council.

#### **4.5.33 Councillor call for action**

4.5.34 Any member of the council shall be entitled to give notice to the statutory scrutiny officer if they wish an item relating to a councillor call for action to be included on the agenda for discussion at the next available meeting of the relevant scrutiny committee.

4.5.35 On receipt of such a request and subject to it falling within the statutory definition of a matter that can be the subject of a councillor call for action and it meeting the procedural and other requirements set out in the councillor call for action code (Part 5 section 7) the statutory scrutiny officer shall ensure that it is included on the next available agenda of the committee.

4.5.36 Further guidance in respect of the councillor call for action is contained in Part 5 section 7.

#### **4.5.37 Policy review and development**

- 4.5.38 The role of a scrutiny committee in relation to the development of the council's budget and policy framework is found in the rules (part 4 section 3).
- 4.5.39 In relation to the development of the council's approach to other matters not forming part of its budget and policy framework, a scrutiny committee may make proposals to the cabinet for developments in so far as they relate to matters within its terms of reference.
- 4.5.40 A scrutiny committee may hold or commission inquiries and investigate the available options for future direction in policy development and may appoint advisers to assist it in this process. A committee may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend in order to address it on any matter under consideration and may pay to advisers, assessors and witnesses a reasonable fee and expenses for doing so, having regard to the resources (including officer time) available. In determining how to conduct such activities the chairperson of a committee should consult with the statutory scrutiny officer.
- 4.5.41 Reports from the scrutiny committees**
- 4.5.42 Following any investigation or review, the committee or scrutiny group shall prepare a report. Any report from a scrutiny group will first be considered by the relevant scrutiny committee and if adopted will be dealt with in accordance with the following rules.
- 4.5.43 If any review is in response to a request from Council, in accordance with paragraph 4.5.32 above, the scrutiny committee shall report its findings to Council.
- 4.5.44 In all other cases the report will be submitted to the chief executive for consideration by the executive or other body as appropriate. If the recommendations are such that a decision can be taken by an individual cabinet member acting within his/her portfolio in accordance with the functions scheme (Part 3 Section 3), the chief executive shall arrange for that cabinet member to consider the report.
- 4.5.45 If the recommendations in a scrutiny committee report are contrary to or not wholly in accordance with the budget and policy framework, the cabinet shall consider the scrutiny recommendations and report the matter with its response to the scrutiny recommendations to Council.
- 4.5.46 If the recommendations in the scrutiny report are in line with the budget and policy framework, the cabinet or the cabinet member shall consider the scrutiny recommendations and report their decision to the relevant scrutiny committee.
- 4.5.47 Making sure that scrutiny reports are considered by the executive**
- 4.5.48 On receipt of a report from a scrutiny committee (other than on budget and policy framework items) the chief executive, as the responsible officer, will arrange for

the report to be considered either by cabinet or an individual cabinet member as appropriate.

4.5.49 If any individual cabinet member is minded to reject all of the recommendations in a report from a scrutiny committee, then the matter must be referred to the next meeting of the cabinet to decide its response.

4.5.50 The chief executive will notify the relevant scrutiny committee of the response of the executive within two months of receipt of the scrutiny report, with the exception of matters relating to statutory health scrutiny and issues relating to crime and disorder scrutiny which require a response from the relevant body within 28 days. If the cabinet or cabinet member wishes to extend the deadline a report will be made to the relevant scrutiny committee explaining why this is considered necessary. Decisions of the executive or Council on any scrutiny recommendations will be recorded in the usual way.

4.5.51 Recommendations from scrutiny committee in relation to a budget and policy framework item will be reported to the executive who will have regard to that report, and provide a response to any recommendations within it, in making their recommendation to Council.

#### **4.5.52 Rights and powers of scrutiny committee members**

4.5.53 Where a scrutiny committee or scrutiny group conducts investigations or reviews and people attend to give evidence or otherwise assist the committee the following principles will apply:

- (a) that the investigation be conducted fairly and all members of the committee or scrutiny group be given the opportunity to ask questions of attendees, and to contribute and speak
- (b) that those assisting the committee by giving evidence be treated with respect and courtesy
- (c) that the investigation be conducted so as to maximise the efficiency and value of the investigation or analysis.

#### **4.5.54 Members and officers giving account**

4.5.55 A scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions, or as provided by statute certain other bodies. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the cabinet, the chief executive, committee chairperson, and/or senior officers carrying out functions on the chief executive's behalf to attend before it to explain in relation to matters within its remit regarding:

- (a) any particular decision or series of decisions
- (b) the extent to which the actions taken implement council policy; and/or
- (c) their performance.

4.5.56 It is the duty of those persons to attend if so required.

- 4.5.57 Where any member or officer is required to attend a scrutiny committee under this provision, the chairperson of the committee will inform the statutory scrutiny officer. The statutory scrutiny officer shall inform the member or officer in writing normally giving at least ten working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.
- 4.5.58 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then a scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance and/or a substitute as appropriate.
- 4.5.59 Unless in exceptional circumstances, any witnesses required to attend any meetings called under paragraphs 4.5.55 to 4.5.57 and 4.5.61-69 will be restricted to:-
- (a) any cabinet member involved in the decision the subject of the call in
  - (b) any officer who in the view of the chairperson of the meeting would be able to supply evidence materially able to assist at the meeting.
- 4.5.60 The council has designated the democratic services manager as the statutory scrutiny officer who is required to discharge the following functions:
- (a) to promote the role of the council's scrutiny committees
  - (b) to provide support to the council's scrutiny committee and the members of the committees
  - (c) to provide support and guidance to (i) members of the council, (ii) members of the executive of the council, and (iii) officers of the council – in relation to the functions of the council's scrutiny committees
- 4.5.61 Call in**
- 4.5.62 "Call in" is a statutory right for members of council to call in a decision of cabinet, an individual cabinet member, an officer with delegated authority or under joint arrangements after it is made by the executive but before it is implemented subject to the following provisions (4.5.59, 4.5.63, 4.5.65 and 4.5.69). An "officer with delegated authority" does not include any officer implementing an express delegation that has been delegated via a precise and expressly worded key decision of cabinet or a cabinet member.
- 4.5.63 Call in does not apply to cabinet decisions that make recommendations to Council because those decisions are in fact recommendations and will not be implemented in any event until the matter has been considered and decided by Council.

- 4.5.64 When a call in has been triggered, the call in process will be managed by the monitoring officer in consultation with the chairperson of the relevant scrutiny committee and the members who have triggered the call in. The chairperson of the relevant scrutiny committee will maintain responsibility for the conduct of any meeting at which the decision called in is considered.
- 4.5.65 Call in is not intended to be a mechanism for voicing objection to or dislike of any particular decision. It should only be used in exceptional circumstances and where there is evidence to show that one of the following may apply:
- (a) that there has been inadequate consultation with stakeholders prior to the decision being made;
  - (b) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
  - (c) that the decision materially departs from the budget and policy framework;
  - (d) that the decision is disproportionate to the desired outcome;
  - (e) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and or the public sector equality duty;
  - (f) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the monitoring officer and the chief finance officer, as appropriate, or has failed to have sufficient regard to that advice;
  - (g) that the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision; or
  - (h) that the access to information rules have not been adhered to.
- 4.5.66 Advice should be sought from the monitoring officer on these matters.
- 4.5.67 When a decision is made by the cabinet or an individual cabinet member that decision will be published widely by electronic means. This includes:
- (a) displaying it on the council website
  - (b) sending a copy of the decision electronically to all members of the council identifying which scrutiny committee's remit the decision falls within
- 4.5.68 The decision will be in the form of a notice and bear the date upon which it is published and will specify that the decision will come into force, and may be subsequently implemented, at the expiry of four working days after the date of publication, unless it is called in under these call in rules.
- 4.5.69 To call the decision in a call in notice must be received by 5.00pm on the working day before the implementation date specified on the notice of decision by the monitoring officer (or their nominated officer) in writing or electronically which:
- (a) clearly states the decision(s) which is/are being called in by reference to the decisions as set out on the decision notice
  - (b) clearly states the grounds for the call in as laid out in rule 4.5.65 above as applied to each decision being called-in and the evidence on which the grounds are based
  - (c) is signed by seven elected members of the council (not including co-optees) who are not all members of the same political group. If electronic



notification is being used an email in accordance with the requirements of this paragraph must be submitted by each member supporting the call in.

#### **4.5.70 Limitations of call in**

4.5.71 [No longer used]

4.5.72 Where a decision has been taken in circumstances where the special urgency provisions apply, as set out in the access to information rules (Part 4 section 2), that decision will not be subject to call in.

4.5.73 The call in procedure will also not apply where the decision taken needs to be implemented urgently, where the access to information rules have been complied with but any delay likely to be caused by the call-in process would seriously prejudice the council's or the public interest.

4.5.74 In this case the record of the decision, and notice by which is it made public shall state whether in the opinion of the decision making person or body, the decision is one that requires urgent implementation and the reasons why, and the monitoring officer should confirm that as such it is not subject to call in.

4.5.75 The chairperson of the relevant scrutiny committee must agree both that the decision taken was reasonable in all the circumstances and to it being treated as a matter of urgency.

4.5.76 The consent to the decision being taken as a matter of urgency will be recorded on the published notice of the decision.

4.5.77 Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.

#### **4.5.78 Post call in**

4.5.79 The monitoring officer will determine the validity of the call in as soon as possible. The monitoring officer may, if appropriate, reject a request for call in if, in their opinion, it fails to meet any of the grounds listed in 4.5.65 above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:

- (a) the cited grounds bear no relevance to the decision that is identified for call-in;
- (b) the requisition cites grounds for which no relevant evidence is produced in support;
- (c) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance or emailed consent without detailing the grounds and evidence);
- (d) the call-in includes material which could be defamatory;
- (e) the requisition is being used for improper purposes (e.g. to admonish an officer); or
- (f) the decision is in accordance with the advice or recommendations provided to the decision maker by the scrutiny committee.

4.5.80 If the call in is determined not to be valid, the monitoring officer will inform those members submitting the notice of the call in of the reasons for that determination.

- 4.5.81 If accepted as valid, the monitoring officer will then advise the original decision maker of the call in and advise that the decision cannot be implemented
- 4.5.82 The monitoring officer shall then call a meeting of the relevant scrutiny committee on such a day as they shall determine in consultation with the relevant chairperson and in any event within ten working days of the monitoring officer accepting the validity of the call In notice, subject to paragraph 4.5.89.
- 4.5.83 Having considered the decision in light of the grounds and evidence for the call in, if the relevant scrutiny committee is still concerned about it, then it may refer the decision back to the decision-maker for reconsideration, setting out in writing the nature of its concerns.
- 4.5.84 The decision maker shall reconsider any decision referred to them following call-in, take into account any views expressed by the relevant scrutiny committee and may either amend or confirm the original decision or require further specified work to be undertaken before making a final determination.
- 4.5.85 If it is alleged that the decision appears to be contrary to or not in accordance with the budget and policy framework, the monitoring officer shall advise the cabinet on that or any other relevant legal issues raised by or in relation to the called in decision. The cabinet shall consider that advice and shall reconsider its decision. If the matter is outside the budget and policy framework the monitoring officer shall refer the matter to the next Council meeting for consideration or convene an extraordinary meeting of Council whichever may be sooner and in any event within ten working days of the meeting of cabinet.
- 4.5.86 Having been referred to the next Council meeting the Council has two options:
- (i) amend the policy / budget framework to accommodate the called-in decision, in which case the decision is implemented immediately; or
  - (ii) require the decision maker to reconsider the decision again and refer it to a meeting of the cabinet to be held within five working days of the Council meeting. The cabinet may choose to amend or confirm the decision and there will be no further right of call in.
- 4.5.87 If a scrutiny committee or the Council does not meet within the time permitted by these rules or such extended time as may be agreed in accordance with paragraph 4.5.89, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the meeting or expiry of the period in which the meeting should have been held, whichever is the earlier.
- 4.5.88 Extension of time limit**
- 4.5.89 In exceptional circumstances the time limit of ten working days for convening a meeting of a scrutiny committee to consider the called in decision may be extended as agreed by the original decision maker and/or the leader where practical considerations or any unforeseen factor make such an extension appropriate.
- 4.5.90 Pre decision call in and the forward plan**

- 4.5.91 The scrutiny committees should consider the forward plan as the chief source of information regarding forthcoming key decisions.
- 4.5.92 A scrutiny committee may identify a forthcoming decision on the forward plan to be made shortly before (usually two to three weeks) by Cabinet. Pre-decision scrutiny carried out immediately before a decision is different in approach to post decision call in the policy development. Pre decision call in requires a focused committee meeting which asks key questions around the decision's implementation, risks and measures of success; in advance of it actually being taken.
- 4.5.93 [No longer used]
- 4.5.94 Where the scrutiny committee has called-in a key decision before its due date, the decision cannot be called-in again after the decision has been taken unless there have been material changes to the decision that were not recommended by the scrutiny committee.
- 4.5.95 Party whip**
- 4.5.96 Government guidance views party or group "whipping" as incompatible with scrutiny functions. Whipping arrangements are not to be applied to scrutiny committees and members are free to comment and vote on matters under consideration.
- 4.5.97 – [No longer used]
- 4.5.116 [Please refer to Council and Committee Meeting Rules (Part 4, Section 1) and the Public Guide to Participation (Part 5, Section 8) for paragraphs on public and councillor questions.]



## Section 6 - Contract Procedure Rules

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
<b><u>Goods, Services, Works, Concessions, Light Touch Low value</u></b> Below £25,000	Evidence best value	<ul style="list-style-type: none"> <li>Best value must be demonstrated. <ul style="list-style-type: none"> <li>This might be a comparison of costs for services that you have procured previously and where you understand and can evidence the costs.</li> <li>Or, where you have been able to compare costs with information published such as catalogues or framework pricing.</li> </ul> </li> <li>Otherwise, identify at least three appropriately qualified and competent suppliers to obtain a simple quote.</li> <li>Consider local suppliers and/or local voluntary, charity and social enterprise (VCSE). Officers must consider whether any barriers to them bidding can be removed or reduced.</li> <li>The procurement process can be undertaken outside of the council's e-tendering portal.</li> </ul>	Director's delegated authority under Scheme of Delegation.	<p><b>Operational decisions:</b> Only service directors or above are authorised to award and sign /authorise sealing of a contract.</p> <p><b>Key Decisions:</b> Only service directors or above are authorised to award and sign /authorise sealing of a contract, subject to approval or specific delegation by cabinet/cabinet member.</p> <p>All amounts exclude VAT.</p> <p>The following must be sealed by the council:</p> <p>Contracts above the key decision value (£500,000);</p>
<b><u>Goods, Services, Works, Concessions, Light Touch Medium value</u></b> £25,001 to £75,000	4 quote process	<ul style="list-style-type: none"> <li>Undertake preliminary market engagement where appropriate and proportionate</li> <li>A minimum of 4 competitive quotes sought from appropriately qualified and competent suppliers. <ul style="list-style-type: none"> <li>Include at least two suppliers within the county and/or local VCSE and /or SME sector interest where appropriate.</li> </ul> </li> <li>Where 4 suppliers cannot be identified, the opportunity must be: <ul style="list-style-type: none"> <li>Openly advertised using the councils e-tendering portal <b>or</b></li> <li>Procured via a compliantly let framework agreement (except Concessions Contracts) or</li> <li>Procured through a Dynamic Market except Concessions Contracts).</li> </ul> </li> <li>The procurement process for both scenarios must be undertaken using the council's e-tendering portal, unless another method has been approved by Commercial Services.</li> <li>Where the opportunity is to be openly advertised a Below Threshold Tender Notice must be published on the Central</li> </ul>	Director's delegated authority under Scheme of Delegation and FPR authorised spend levels.	<p>All amounts exclude VAT.</p> <p>The following must be sealed by the council:</p> <p>Contracts above the key decision value (£500,000);</p>

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
		<p>Digital Platform prior to publication of the opportunity. Officers must design the procurement process with reasonable timescales which are the same for each supplier. (See section on notices – Appendix 3)</p> <ul style="list-style-type: none"> <li>Before inviting submissions officers must – <ul style="list-style-type: none"> <li>(a) Have regard to the fact that small and medium sized enterprises may face particular barriers in competing for a contract and</li> <li>(b) Consider whether such barriers can be removed or reduced.</li> </ul> </li> <li>Authorised Officers may not invite suppliers to submit a tender unless they are satisfied that the notice and/or associated tender documents contain sufficient information to allow suppliers to prepare such a tender, and details of the goods services or works required by the Council.</li> <li>Advertising in trade journals and other local publications if appropriate (recommended for professional services).</li> <li>Where the opportunity is above £25,000 you must publish a Contract Details Notice on the Central Digital Platform as soon as practicable after award of the contract. (See section on notices in Appendix 3).</li> </ul>		<p>All building and works-related contracts;</p> <p>Other high risk contracts (as advised by Legal Services) where a longer limitation period of 12 years is required.</p>
<p><b><u>Goods, Services, Works, Concessions, Light Touch High value</u></b></p> <p>£75,001 to:</p> <ul style="list-style-type: none"> <li>£179,087 (goods and services £214,904 incl. VAT)</li> <li>£4,477,174 (works £5,372,609 incl. VAT)</li> </ul> <p>£552,950 (light touch regime for health/</p>	Competitive tendering	<ul style="list-style-type: none"> <li>Undertake preliminary market engagement where appropriate and proportionate.</li> <li>The opportunity must be openly advertised using the council's etendering portal or</li> <li>Make the purchase via a compliantly let framework agreement (except Concessions contracts) or</li> <li>Through a Dynamic Market (except Concessions contracts).</li> <li>A Below Threshold Tender Notice must be published on the Central Digital Platform via the council's etendering portal before advertising by any other means. Officers must design the procurement process with reasonable timescales which are the same for each supplier. (See section on Notices at Appendix 3)</li> <li>Before inviting submissions officers must – <ul style="list-style-type: none"> <li>(a) Have regard to the fact that small and medium sized</li> </ul> </li> </ul>	Procurement that is above the key decision value (£500,000) must be subject to approval by cabinet/cabinet member.	

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
social services £663,540 incl. VAT)		<p>enterprises may face particular barriers in competing for a contract and</p> <p>(b) Consider whether such barriers can be removed or reduced.</p> <ul style="list-style-type: none"> <li>• Authorised Officers may not invite suppliers to submit a tender unless they are satisfied that the notice and/or associated tender documents contain sufficient information to allow suppliers to prepare such a tender and details of the goods services or works required by the Council.</li> <li>• A Contract Details Notice must be published on the Central Digital Platform via the council's etendering portal as soon as is practicable after the award of the contract. (See section on notices at Appendix 3).</li> <li>• The Authorised Officer shall consult Commercial Services early to determine the procedure for conducting the procurement exercise.</li> </ul>		
<b><u>Goods, Services, Works, Concessions, and Light Touch Regime Above UK Threshold</u></b> Over: <ul style="list-style-type: none"> <li>• £179,087 (goods and services £214,904 incl. VAT)</li> <li>• £4,477,174 (works and concessions £5,372,609 incl. VAT)</li> <li>• £552,950 (light touch regime</li> </ul>	Use UK compliant procedures	<ul style="list-style-type: none"> <li>• The process must be undertaken using one of the following procedures:- <ul style="list-style-type: none"> <li>○ A single-stage tendering procedure without a restriction on who can submit tenders (an "open procedure") <b>or</b></li> <li>○ Such other competitive tendering procedure as the contracting authority considers appropriate for the purpose of awarding the public contract (a "competitive flexible procedure") <b>or</b></li> <li>○ Make the purchase via a compliantly let framework agreement. (except Concessions Contract) or</li> <li>○ Make the purchase via a Dynamic Market (except Concessions Contract).</li> </ul> </li> <li>• Undertake preliminary market engagement where appropriate and proportionate.</li> <li>• The procurement process must be undertaken using the council's e-tendering portal, unless another method has been approved by Commercial Services.</li> <li>• The opportunity must also be advertised on the Central Digital Platform and the relevant notices must also be published on</li> </ul>		

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
£663,540 incl. VAT)		<p>the Central Digital Platform. (See section on notices in Appendix 3)</p> <ul style="list-style-type: none"> <li>• Authorised Officers may not invite suppliers to submit a tender unless they are satisfied that the tender notice and/or associated tender documents contains sufficient information to allow suppliers to prepare such a tender, and details of the goods, services or works required by the Council</li> <li>• The opportunity must be advertised for the periods set out in the Procurement Act 2023.</li> <li>• The Authorised Officer shall consult Commercial Services early to determine the procedure for conducting the procurement exercise.</li> </ul>		
<b><u>Light Touch Regime</u></b> £552,950 (£663,540 incl. VAT)	Use UK compliant Light Touch procedures	<ul style="list-style-type: none"> <li>• Light Touch services are those services covered by the CPV codes set out in column (1) of Table 1 in Schedule 1 and described in column (2) of that Table in the Procurement Regulations 2024.</li> <li>• Advice must be sought from Commercial Services before undertaking a light touch regime procurement.</li> </ul>		
<b><u>Direct award</u></b>		<ul style="list-style-type: none"> <li>• Undertake preliminary market engagement where appropriate and proportionate</li> <li>• Public Contracts may be awarded by way of a direct award in limited circumstances set out in Procurement Act 2023. Seek advice from Commercial Services before making a direct award.</li> <li>• Follow the process set out in the Contracting Toolkit.</li> </ul>		
<b><u>Health care services</u></b> (Including mixed procurements where at least 50% of the services fall within these regulations.) All procurements regardless of value that fall within this definition must be	Compliant process under the Health Care Services (Provider Selection Regime) Regulations 2023	<p><b>Procurement Processes:</b> The Health Care Services (Provider Selection Regime) Regulations 2023 provides three processes for procuring applicable healthcare services. (Applicable CPV codes are listed in Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023.</p> <ul style="list-style-type: none"> <li>• <b>Direct Award Process:</b> <ul style="list-style-type: none"> <li>○ <b>Direct Award Process A (one capable provider): must be used</b> where there is an existing provider for the healthcare services and the council assesses and can</li> </ul> </li> </ul>		



Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
procured under this legislation		<p>evidence that there is <b>only</b> one capable provider. Publish a notice of the award.</p> <ul style="list-style-type: none"> <li>○ <b>Direct Award Process B (patient choice): must be used</b> when patients have the freedom to choose their provider and the number of providers is not restricted by the council. Publish a notice of the award.</li> <li>○ <b>Direct Award Process C (incumbent extension): may be used</b> when the council is not required to follow direct award processes A or B, can assess and evidence that the existing provider is satisfying its existing contract, has the ability to satisfy the new contract, and the proposed new contract has no considerable changes. Publish a notice of intention to make an award to the existing provider. After the standstill period, the contract is awarded and a notice of the award is published.</li> </ul> <ul style="list-style-type: none"> <li>● <b>Most Suitable Provider Process:</b> This process involves awarding a contract to a provider without running a competitive process because the council can identify the most suitable provider. It may be used when all of the following apply: <ul style="list-style-type: none"> <li>○ the council is not required to follow direct award processes A or B</li> <li>○ the council cannot or does not wish to follow direct award process C</li> <li>○ the council is of the view, taking into account likely providers and all relevant information available to the relevant authority at the time, that it is likely to be able to identify the most suitable provider (without running a competitive process). The council submits a notice of intention to follow this process and identifies potential providers, assesses them based on key criteria, and selects the most suitable provider. After the standstill period, the contract is awarded and a notice of the award is published.</li> </ul> </li> </ul>		

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
		<ul style="list-style-type: none"> <li>• <b>Competitive Process:</b> involves running a competitive process to award a contract. The competitive process must be used when all of the following apply: <ul style="list-style-type: none"> <li>○ the council is not required to follow direct award processes A or B</li> <li>○ the council cannot or does not wish to follow direct award process C, and cannot or does not wish to follow the most suitable provider process.</li> </ul> <p>The council determines the criteria, invites offers from providers, assesses the offers, and makes a decision on the successful provider. After the standstill period, the contract is awarded and a notice of the award is published.</p> </li> <li>• The council must consider five key criteria when applying direct award process C, the most suitable provider process or the competitive process. These are: <ul style="list-style-type: none"> <li>○ quality and innovation</li> <li>○ value</li> <li>○ integration, collaboration and service sustainability</li> <li>○ improving access, reducing health inequalities and facilitating choice</li> <li>○ social value.</li> </ul> </li> <li>• Framework agreements can only be concluded using the competitive process.</li> <li>• For all three processes, officers must keep records of their assessments, decision making process, and decisions made.</li> </ul> <p>Where the Health Care Service required is outside of the scope for these regulations then the Public Contract Regulations 2015 must be followed where appropriate.</p>		
<b><u>Concessions contracts</u></b>	Procurement Act 2023	A concession contract means a contract for the supply, for pecuniary interest, of works or services to a contracting authority where—		

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
£4,477,174 (£5,372,609 Incl VAT)		<p>(a) at least part of the consideration for that supply is a right for the supplier to exploit the works or services, and (b) under the contract the supplier is exposed to a real operating risk.</p> <p>An operating risk is a risk that the supplier will not be able to recover its costs in connection with the supply and operation of the works or services, where the factors giving rise to that risk— (a) are reasonably foreseeable at the time of award, and (b) arise from matters outside the control of the Council and the supplier.</p> <p>Use the processes above depending on the value of the contract.</p> <ul style="list-style-type: none"> <li>Advice must be sought from Commercial Services before undertaking a concessions contract procurement.</li> </ul>		
<b><u>Creating new Framework Agreements</u></b>	New framework Use one of the above procedures relative to the framework type and value.	<ul style="list-style-type: none"> <li>Undertake preliminary market engagement where appropriate and proportionate.</li> <li>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"> <li>the relevant notices and</li> <li>the mandatory Central Digital Platform.</li> </ul> </li> <li>The Authorised Officer shall consult Commercial Services early to determine the procedure for conducting the procurement exercise.</li> </ul>		New frameworks must be sealed by the council.
<b><u>Creating New Dynamic Markets</u></b>		<ul style="list-style-type: none"> <li>Undertake preliminary market engagement where appropriate and proportionate.</li> <li>The opportunity must be advertised and undertaken utilising the council's e-tendering portal.</li> <li>Before establishing a dynamic market, Authorised Officers must publish a Dynamic Market Intention notice (see section on notices in Appendix 3)</li> <li>Authorised Officers may set conditions for membership of a dynamic market if they are satisfied that the conditions are a proportionate means of ensuring that members—</li> </ul>		

Whole contract period total value excluding VAT *	Competition requirements	Advertising and process	Authority to procure	Authority to award a contract/ appoint contractor (sign/seal)
		<ul style="list-style-type: none"> <li>(a) have the legal and financial capacity to perform contracts awarded by reference to membership of the market or the part of the market;</li> <li>(b) have the technical ability to perform such contracts.</li> <li>• As soon as reasonably practicable after establishing a dynamic market Authorised Officers must publish a dynamic market establishment notice (see section on notices in Appendix 3).</li> <li>• Authorised Officers establishing a dynamic market must: <ul style="list-style-type: none"> <li>(a) accept applications for membership at any time;</li> <li>(b) consider applications within a reasonable period of time;</li> <li>(c) admit suppliers to the dynamic market (as long as they are not excluded suppliers and they meet the conditions for membership) as soon as reasonably practicable;</li> <li>(d) consider whether to admit suppliers that are excludable suppliers and that meet the conditions for membership; and</li> <li>(e) inform suppliers of the outcome of their applications, and the reasons for the decision, as soon as reasonably practicable.</li> </ul> </li> <li>• The number of suppliers on a dynamic market cannot be limited and the conditions for membership of a dynamic market cannot be modified during the life of the dynamic market. The conditions for membership must remain consistent throughout the life of the dynamic market to ensure fairness to all suppliers.</li> <li>• When awarding a contract under an 'appropriate dynamic market', the competitive flexible procedure must be used.</li> <li>• Advice must be sought from Commercial Services before setting up a Dynamic Market.</li> </ul>		

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## INTRODUCTION

### What are Contract Procedure Rules?

- 4.6.1 The Contract Procedure Rules (CPRs), the Procurement and Commissioning Strategy, the Contracting Toolkit and the Contract Management Framework together with the Procurement Act 2023, the Procurement Regulations 2024, the Health Care Services (Provider Selection Regime) Regulations 2023 and the Government's National Procurement Policy Statement (NPPS) provide the framework for procurement and contract management activity across the council, setting out how contracts for goods, works, services, concessions and utilities should be put in place and managed, and detailing the record keeping and reporting requirements related to procurement activity. They apply to all officers and elected members across the council.
- 4.6.2 The CPRs should not be seen in isolation, but rather as part of the overall regulatory framework of the council as set out in the Constitution.
- 4.6.3 The Public Contract Rules 2015 and Concessions Contract Regulations 2016 will continue to apply to contracts procured before 24<sup>th</sup> February 2025, this includes contracts awarded under frameworks let under this legislation.

### Why are CPRs needed?

- 4.6.4 The Local Government Act 1972 requires the council to have standing orders for how it enters into contracts. These 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. In acting on behalf of the council, officers must also have regard to any guidance and procedures issued to support compliance with the CPRs.
- 4.6.5 The council is under a legal duty to promote Best Value and to consider the Public Services (Social Value) Act 2012 and the Public Sector Equality Duty and every officer engaged in the letting of contracts shall have regard to these duties and associated council policies. 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.
- 4.6.6 The CPRs apply to all contracts for the supply of works, goods, services, consultancy, utilities and concessions to the council, regardless of value. Maintained schools, and the council where it acts on a school's behalf, must comply with these CPRs when procuring contracts.
- 4.6.7 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 other persons/suppliers potentially competing for the same contract.
- 4.6.8 The CPRs do not apply to:
- (a) The acquisition, disposal, or transfer of land (including leasehold interests) for which the financial regulations apply except where services or works are required by the council as part of the land transaction. e.g. development agreements. 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
  - (d) Sponsorship agreements regulated by the sponsorship rules.

- (e) Supply of works, goods and services by the council to a third party. However, the Director of Governance and Law must be consulted where the council is contemplating this route.
- (f) 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 and the relevant procurement legislation.
- (g) Purchases made at public auction.
- (h) Contracts relating to the placement of deposits or raising loans under the Financial Procedure Rules.

### **Authority to conduct procurement activity**

4.6.9 The authority for an officer to undertake;

- (a) a procurement;
- (b) award a contract;
- (c) extend or modify a contract;
- (d) terminate a contract during a contract period (early contract termination)

is provided by either of the following;

- (a) scheme of delegation either as an operational or non-key executive decision,
- (b) any decision through a Council, Cabinet or Cabinet member decision.

Ensure you have the correct governance in place before you proceed with the procurement process.

4.6.10 Once authority has been obtained in accordance with clause 4.6.9, the Authorised Officer may commence the procurement activity in accordance with the financial procedure rules spending levels:

- (a) Officers as agreed by the Corporate Director/Service Director may commence a procurement activity for a total aggregate contract value of up to £25,000.
- (b) Managers that report to Head of Service (up to and including HC12 pay grade) may authorise commencement of a procurement activity for total aggregate contract value up to £100,000.
- (c) Heads of service (HC13 pay grade) may authorise commencement of a procurement activity for a total aggregate contract value of up to £250,000.
- (d) Service Directors, Directors or the Chief Executive (HoS1 and HoS2 pay grade) may authorise commencement of a procurement activity for a total aggregate contract value of up to £500,000.
- (e) Commencement of a procurement activity in excess of £500,000 must be authorised by Directors or the Chief Executive (in excess of HoS2 pay grade) and in accordance paragraph 4.6.15 and paragraph 3.3.15 of the constitution.

### **Basic principles**

4.6.11 All procurement procedures must:

- (a) Realise value for money by seeking to achieve the optimum combination of whole life costs and quality of outcome/s,
- (b) Be consistent with the highest standards of integrity,

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- (c) Operate in a transparent manner, ensuring fairness and equal treatment in evaluating tenders and allocation of public contracts,
  - (d) Support all relevant council priorities and policies including the Medium Term Financial Plan,
  - (e) Comply with the Council's Procurement and Commissioning Strategy and the Social Value Statement,
  - (f) Comply with all legislative requirements including the Human Rights Act 1998 and the Equality Act 2010,
  - (g) Comply with the Procurement Objectives which are :
    - i. Delivering value for money,
    - ii. Maximising public benefit
    - iii. Transparency and
    - iv. acting with integrity
  - (h) Be funded through the allocation of an appropriately established budget or external grant funding.

4.6.12 The CPRs shall be applied to the contracting activities of any partnership for which the council is the accountable body unless the council expressly agrees otherwise.

4.6.13 All members and officers<sup>1</sup> of the council must disclose any conflict of interest that they may have relating to a procurement or 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 may be excluded from taking any further part in the procurement process and must ensure that they comply with Part 5 (the codes and guidance) of the constitution. If there is any risk of a perception of a conflict of interest, then the relevant Director will decide how serious that risk is and decide whether that person should continue to take part in the procurement.

4.6.14 Where contracting a consultant which does not fall inside the IR35 regulations (i.e. be considered an employee for tax and NI purposes); or the consultant is not filling an established post, CPRs must be complied with. Any ambiguity on whether a contract is an employment contract or a consultancy contract covered by these rules should be referred to HR Services.

### **Operational or non-key executive decisions**

4.6.15 Where an award of a contract is above £50,000, a Record of Operational Decision (RoOD) and/or Key Decision dependent on value will be required and will need to be published, including the financial amount in the decision / recommendation. Additionally, a decision will be required for procurements of contracts jointly with one or more other contracting authorities.

### **Key executive decisions**

4.6.16 Where the authority is to commence a procurement activity, contract variation, contract extension or award a contract which is a key decision, the scope of the authority must be set out in the key decision and procurement options considered must be documented as an element of the report.

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<sup>1</sup> Including those contracted to deliver services on the council's behalf.



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## Planning a procurement

- 4.6.17 Good planning is vital to the success of any procurement. Sufficient planning time must be built into any procurement activity to allow for adequate preliminary market engagement, development of good quality specifications and tender documentation. Allow a reasonable time for the market to respond to the tender paying due regard to the procurement timescales set out in the relevant legislation and/or the Contracting Toolkit or seek advice from Commercial Services. Ensure sufficient time is also allocated to the tender timeline for clarifications, evaluation, due diligence stages and contract award stages of the procurement process. Use the pre-procurement checklist to guide what is needed throughout the process.
- 4.6.18 Check to see if there is an existing council contract that you can use to fulfil your requirement. Explore opportunities to work collaboratively across directorates, consider what is the best approach to deliver the best outcome and value to the council as a whole.
- 4.6.19 Risk assessment – Authorised Officer must carry out a risk assessment on the procurement and ensure any risks identified are managed and/or mitigated through the procurement process and/or in the contract.
- 4.6.20 Preliminary market engagement is permitted for the purpose of :
- Developing the Council's requirements and approach to the procurement
  - Designing a procedure, conditions of participation or award criteria
  - Preparing the tender notice and associated tender documents
  - Identifying suppliers that may be able to supply the requirement (understanding the market).
  - Identifying likely contractual terms
  - Building capacity amongst suppliers in relation to the contract

If the procurement is valued over the relevant threshold, a preliminary market engagement notice must be published on the government's Central Digital Platform/Find a Tender.

- 4.6.21 When engaging with potential suppliers, the council must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from a single supplier, who may have a commercial interest in the procurement opportunity, as this may prejudice the transparency principles or distort competition and prohibit them from submitting a bid or result in them be excluded from the bidding process. The council may carry out market testing to inform the specification from a number of potential suppliers.
- 4.6.22 Consideration should be given to how service users can actively participate in the designing, delivery and quality-monitoring of their service. What is the best form of community or service-user engagement or consultation?
- 4.6.23 Where the procurement involves a potential change to services provided by the council ensure compliance with the council's duty to consult under Section 3 Local Government Act 1999, the Equality Act 2010
- 4.6.24 Prior to carrying out the procurement process an assessment of the total value of the contract must be carried out to determine the competition requirements. Officers must estimate the value of a contract as the maximum amount it could expect to pay under the contract including where applicable, amounts already paid and any contract extensions.



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- 4.6.25 For goods, services or works contracts, the amount the council could expect to pay includes the following:
- a) the value of any goods, services or works provided by the council under the contract other than for payment;
  - b) amounts that would be payable if an option in the contract to supply additional goods, services or works were exercised;
  - c) amounts that would be payable if an option in the contract to extend or renew the term of the contract were exercised;
  - d) amounts representing premiums, fees, commissions or interest that could be payable under the contract;
  - e) amounts representing prizes or payments that could be payable to participants in the procurement.
- 4.6.26 When estimating the value of a concession contract this needs to take into account the maximum amount the supplier could expect to receive as a result of the contract, reflecting the requirement that some revenues must be estimated to come from sources other than payments by the contracting authority.
- 4.6.27 Where officers are unable to estimate the value of a contract (for example because the duration of the contract is unknown), the value is to be treated as having an estimated amount of more than the threshold amount for the type of contract and an above threshold procedure must be followed.
- 4.6.28 Where the procurement is split into lots, the total cost of all the lots must be included in the valuation.
- 4.6.29 Officers must not deliberately disaggregate the value of a Contract and/or split the value up to reduce the number of quotes to be obtained or carry out multiple procurements to avoid the CPRs and/or relevant legislation.
- 4.6.30 If there are any known risk which can't be quantified at the start of the contract, these must be included in the scope. This may allow the contract to be modified at a later stage should the risk materialise.
- 4.6.31 Where officers are seeking quotes for the same or similar goods and/or services on a regular basis, they must offer the opportunity to new suppliers periodically. Where the goods and/or services are used on a regular basis, the establishment of a framework or call off contract should be considered to prevent disaggregation of spend to avoid the CPRs and/or relevant legislation.
- 4.6.32 Wherever it is mutually advantageous to do so, the council may seek to conduct procurements in collaboration with partner organisations. Where shared costs, joint procurements or joint contracting is taking place between collaborating authorities it is advised that an agreement detailing such arrangements should be drawn up between the partners. The partners should appoint a lead partner and agree to comply with the lead partner's contract rules as long as they are no less stringent than the council's and the lead partner comply with the relevant legislation).
- 4.6.33 All procurements require a tender pack, which as a minimum should include:
- The specification (describing the service you require)
  - A draft copy of the contract terms and conditions (describing what the contract will look like with any successful bidder)
  - An invitation to quote (ITQ), invitation to tender (ITT) or other document which sets out the tender process, with instructions for bidding and the evaluation criteria.
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- Other documents that are relevant to the tender e.g. plans or drawings, TUPE information, draft property rental/lease agreement, a particular policy or procedure document(s), additional service data or information etc.

### **Specifications and options appraisal**

- 4.6.34 At the start of any procurement activity, the Authorised Officer and, where the Authorised Officer is a Project Manager at least one officer from the service area responsible for providing the service, must develop the service specification and/or existing service design together with the requisite business case or service plans that identifies as a minimum:
- (a) Why the service is being commissioned; what is the need?
  - (b) The budget available and the length of the proposed contract.
  - (c) Assessment of the risks associated with the procurement and how they can be successfully managed.
  - (d) Identify any known risks the contract that could arise during the term of the contract and ensure these are addressed in the contract.
  - (e) Which, if any, social value outcomes will be achieved from the commissioning exercise, and how they can contribute towards meeting the council's overall priorities.
  - (f) A clear description of the goods, services or works required. This can be expressed as outputs or outcomes
  - (g) Financial implications.
  - (h) Where applicable the Priority Supplier Programme information.
  - (i) Ensure that the application of the Transfer of Undertaking Protection of Employment Regulations 2006 (TUPE) is considered and obtain advice from Commercial Services or Legal Services before proceeding with inviting tenders or quotes. Provide the relevant information to potential suppliers.
  - (j) Comply with the technical specification requirements in the relevant legislation.
  - (k) Ensure contract management is considered early and that the mechanisms for monitoring the contract are embedded in the specification and the contract.
  - (l) Exit requirements at the end of the contract, such as Personal Data, TUPE, demobilisation, hand over to new supplier.
- 4.6.35 The provision of 4.6.25(e) may apply to services contracts, or services together with the purchase or hire of goods or the carrying out of works, where it is proportionate and relevant to do so to enable or facilitate compliance with the duty imposed by section 1 of the Public Services (Social Value) Act 2012.
- 4.6.36 Documents relevant to the procurement including any decisions taken during the procurement process must be clearly documented and show options considered and recommendations to be taken forward. These documents must be retained for a period of 3 years from the date the contract is entered into or if not entered into, the date it was awarded, or the procurement process was ended. The documents must be stored in an appropriate storage area on the council's network that is accessible to other members of staff within the service area.
- ### **Reserving procurements to supported employment providers**
- 4.6.37 On a case by case basis, a competitive flexible procedure may provide for suppliers that are not supported employment providers, as defined in clause 32(4) Procurement Act 2023, to be excluded from participating in, or progressing as part of, the procedure.
- 4.6.38 On a case by case basis, a competitive flexible procedure may provide for suppliers that are not public service mutuals, as defined in clause 33(6) Procurement Act 2023 to be excluded from participating in, or progressing as part of, the procedure.

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- 4.6.39 When opting to reserve a procurement Authorised Officers are required to record the rationale / approval of their decision and keep with other procurement documents. This needs to be clearly stated in the relevant notices and tender documents.

### **Frameworks and Dynamic Markets**

- 4.6.40 All frameworks agreements and dynamic markets used must be legally compliant and legally accessible to the council. The Authorised Officer is responsible for ensuring that the proposed route is permissible under the framework or dynamic market and ensure that due diligence is carried out to ensure it meets the needs of the council. The award of a contract via a single supplier framework or a direct award under a framework must be able to demonstrate value for money.
- 4.6.41 Where officer wish to create Open Frameworks or Dynamic Markets, advice from Commercial Services must be sought at an early stage.

### **Notifications**

- 4.6.42 Authorised Officers and Contract Managers must ensure that Notifications are published where required under the relevant legislation during all stages of the procurement and during the life of the contract. See the section on notices in Appendix 3 and the Contracting toolkit for further information.

### **Procurement Routes**

- 4.6.43 All contracts must be procured in accordance with these CPR's.
- 4.6.44 All contracts procured under the Public Contract Regulations 2015 will continue to be governed by those regulations until the end of the contract.
- 4.6.45 All contracts that are covered by the Provider Selection Regime (PSR), must be procured under the Provider Selection Regime (PSR) following the appropriate route to market as set out in PSR Legislation, and follow PSR legislation for Contract Modifications, and Notifications.
- 4.6.46 There is no minimum threshold value for the application of the PSR and therefore it applies to ALL Contracts in scope of the regime regardless of value.
- 4.6.47 The PSR is retrospective; therefore, any Contracts that are covered under the PSR must be extended or varied in line with PSR Legislation, including all Notifications.
- 4.6.48 Goods, Services, Works and Concessions contracts must be procured in accordance with the Procurement Act 2023 from the date it comes into effect.

### **Light Touch Services**

- 4.6.49 Light Touch process for above threshold procurements can only be used where the procurement is covered by the relevant [CPV](#) codes set out in Schedule 1 (Light Touch Services) of the Procurement Act 2023. All Light Touch procurements must follow the Procurement Act 2023 regarding notices and timescales for Light Touch Services.

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## EVALUATION CRITERIA AND STANDARDS

### Evaluation criteria

- 4.6.50 Authorised Officers will use criteria linked to the subject matter of the contract to determine that a tender submission is the most advantageous tender.
- 4.6.51 When setting award criteria, the Authorised Officer must be satisfied that they—
- (a) relate to the subject-matter of the contract,
  - (b) are sufficiently clear, measurable and specific,
  - (c) do not break the rules on technical specifications as set out in the legislation, and
  - (d) are a proportionate means of assessing tenders, having regard to the nature, complexity and cost of the contract.
- 4.6.52 In setting award criteria, the Authorised Officer must-
- (a) describe how tenders are to be assessed by reference to them and, in particular, specify whether failure to meet one or more criteria would disqualify a tender (the “assessment methodology”), and
  - (b) if there is more than one criterion, indicate their relative importance by—
    - i. Weighting each as representing a percentage of total importance
    - ii. Ranking them in order of importance, or
    - iii. Describing it in another way.
- 4.6.53 In setting award criteria for the assessment of tenders by reference to lots, the Authorised Officer –
- (a) may limit the number of lots that may be awarded to any one supplier , and
  - (b) In doing so, must provide and objective mechanism for supplier selection in circumstances where a supplier would otherwise exceed the limit.
- 4.6.54 The “most advantageous tender” is the tender that the council considers-
- (a) Satisfies the council’s requirements, and
  - (b) Best satisfies the award criteria when assessed by reference to-
    - i. The assessment methodology set out in the quote/tender, and
    - ii. If there is more than one criterion, the relative importance of the criteria set out in the quote/tender.
- 4.6.55 Issues that are important to the council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include for example considering sustainability and environmental characteristics or support for the local economy. The bidder approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be set out clearly in the tender documents and be in line with the council’s corporate objectives and must be objectively quantifiable and non-discriminatory.

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- 4.6.56 Where Authorised Officers intend to carry out site visits, demonstrations, presentations or interviews as part of the evaluation process, this must be made clear in the ITT and include whether this will be scored separately to the tender submission or used to moderate scores. If scored separately, bidders must be informed of the evaluation criteria and weighting/s in the procurement documents.
- 4.6.57 The procurement documents shall clearly explain the evaluation criteria, making clear how the evaluation criteria specified in the process will be applied. Where the scoring criteria is weighted, the ITT will clearly set out the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.
- 4.6.58 As part of the evaluation process the council must undertake due diligence checks which seek to determine the commercial stability of the successful bidder/s to inform the decision to award a contract. In determining the types of due diligence checks to undertake, consideration must be given to market risk, complexity and value of the tender. Depending on the value of the contract and the risk to the council, the checks will include at least one or more of the following::
- Search on the government's Companies House database
  - A recent credit report on the organisation
  - An assessment of the supplier's completed financial workbook
  - A recent assessment of fraud
- 4.6.59 Authorised Officers must check that none of the bidders are on the Debarred List, excluded from bidding or are excludable. Where bidders are on the Debarred List or excluded from bidding in accordance with the legislation, their bids must be excluded from the procurement process, where the bids are excludable, advice must be sought from Commercial Services and/or Legal Services before the bids are excluded. The reason for excluding bids must be recorded.
- 4.6.60 Tenders, quotations or selection questionnaires which are received after the stated deadline shall be automatically rejected. In exceptional circumstances, Authorised Officers, in consultation with and following the approval of the Deputy S151 Officer, 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 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. Where only one submission is received and where this submission has arrived late, but is compliant in every other respect, the Deputy S151 Officer may consider the tender for acceptance.
- 4.6.61 An evaluation panel of at least 2 people should be established for the assessment of any qualitative questions in the invitation to quote/tender. The panel should be made up of people with the requisite knowledge and skills relevant to the goods, services or works being procured. Above UK threshold contracts (as determined in the CPRs) shall be evaluated and agreed involving the Commercial Services team and any other officers relevant to the decision making process.
- 4.6.62 Sufficient time should be allocated for the completion of compliance checks, evaluation, moderation, due diligence and governance.
- 4.6.63 Bidders can only alter their tenders or quotes after the date specified for their receipt (but before the formal acceptance of the tender or quote), where examination by the Authorised Officers reveals arithmetical errors or discrepancies that affect the tender or quote figure. The bidder shall be given details in writing of such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing their offer in writing.
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- 4.6.64 All other post-tender clarifications shall only be undertaken following consultation with Commercial Services and Legal Services. Any clarifications cannot disclose commercially sensitive information supplied by other bidders.
- 4.6.65 The council shall require bidders to explain the price of costs proposed in the tender where the tender appears to be abnormally low in relation to the works, goods or services.

**Tender/Quotation acceptance**

- 4.6.66 The council shall only accept a tender and award a contract to the bidder submitting the most advantageous tender/quote within budget.
- 4.6.67 For procurements above £25,000 the Authorised Officer must produce a procurement evaluation report showing:
- (a) the subject matter and value of the contract
  - (b) the procurement route followed
  - (c) the names of the selected and rejected bidders and reasons for their rejection/selection
  - (d) the value of the bids received
  - (e) any conflicts of interest detected and subsequent measures taken
  - (f) the reasons for deciding not to award a contract/framework agreement/establish a Dynamic Purchasing System (if applicable)
  - (g) the result of the assessment of each tender
  - (h) comparison of assessment results
  - (i) details of due diligence checks carried out
  - (j) the recommendation on which bidder should be awarded the contract detailing the value and term of the contract to be awarded including potential extensions, if applicable.
- 4.6.68 Where bids are considered to be abnormally low, before disregarding a tender on this basis the Authorised Officer or Procurement Officer must first notify the bidder and provide it with a reasonable opportunity to demonstrate that it will be able to perform the contract at the price offered. If the bidder demonstrates to the Authorised Officer or Procurement Officer's satisfaction that it will be able to perform the contract for the price offered, the tender may not be disregarded as abnormally low.
- 4.6.69 Written notification to successful and unsuccessful bidders of the outcome of a procurement process should be provided as soon as practicable and in accordance with the relevant legislation via the e-tendering system. .
- 4.6.70 Where necessary publish a Contract Award Notice on the Central Digital Platform via the e-tendering portal to communicate the outcome of the tender. For procurements above the UK threshold or where the relevant legislation provides for a standstill period, the contract cannot be formally awarded until the bidders have been informed and the mandatory standstill period has elapsed without any challenges arising from the bidders.
- 4.6.71 The successful bidder must not be allowed to commence provisions of the goods, services or works until a formal written contract has been completed. The Authorised Officer must ensure that a completed copy of the contract is added to the council's contract register.
- 4.6.72 When the contract has been completed, Authorised Officers must publish a Contract Details Notice and for Contracts above £5 million a copy of the redacted contract on the Central Digital Platform via the e-tendering portal.



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**Awarding a contract (signature and sealing)**

4.6.73 Where the scheme of delegation provides the authority:

- (a) Service Directors and Directors within the relevant directorate (as defined by the requisite pay grade) and the Chief Executive have the authority to award and sign a contract, or authorise Legal Services to sign, or where sealing is required in 4.6.74, authorise the sealing of a contract, authorise a contract variation/ extension or authorise an early contract termination of a contract up to the value of £500,000.
- (b) Directors within the relevant directorate (as defined by the requisite pay grade) and the Chief Executive have the authority to award and authorise the sealing of a contract, authorise a contract variation/ extension or authorise an early contract termination of a contract in excess of £500,000 in value, providing authority to award the contract has been obtained by way of a key decision.

4.6.74 Contracts can be signed in accordance with 4.6.73, however contracts must be executed as deeds by affixing the common seal of the council in the following circumstances:

- (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 (i.e. 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.

4.6.75 Before a contract can be sealed by the council, the Authorised 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.

4.6.76 Authorised Officers shall ensure that each contract is on one of the council's standard contract templates or that the terms and conditions of the contract are/is approved by Legal Services prior to going out to tender/quote.

**Bonds and parent company guarantees**

4.6.77 A Bond or Parent Company Guarantee will be required on all works contracts above £1,000,000 unless considered inappropriate by the S151 Officer following consultation with the Monitoring Officer.

4.6.78 Bonds or Parent Company Guarantees may be required for any other contract if considered appropriate by the S151 Officer following consultation with the Monitoring Officer.

4.6.79 Bonds shall be a minimum of 10% of the contract value.

**Urgent decisions**

4.6.80 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 due to an emergency not of the council's making or attributable to the actions of the council, to maintain the functioning of a public service, if in the opinion of the relevant Director it is considered to be in the council's interests or necessary to meet the council's obligations under relevant legislation.

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- 4.6.81 The council must be able to evidence that it is a genuine emergency, that the events causing extreme urgency were unforeseeable and not of the council's making or attributable to the actions of the council, that is impossible to comply with the usual timescales for a procurement including through a framework or accelerated procurement, and that the situation is not attributable to the council.
- 4.6.82 Wherever possible though, at least 3 credible quotations must be sought and any decision made or contract awarded shall be made by the relevant Director and reported to the relevant Cabinet Member.
- 4.6.83 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 practicable opportunity.
- 4.6.84 A Record of Operational Decision to award a contract must be published for contract values above £50,000 and the financial value included within the decision.

### **Contract management**

- 4.6.85 Contract Management is part of Procurement Act 2023. It places obligations on the Council to ensure that contracts procured under that legislation are managed effectively.
- 4.6.86 All Contracts must have a named Contract Manager on Business World. Directors and Service Directors are responsible for ensuring that Contract Managers carry out effective Contract Management in line with the Council's [Contract Management Framework](#) to ensure value for money throughout the lifetime of the Contract. Directors and Service Directors must ensure there are sufficient resources, skills, and capacity to effectively manage the contract to ensure that the council receives the Goods, Services or Works as procured.
- 4.6.87 All contracts over £5,000 are to be entered on the council's contracts register. This information should be updated if there is a change or variation made to the contract. Contract Managers and Commissioners are responsible for updating and adding additional contracts to the register as they are let or varied and using the register to inform subsequent tender planning.
- 4.6.88 The Contract Manager shall proactively manage the contract throughout its life cycle in accordance with the council's Contract Management Framework and in particular shall:
- (a) Classify the contract as Tier-3 "routine", Tier-2 "focused /leveraged", "and Tier-1 "strategic" by value and risk;
  - (b) Undertake a series of activities for each stage of the contract's life cycle – set up, delivery and exit; and
  - (c) Undertake a formal contract review in accordance with the framework.
- 4.6.89 The Contract Manager shall manage the contract throughout its life cycle having regard to the council's Contract Management Toolkit and good contract management practices. The contract manager shall maintain all records relating to the contract in an appropriate storage area on the council's network that is accessible to other members of staff within the service area.
- 4.6.90 The Contract Manager shall manage a supplier's performance throughout the contract life to ensure that milestones, KPIs, deliverables and outcomes and social value commitments are achieved. Risks and where appropriate, business continuity shall be managed as detailed within the contract documentation. Management data needs to be published in accordance with the Local Government Transparency Code.
- 4.6.91 Contract spend must be managed and monitored, and any additional budget or overspend must be managed in accordance with the Financial Rules.



- 4.6.92 The Contract Manager must notify [Treasury@herefordshire.gov.uk](mailto:Treasury@herefordshire.gov.uk) of any council asset leased, given or used by the contractor at the start or during the term of the contract.
- 4.6.93 The Contract Manager shall ensure that a new procurement is commenced in plenty of time to replace the current contract if the goods, services or works are still required at the end of the current contract.

### **Modifications to contracts**

#### **Under the Public Contracts Regulations 2015 (applies to contracts procured before 24<sup>th</sup> February 2025)**

- 4.6.94 Where a contract extension or variation is provided for in the original contract agreement, is within budget and the aggregate value of the contract is under £500,000 there is no need for a new decision. Where the variation will take the value of the contract over £500,000, a key decision will be required.
- 4.6.95 Where the value of the contract is below the UK threshold and there is no provision in the contract for a variation or extension, a decision will be required. Extension and variation will only be granted in limited circumstances having regard to the Public Contracts Regulations 2015.
- 4.6.95.1 Where the variation or extension to the contract results in an increase in value of less than 10% of the original contract price for services and supply contracts and less than 15% of the original contract price for works contracts, the decision can be made by the relevant Director or Service Director. Where several successive modifications are made, the value shall be the net cumulative value of the successive modifications.
- 4.6.95.2 Where the variation or extension to the contract results in the increase in value of more than 10% of the original contract price for services and supply contracts and more than 15% of the original contract price for works contracts, and the value of the contract remains below the relevant UK Threshold, the decision can be made by the relevant Director or Service Director in consultation with Commercial Services and Legal Services. Where several successive modifications are made, the value shall be the net cumulative value of the successive modifications.
- 4.6.96 Where the value of the contract exceeds the UK threshold, extension and variation will only be considered where they comply with Regulation 72 of the Public Contracts Regulations 2015. The decision can be made by the relevant Director or Service Director in consultation with Commercial Services and Legal Services.
- 4.6.97 Any variation or extension must not alter the overall nature of the contract or the framework agreement and shall not be aimed at circumventing these rules and the legislation.
- 4.6.98 Where notices of variations are required under the legislation, these notices must be published on the Central Digital Platform in accordance with the legislation.

#### **Under the Health Care Services (Provider Selection Regime) Regulations 2023**

- 4.6.99 Modification to contracts that fall within the listed services under these regulations will only be considered where they comply with Regulation 13 of the Health Care Services (Provider Selection Regime) Regulations 2023. The decision can be made by the relevant Director or Service Director in consultation with Commercial Services and Legal Services.

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**Under the Concessions Contract Regulations 2016 (applies to contract procured before 24<sup>th</sup> February 2024)**

- 4.6.100 Modification to contracts under these regulations will only be considered where they comply with Regulation 43 of the Concessions Contract Regulations 2016.

**Under the Procurement Act 2023 (applies to contract procured after 24<sup>th</sup> February 2024) (also applies to Concessions Contracts)**

- 4.6.101 Where a contract extension or variation is provided for in the original contract agreement, is within budget and the aggregate value of the contract is under £500,000 there is no need for a new decision. Where the value of the variation is over £500,000 or the modification will take the value of the contract over £500,000 a key decision will be required.
- 4.6.102 Where the value of the contract is below the UK threshold and there is no provision in the contract for a variation or extension a decision will be required. Extension and variation will only be granted in limited circumstances having regard to the Procurement Act 2023 and the Procurement Regulations 2024:
- 4.6.102.1 Where the variation or extension to the contract results in an increase in value of less than 10% of the original contract price for service and supply contract and less than 15% of the original contract price for works contracts, the decision can be made by the relevant Director or Service Director. Where the modification will take the value of the contract above the relevant threshold, the contract becomes a 'Convertible Contract' and can only be modified in accordance with clause 74 and Schedule 8 of the Procurement Act 2023.
- 4.6.102.2 Where the variation or extension to the contract results in the increase in value of more than 10% of the original contract price for service and supply contracts and more than 15% of the original contract price for works contracts and the value of the Contract remains below the relevant Threshold, the decision can be made by the relevant Director or Service Director in consultation with Commercial Services and Legal Services. Where the modification will take the value of the contract above the relevant threshold, the contract becomes a 'Convertible Contract' and can only be modified in accordance with clause 74 and Schedule 8 of the Procurement Act 2023.
- 4.6.102.3 Any variation or extension must not be substantial or alter the overall nature of the contract or the framework agreement and shall not be aimed at circumventing these rules and relevant the legislation.
- 4.6.103 Variations to light touch contract are permissible under the Procurement Act 2023 and do not have to comply with the clause 74 or Schedule 8 of the Procurement Act 2023. Any variation must be approved by the Director or Service Director depending on the value of the variation in consultation with Commercial Service and Legal Services.
- 4.6.104 Where notices of the variations are required under the legalisation, these notices must be published on the Central Digital Platform in accordance with the legislation.

**Exemptions (Waivers)**

- 4.6.105 An exemption to the CPRs is only to be used **in exceptional circumstances**. Authorised Officers and/or Contract Managers are responsible for ensuring that exemptions to the rules are approved in advance of any action undertaken in all instances. If an application to let a contract without genuine competition is granted, the Authorised Officer or Contract Manager must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value.

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- 4.6.106 Exemptions will only be considered in circumstances not of the council's making or attributable to the actions of the council.
- 4.6.107 Exemptions from these CPRs shall only be given in the following exceptional circumstances:-
- 4.6.107.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with an existing provision so as to render only one or two sources of supply appropriate, including:
- An upgrade; or
  - Where the contract concerns wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative suppliers; or
- 4.6.107.2 The supplies to be purchased are proprietary articles or are sold only at fixed prices; or
- 4.6.107.3 The price of services or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or
- 4.6.107.4 Where in the opinion of the Director or Service Director in consultation with the S151 Officer and the Monitoring Officer considers that the services to be provided or the work to be executed or the supplies or materials to be purchased are urgent; or
- 4.6.107.5 Specialist consultants, solicitors, barristers, agents, artists or professional advisers are required and:
- there is no satisfactory alternative; or
  - evidence indicates that there is likely to be no genuine competition; or
  - it is, in the opinion of the Director or Service Director, in the council's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser; or
- 4.6.107.6 Where the council is purchasing a property, or is taking a service back in-house, which has associated contracts and in the opinion of the Director or Service Director in consultation with the Monitoring Officer and S151 Officer it is in the council's best interests to acquire those contracts; or
- 4.6.107.7 The works to be executed or the supplies or materials to be purchased can only be carried out or supplied by a statutory body.
- 4.6.108 Where it is possible to exempt these Contract Procedure Rules, any such exemption must be approved in writing by the relevant Director or Service Director or the Chief Executive, in consultation with the S151 Officer and the Monitoring Officer.
- 4.6.109 An "Exemption to Contract Procedure Rules" form must be completed by the Authorised Officer or Contract Manager seeking the exemption and must provide evidenced reasons as to the legitimate need for the exemption. The form is available from Commercial Services. The Authorised Officer or Contract Manager must ensure completed exemption forms are signed by the relevant Director or Service Director or the Chief Executive and returned to the Commercial Services team who will record them on the exemptions register.
- 4.6.110 No exemption from the CPRs is permissible for contracts above the UK Threshold under the Public Contract Regulations 2015, the Procurement Act 2023, the Procurement Regulations 2024 or for contracts that are regulated by the Health Care Services (Provider Selection Regime) Regulations 2023 or the Concessions Contract Regulations 2016.

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**Training**

- 4.6.111 Any officer leading a procurement activity shall be appropriately trained or have experience commensurate with the nature of the procurement activity being undertaken.
- 4.6.112 Any officer designated contract management responsibilities shall be appropriately trained or have experience commensurate with the nature of the contract management activity being undertaken.
- 4.6.113 Completion of the council's introductory finance and procurement module shall be mandatory on an annual basis for all officers with designated contract management or procurement responsibilities.

**Trading and disposal of property**

- 4.6.114 Any proposals to sell or trade in services, suppliers or assets must be referred to the Head of Legal Services.
- 4.6.115 Any proposals to dispose of council property other than land must be referred to the S151 Officer and comply with the Financial Procedure Rules and Financial Guidance. Proposals to dispose of land must be referred to the Strategic Assets Delivery Director.

**Subsidy control**

- 4.6.116 Where it is proposed to provide financial support to a contractor, or where a contractor's proposal entails financial support or a benefit from the council or another public body necessary to ensure the continuance of contracting activity, this could amount to a subsidy under the Subsidy Control Act 2022. Assistance which could be considered a subsidy may be through payments to the contractor, subsidised payments, and the provision of free or low cost equipment, free or low cost support or low cost loans.
- 4.6.117 If there is an element of subsidy to the procurement or contract, a determination of the type and amount of subsidy must be carried out. The Subsidy Control Act 2022 allows for some assistance where it is deemed to be Minimal Financial Assistance (MFA) or for Services of Public Economic Interest (SPEI).

MFA has a financial threshold so no recipient can receive more than the specified amount over the applicable period set out in the Subsidy Control Act 2022.

SPEI are essential services provided to the public. To designate a service as an SPEI, the council must be satisfied that:

- the service is provided for the benefit of the public; and
- the service would not be provided, or would not be provided on the terms required, by an enterprise under normal market conditions.

- 4.6.118 Where there is an element of subsidy to the proposed procurement, the advice of Legal Services must be sought prior to advertising the opportunity or concluding the contract.

## Appendix 1 - GLOSSARY OF TERMS

Term	Definition
" <b>Authorised Officer</b> "	means the officer with delegated authority from the relevant director for the preparation of the tender pack and publication of the procurement opportunity, receipt of quotations and tenders and for facilitating the execution of contracts.
" <b>Best Value</b> "	means the council's duty under Section 3 of the Local Government Act 1999 to promote economies, efficiencies, and effectiveness.
" <b>Commissioner</b> "	means the person responsible for planning and scoping the requirements, which form the object of the contract.
" <b>Concession Contract</b> "	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).
" <b>Contract Manager</b> "	means the person responsible for the management of the contract, its scope, and maintaining day-to-day relationships with the supplier.
" <b>Contract</b> "	means a contract (whether in writing or otherwise) for goods, services, or for the execution of any works and also includes framework agreements, dynamic markets and concession contracts.
" <b>Contracting Authorities</b> "	means central government, local government bodies, bodies governed by public law or associations formed by any one or more of these.
" <b>Contract Management Framework</b> "	means the framework that details how to classify a contract based on both the annual contract value and level of risk and depending on how the contract is classified, sets out the contract management activities to undertake throughout the contract lifecycle. The activities within the framework follow best practice principles and provide a clear approach to managing and administering contracts to comply with the Council's contract procedure rules and to demonstrate and evidence contract management accountability and governance. This can be found on the commercial services pages of the council's intranet site.
" <b>Convertible Contract</b> "	A contract that, as a result of the modification, will take the value over the relevant threshold where the modification— (a) is a permitted modification under Schedule 8 (permitted modifications), (b) is not a substantial modification, or (c) is a below-threshold modification.
" <b>Council</b> "	means the County of Herefordshire District Council.
" <b>Debarred List</b> "	The list of debarred suppliers that are not permitted to participate in public procurements or be awarded public contracts.
" <b>Dynamic Market</b> "	means a list of qualified suppliers (i.e. suppliers who have met the 'conditions for membership' of the dynamic market) who are eligible to participate in future procurements.
" <b>Equality Duty</b> "	means any duty or requirement placed on the council or any other body by the Equality Act 2010 or any legislation amending or replacing it and any statutory instrument made thereunder.
" <b>e-tendering portal</b> "	means the on-line system maintained by the council for notifying potential suppliers and contractors of contract opportunities, issuing tender documentation, administering clarifications, receiving and receipting bids, awarding and managing contracts and maintaining compliance with the Local Government Transparency Code through the publication of contract spend.



Term	Definition
<b>"Framework Agreement"</b>	means a contract between the council and one or more suppliers that provides for the future award of contracts by the council to the supplier or suppliers. Open framework means a: 'scheme of frameworks that provides for the award of successive frameworks on substantially the same terms'
<b>"Grant Agreement"</b>	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 consideration to the council except the repayment of the monies if the services are not performed or not performed to a specified standard.
<b>"Local Government Transparency Code"</b>	means the information that the Council is required to publish under the Local Authority Transparency Code 2015 to be found at <a href="https://www.gov.uk/government/publications/local-government-transparency-code-2015">https://www.gov.uk/government/publications/local-government-transparency-code-2015</a> as amended or replaced from time to time.
<b>"Notifications"</b>	Any notice required to be published under the relevant legislation in relation to the procurement being carried out.
<b>"Procurement Document"</b>	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 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.
<b>"Public Contracts"</b>	Means a contract for goods, services or works, frameworks, or a concession contract
<b>"Contracting Toolkit"</b>	means procurement and contract management guidance and templates found on the commercial services pages of the council's intranet site.
<b>"Quotation"</b>	means a written estimate of the cost to execute works or supply goods, materials or services.
<b>"Regulated below threshold Contract"</b>	a 'regulated below-threshold contract' is a below-threshold contract that is not: (a) an exempted contract as defined in Schedule 2 Procurement Act 2023; (b) a concession contract; or (c) a utilities contract.
<b>"Specification"</b>	means a clear and comprehensive description of the Council's requirements, including technical specifications, description of the works, goods and or services required. This will vary according to the value and complexity of the purchase.
<b>"Threshold"</b>	means the threshold applying to local authorities at which goods, services and works are subject to Public Contract Regulations 2015 or at which goods, services or works, frameworks, or concession contracts are subject to the Procurement Act 2023.

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## **Appendix 2 - OFFICER RESPONSIBILITIES**

### **1.1 Directors' responsibilities**

#### **1.1.1 All Directors are responsible for:**

- a) monitoring compliance with the CPRs in relation to contracts funded by their directorate budget
- b) appointing staff to carry out commissioning, procurement and contract management functions and ensuring they support them in their roles and obtain regular briefings from them
- c) ensuring that the budget for any procurement has been approved
- d) awarding and signing and/or authorising the sealing of contracts
- e) approving variations, extensions and exemptions in accordance with the CPRs.

#### **1.1.2 The Deputy S151 Officer has overall responsibility for the preparation and review of the CPRs in agreement with the Monitoring Officer/Director of Governance and Law and the S151 Officer.**

### **1.2 Director of Governance and Law responsibilities**

The Director of Governance and Law 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 Deputy S151 Officer and Commercial Services Manager on the preparation and review of the CPRs
- c) assisting the Chief Executive with the resolution of questions regarding the interpretation of the CPRs
- d) preparing or approving template contract documents
- e) advising on the preparation of contract documentation
- f) being consulted on exemptions from the formal tendering procedure in line with the CPRs
- g) facilitating the sealing of documents.

### **1.3 Contract Managers' responsibilities**

Contract Managers are responsible for:

- a) keeping a record of all the procurement and contract documentation in respect of each contract they are managing, 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
- b) Proactively managing the contract throughout its life cycle in accordance with the council's contract management framework
- c) entering contract information (including uploading a signed copy of the contract and any variations or extensions to the contract) onto the central contracts register for contracts in excess of £5,000 in order to comply with the transparency information/ code
- d) updating the contracts register together with associated documents if there is a change in contract value, scope or duration and where necessary ensure a FTS/ Contracts Finder notice is published
- e) ensuring that signed contract documents are available and retained in accordance with the council's retention schedule
- f) ensuring that contracts have been signed and/or sealed (where applicable) prior to the contract commencement date
- g) reading and understanding the contract documents and managing the contract in accordance with contract documents
- h) where relevant, monitor, measure and report on supplier's progress in delivering any social

- 
- value commitments / key value indicators
  - i) checking 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
  - j) reviewing the aggregate spend on contracts to ensure they remain in budget
  - k) ensuring that the council and contractor carry out their duties in accordance with the terms and conditions of contract
  - l) raising any issues or concerns with the relevant Directors and Service Directors in a timely manner and seeking advice from legal services where necessary.
  - m) providing timely information to Directors and Service Directors regarding contractors' performance including, but not limited to, delivery of KPIs, health and safety, business continuity, risk, contract terms and other events of default
  - n) ensuring that business continuity plans, where they are part of the contract, are kept up to date during the life of the contract
  - o) ensuring plans are in place to re-procure the service before the contract expires
  - p) ensuring contract expiry and exit plans are reviewed regularly and at least 6-12 months prior to contract expiry in preparation for exit and/or transition
  - q) notifying Legal Services of any transfers, novation and assignment required during the terms of the contract.

#### **1.4 Commissioners'/ Authorised Officers' responsibilities**

The Commissioner /Authorised Officer will be responsible for:

- a) liaising early on in the process with the Commercial Services team and Legal Services on all matters relating to contracting and procurement
- b) ensuring non-council staff (as defined at 1.9) engaged in the procurement process comply with these rules and consult Commercial Services as appropriate
- c) ensuring that written requirements are provided to non-council staff and that these include key stages of the procurement process at which the council will be consulted prior to, and or authorising, progressing to the next stage of the process
- d) ensuring there is a budget for the procurement
- e) ensuring all necessary decisions are made in a timely manner and maintaining a comprehensive log of all decisions made for each procurement, including copies of signed decision reports and any relevant supporting evidence
- f) considering whether social value is relevant to include in the tender process through early market engagement in accordance with the council's social value statement and social value internal guide
- g) drafting quotation/ tender documents for competitions utilising the templates which can be found on the Commercial Services intranet pages. Selecting the appropriate contract for the procurement using the council's standard contracts or any other contract approved by Legal Services
- h) maintaining records during the procurement process of the:
  - i. contracts awarded including the nature and value of contracts and the names of successful tenderers
  - ii. total value of contracts awarded to each successful tenderer during each financial year, where a framework or Dynamic Market is used
  - iii. names of unsuccessful tenderers and reasons why their tenders were not accepted
  - iv. details of any failure by a tenderer to comply with instructions to tenderers
  - v. details of the reasons for any tenders being withdrawn
  - vi. details of failures by contractors to submit tenders after having requested and been invited to do so
  - vii. reasons for exceptions to tendering procedures
  - viii. reasons for accepting late tenders



- i) undertaking required due diligence checks and obtaining copies of insurance documents, together with any other self-certified documents included in the ITT
- j) ensuring that contracts have been signed and/or sealed (where applicable) prior to the contract commencement date
- k) 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 the termination of the contract, including any extension or defects periods
- l) advising the Contracts Manager and Commercial Services team of contracts awarded and recording the details of all contracts over £5,000 on the contracts register, providing all detail necessary under the transparency code (including uploading a signed copy of the contract to the corporate contracts register – do not embed documents)
- m) considering the approach to succession planning to ensure that there is adequate leadership and governance in place for the successful delivery of major projects/programmes
- r) in conjunction with the Contract Manager consider continuity of service before a contract expires and ensure adequate plans are in place to re-procure the service before the contract expires.

### 1.5 Deputy S151 Officer responsibilities

Working with the Chief Finance Officer (S151), the Deputy S151 Officer is responsible for:

- a) providing advice on all aspects of the CPRs
- b) providing 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 Finance and the Director of Governance and Law for appropriate action
- d) preparing an annual report on the operation of and compliance with the CPRs for the Chief Finance Officer (S151), in consultation with the Director of Governance and Law 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 and contract management 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.

### 1.6 Commercial Services team

The Commercial Services team is responsible for:

- a) maintaining a register of current contracts above £5,000, advising on the information needed from contracts and publishing on the council's website
- b) maintaining a pipeline of procurements above £25,000 in conjunction with Commissioners, Authorised Officers and Contract Managers
- c) working with Commissioners and Authorised Officers to carry out procurements above the UK Threshold
- d) providing advice on all aspects of the CPRs and supporting the development of

- procurement strategies
- e) monitoring compliance with the CPRs and reporting non-compliance to the Deputy S151 Officer and the Director of Governance and Law for appropriate action
- f) providing training and support for employees involved in procurement and contract management activities
- 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
- h) guiding the council's strategic approach to developing social value through collaboration with partners and market development
- i) advising Directors and Service Directors on the appropriate use of the exemption process in conjunction with Legal Services
- j) maintaining and reviewing a contract procedures exemption register
- k) ensuring the contracting toolkit, tender guidelines, and templates are reviewed annually to remain up-to-date with legislation and best practice.

### 1.7 Legal Services team

The Legal Services team is responsible for:

- a) providing legal advice on the CPRs and procurement legislation
- b) providing template contracts and approving contracts for use in procurements
- c) advising Directors and Service Directors on the appropriate use of the Exemption process in conjunction with Commercial Services
- d) working with the Commercial Services Manager and the Commercial Services team to ensure compliance with the CPRs and the Procurement Legislation.

### 1.8 Responsibilities of all council officers

All Officers are responsible for:

- a) following the CPRs and any codes of practice, guidance or instructions provided by the Commercial Services team and Legal Services
- b) ensuring that non-council staff comply with these rules and consult Commercial Services as appropriate
- c) following all relevant UK procurement laws
- d) following relevant council policy requirements in relation to procurement and contract management
- e) seeking advice from the Commercial Services team and Legal Services in the case of any uncertainty
- f) ensuring that any departure from these CPRs is agreed with the Commercial Services Manager or Deputy S151 Officer and Head of Law - Contracts and Property or the Director of Governance and Law and following the appropriate procedure
- g) reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor
- 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.

### 1.9 Non-council staff

1.9.1 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 is engaged on, to the

- 
- relevant Director or Service Director; and
  - c) pass all relevant records to the Authorised Officer/Contract Manager at the end of his/her appointment/engagement
  - d) sign a declaration of interest relating to any procurement and/or contract that they are involved with on behalf of the council and give it to the Commissioner/Authorised Officer.

### Appendix 3 - Table of Notices

Notice name	Requirement	Purpose / variations	Exemptions
Pipeline notice	Mandatory (for organisations where spend is £100m+ PA) 12-month forward-look at planned procurements £2m+ value	N/A	Private utilities
Preliminary market engagement notice	Mandatory where pre-market engagement is anticipated or has taken place (or, explain in the tender notice reason for not publishing)	N/A	Private utilities
Planned procurement notice	Optional and best practice advises the market of an upcoming procurement. A qualifying planned procurement notice can reduce tender timescales to 10 days	N/A	N/A
Tender notice	Mandatory when undertaking an open or competitive flexible procedure (including to establish a framework and award a contract under an existing dynamic market) or a <b>regulated below-threshold procedure</b>	Below-threshold tender notice Tender notice: open procedure Tender notice: competitive flexible Tender notice: frameworks Tender notice: dynamic markets (for procurements awarding a contracting using an existing dynamic market or utilities dynamic market - not to establish a new dynamic market)	Qualifying utilities dynamic markets (existing members of the market may be invited directly)

		Tender notice: utilities dynamic markets	
Transparency notice	Mandatory when undertaking a direct award (publish prior to award)	N/A	Direct award: user choice contracts
Contract award notice	Mandatory communicates the outcome of the procurement and (commences standstill prior to awarding a contract open or competitive flexible procedure)	Contract award notices except those published by private utilities Contract award notices published by private utilities Contract award notices published by private utilities: direct awards Contract award notices published by private utilities: frameworks	Direct award: user choice contracts Defence and security contracts awarded under a defence and security framework
Contract details notice	Mandatory details of the awarded contract (including the redacted contract, for public contracts £5m+ and KPI information)	Contract details notice: open or competitive flexible procedure Contract details notice: frameworks Contract details notice: public contracts awarded in accordance with frameworks Contract details notice: direct award Contract details notice: below- threshold contracts	Private utilities Direct award: user choice contracts Framework contract - exempt from KPIs Light touch - exempt from KPIs Concession contracts - exempt from KPIs
Contract payment notice	Mandatory details of payments over £30,000 made under a public contract (quarterly)	N/A	Utilities contracts awarded by a private utility Concessions contracts Contracts awarded by a school

Contract performance notice	Mandatory to report: a. annual KPI scores for public contracts valued £5m+ b. poor supplier performance / breach of contract (within 30 days of event)	Performance against KPIs Notification of supplier poor performance / breach of contract	Private utilities - exempt from both Light touch - exempt from both Concession contracts - exempt from publishing KPIs only
Contract change notice	Mandatory prior to a qualifying modification taking place (copy of modified contract for public contracts over £5m)	Convertible contracts: contract change notice ( <i>this is relevant when a contract modification would take the value of a below threshold contract above the relevant threshold which would make it a convertible contract</i> )	Defence and security contracts Private utilities Light touch contracts
Contract termination notice	Mandatory when a public contract ends	N/A	Private utilities Direct award: user choice contracts
Procurement termination notice	Mandatory where, after publishing a tender or transparency notice, the process is terminated without awarding a contract	N/A	Private utilities
Dynamic market notice	Mandatory when advertising, establishing, changing or terminating a dynamic market	Utilities dynamic market notice Qualifying utilities dynamic market notice	Private utilities are not required to update the dynamic market notice when the market ceases to operate A qualifying utilities dynamic notice must be provided to members of the market and is not required to be published

Payments compliance notice	Mandatory details of contracting authority performance against 30- day payment terms (twice annually)	N/A	Private utilities Concessions contracts Contracts awarded by a school
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# Section 7 - Financial Procedure Rules

(alternative arrangements must obtain chief finance officer approval)

## Approving revenue payments – post securing spend authority - with an order

Value (before VAT)	Approval level
Up to £25,000	Officers as agreed by the Corporate Director / Service Director
Between £25,001 and £100,000	Managers that report to Head of Service (up to and including HC12 pay grade)
Between £100,001 and £250,000	Head of Service (HC13 pay grade)
Between £250,001 and £500,000	Service Directors (HoS1 and HoS2 pay grade)
Above £500,001	Corporate Directors or Chief Finance Officer (pay in excess of HoS2)

## Approving capital payments – post securing spend authority - with an order

Value (before VAT)	Approval level
Up to £500,000	PMO Project Manager or the PMO Programme Manager or Director PMO, Performance & Corporate Support
Between £500,001 and £1,000,000	Corporate Director or Deputy S151 Officer or Strategic Capital Finance Manager
Above £1,000,001	Chief Finance Officer

## Approving payments without an order – due to the nature of the spend, for example periodic payments to HMRC and the pension fund

Value (before VAT)	Approval level
Up to £500,000	Deputy S151 Officer or Strategic Capital Finance Manager, Chief Accountant or Strategic Finance Manager
Over £500,001	Chief Finance Officer

## Budget movements ( revenue virements)

Value	Approval required	Required to obtain consent from
Up to £100,000 – within a directorate	Spend Manager(s)	Senior Finance Business Partner
Up to £100,000 – across directorates	Corporate Director / Service Director or Head of Service receiving budget	Both directorate Senior Finance Business Partners
Between £100,001 & £250,000 – within a directorate	Budget holder	Deputy S151 Officer
Between £100,001 & £250,000 – across a directorate	Corporate Director / Service Director or Head of Service receiving budget	Chief Finance Officer and Corporate Director / Service Director or Head of Service reducing budget
Between £250,001 & £500,000 – within a directorate	Corporate Director / Service Director or Head of Service	Chief Finance Officer
Over £250,001 – across directorates	Corporate Director and Cabinet member receiving budget	Chief Finance Officer, Corporate Director and Cabinet member reducing budget
Over £500,001 – within a directorate	Corporate Director	Chief Finance Officer and Cabinet Member

## Sales of goods

Value (before VAT)	Approval level
Up to £2,000	Director or Service Director
Between £2,001 and £10,000	Deputy S151 officer
Over £10,001	Chief Finance Officer

## Use of reserves to fund spend

Value	Approval required	Reported to
All	Chief Finance Officer	Cabinet

## Staffing appointments

Value	Approval required	Comments
All	Chief Finance Officer prior to advertisement	Must be recruited through BW following evidence of reoccurring base budget and within BW staffing establishment

Debt write off approval		
Value	Approval required	Reported to
Up to £20,000	Deputy S151 Officer	
Over £20,001	Chief Finance Officer	Cabinet
Bids for external grant funding		
Value	Approval required	Comment
Up to £10,000	Director	Expected savings to be held centrally
Over £10,001	Chief Finance Officer and Corporate Director	Expected savings to be held centrally & record of officer decision required
Amendments to the approved capital programme		
Change required	Approval required	Comment
New capital scheme (includes spend funded by S106 agreement where spend incurred before funds received)	Council	Cabinet / Cabinet member report post Council approval required before spend can be incurred
New 100% funded externally scheme	Chief Finance Officer	
Revenue contributions to capital schemes	Chief Finance Officer	

## **Introduction**

### **7.1 Procedures**

Any organisation with a large financial turnover needs to lay down the procedures to be observed in its financial dealings. Such procedures are especially necessary in the case of a local authority which is limited by legislation in what it is able to do, is subject to statutory audit and must account for its actions and stewardship to the general public.

### **7.2 Purpose of Financial Procedure Rules**

The purpose of these rules is therefore to set out, for the benefit of members, officers and the public, basic financial rules and guidance in order that everyone works to an approved common standard in the financial dealings of the council.

The rules are to be followed post obtaining the necessary decision approval required before incurring expenditure.

They do not over-ride the requirement to observe statute, including European Union Directives, in everyday matters.

These Financial Procedure Rules apply to all areas of the council and should be read in conjunction with the rest of the council's constitution.

### **7.3 Emergency situations**

The provision of these rules does not prevent the council acting through the Chief Executive and director(s) from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or situation relating to Section 138 of the Local Government Act 1972. This is subject to the action being reported as soon as practicable to the appropriate authority.

### **7.4 Non-compliance with rules**

Any non-compliance with these rules will follow the relevant council performance management procedure and may result in disciplinary action being taken, or criminal investigation as appropriate.

### **7.5 Approval of Chief Finance Officer or Nominated Officer**

The Chief Finance Officer or nominated officer or a nominated representative must approve all financial implications on all decision reports and the relevant implications section of the report template must be completed.

### **7.6 Approval changes**

The Head of Paid Service may agree changes to the approval authority where Corporate Directors, Service Directors or Chief Finance Officer are either working their notice or employed on an interim basis.

## **Internal audit and internal control**

### **7.7 Regulations**

The Chief Finance Officer or nominated officer shall in accordance with

the Accounts and Audit Regulations for the time being in force and future amendments, arrange for a continuous and current internal audit of all activities of the council.

### **7.8 Financial irregularities with regard to council functions**

Where matters arise which involve or are thought to involve financial irregularities this will be referred to audit and follow the relevant procedures as disclosed in the anti-money laundering, anti-bribery, fraud and corruption and whistleblowing policies (with reference to Treasury Management Practice Statement 9) as necessary.

## **Treasury management**

### **7.9 Activities of treasury management**

All treasury management activities will be carried out in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2021 and the "Treasury Management Policy Statement" as currently approved by the Chief Finance Officer and included in the Treasury Management Policy approved by Council.

## **Banking Arrangements**

### **7.10 Arrangements with council's bankers**

No officer has authority to open a bank account without prior specific written delegation of that authority by the Chief Finance Officer or nominated officer.

### **7.11 Officer Involvement**

Officers must declare an interest and absent themselves from any managerial involvement in any financial matter from which they or their family could directly or indirectly benefit as required in the employee code of conduct.

## **Revenue Expenditure - Control**

### **7.12 Budgetary Control**

Directors and the Chief Executive must ensure, that their Service Directors / Heads of Service are managing their budgets, including commitments, appropriately by requiring regular reports are presented to Management Board and their Department Management monthly budget monitoring meetings.

### **7.13 Role of Directors**

Budgets are allocated to Corporate Directors and Service Directors to enable them to deliver services approved by Members through the budget setting process. Corporate Directors and Service Directors are required to ensure budgets are deployed in accordance with these rules to deliver policies and plans determined by members, and to ensure that there are processes and procedures in place within their directorates to be compliant with systems of internal control.

# Financial Procedure Rules- Guidance notes

Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:

<http://www.opsi.gov.uk/legislation/uk>

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## **1 Scope of Financial Procedure Rules**

The purpose of the finance procedure rules is to ensure that:

- Corporate Directors, Service Directors and Heads of Service remain within their budget and only spend what they have in their budget;
- Corporate Directors, Service Directors and Heads of Service maintain adequate commitment records;
- Corporate Directors, Service Directors and Heads of Service monitor their budgets;
- Where there are any problems with overspend or failure to perform, these problems are reported at the earliest opportunity;
- Corporate Directors, Service Directors and Heads of Service should have effective reporting arrangements from their budget holders;
- Corporate Directors and Service Directors should have effective reporting arrangements from their Heads of Service.

## **2 Approval of Chief Finance Officer or Nominated Officer**

Where matters are to be considered by the Corporate Leadership Team that in any way affect the finances of the Council or that require the supply of financial information by the Chief Finance Officer or nominated officer, the Chief Finance Officer or nominated officer must be notified by the Corporate Director or Head of Service / Service Director (or equivalent) concerned, in sufficient time, to enable the Chief Finance Officer or nominated officer to report.

## **The Legal Framework**

### **3 Current Regulations**

The Statutes and Statutory Instruments and Regulations which currently affect these rules are as follows:

1. The Accounts and Audit Regulations 2015 – Regulation 5 requires the accounting system, the form of its accounts and supporting accounting records to be determined by the responsible Financial Officer who shall ensure that the accounting systems determined by them are observed and that the accounts and supporting records of the body are maintained in accordance with proper practices and kept up to date.

### **4 Review of the Systems of Internal Control – Regulation 4**

Regulation 4 of the Accounts and Audit Regulations 2015 requires the Council to carry out a review of the effectiveness of the system of internal control. The results of this review, contained in the Annual Governance Statement, are considered by the Audit and Governance Committee.

## **5 Accounting Records - Regulation 5**

Regulation 5 of the Accounts and Audit Regulations 2015 also requires that the accounting records required by the Financial Officer will be sufficient to show the Council's transactions and to enable the responsible Financial Officer to ensure that any statement of accounts, income and expenditure account, balance sheet or record of receipts and payments and additional information to be provided by way of notes to the accounts comply with the Accounts and Audit Regulations 2015.

In particular this means that accounting records must contain:

- a. Entries from day to day of all sums of money received and expended by the body and the matters to which the income and expenditure or receipts and payments account relate;
- b. a record of the assets and liabilities of the body; and
- c. a record of incoming expenditure of the body in relation to claims made or to be made by them for contribution grant or subsidy from any Minister of the Crown, a body to whom such a Minister may pay sums out of monies provided by Parliament or an European Union Institution.

Regulation 5 requires that the accounting controls systems ensure that the financial transactions of the Council are recorded as soon and as accurately as reasonably possible, that there are measures in place to enable the prevention and detection of inaccuracies and fraud and there is the ability to reconstitute any lost records.

Regulation 5 also requires that the duties of Officers dealing with financial transactions are identified and the division of responsibilities of those Officers are identified in relation to significant transactions and that procedures for uncollectable amounts including bad debts will not be written off except with the approval of a responsible Financial Officer or a member of staff nominated by the responsible Financial Officer.

## **6 Internal Audit – Regulation 6**

Regulation 6 of the Accounts and Audit Regulations 2015 require the Council to carry out an effective internal audit of its accounting records and system of internal control in accordance with “proper practices” in relation to Internal Control. Officers must implement accepted recommendations from internal audit. This is monitored by the Audit and Governance Committee.

## **7 Local Government Finance Act 1988 – Section 114**

The s151 Officer will report to the Council if they have reason to believe that the Council or any part of the Council:

- a. has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful, or
- b. has taken or is about to take a course of action which if pursued to its conclusion would be unlawful and likely to cause loss or deficiency on the part of the Authority, or

- c. is about to enter an item of account the entry of which is unlawful.

Under Section 114 of the [Local Government Finance Act 1988](#), the s151 Officer will make a report if it appears to them that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

## **Accounting and System Development**

### **8 Accounting Procedures**

All accounting procedures and records of the Council and its Officers shall be determined by the Chief Finance Officer or nominated officer in consultation, where necessary, with the appropriate Corporate Director or Head of Service / Service Director (or equivalent) concerned. Such procedures shall have regard to Section 151 of the Local Government Act 1972 and shall be in accordance with the relevant legislation and guidance for the time being in force and such other statutory provisions which affect the financial affairs of the whole Council or any specific service.

### **9 Responsibility of Chief Finance Officer or Nominated Officer**

The Chief Finance Officer or nominated officer shall be responsible for the compilation of the main accounting records for the Council.

The Chief Finance Officer or nominated officer may from time to time issue written "financial instructions" dealing with detailed procedures to be followed in certain matters. Such instructions shall be issued after consultation with the Corporate Director, Service Director or Heads of Service affected.

The Chief Finance Officer or nominated officer shall be responsible for the maintenance of a management information system, the General Ledger.

### **10 Allocation of Accounting Duties**

The following principles shall be observed in the allocation of accounting duties by all employees or consultants engaged by the Council:

- The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

## **Internal Audit and Internal Control**

### **11 Role of Internal Audit**

This service is currently provided by the South West Audit

Partnership (SWAP). SWAP will assist Corporate Directors, Service Directors, Heads of Service and Senior Managers in the effective discharge of their responsibilities by giving assurance on financial and management control systems, identifying weaknesses, giving advice on how to resolve financial and management problems and improve control, investigating suspected irregularities and by undertaking Value for Money (VFM) reviews and management studies.

## **12 Accounts and Audit Regulations required by the Secretary of State**

Any Member or Officer will make available documents relating to financial or other records of the Council which relate to their accounting. Other records, as appear to the Section 151 Officer necessary for the purpose of Internal Audit, will be supplied together with any such information and explanation as the Section 151 Officer considers necessary for that purpose.

## **13 Powers of Internal Audit (SWAP)**

The Chief Finance Officer or nominated officer and all authorised Internal Audit staff are empowered to enter at reasonable times any premises or land owned by or in the control of the Council, if appropriate, and require employees to produce Council property and records under their control.

## **14 Financial Irregularities with Regard to Council Functions**

Where matters arise which involve or are thought to involve financial irregularities this will be referred to audit or follow Anti-money Laundering procedures and Treasury Management Policy Statements as necessary.

## **Treasury Management**

### **15 Chief Finance Officer Decisions Involving Finance**

All Chief Finance Officer recommendations on borrowing, investment or financing is required to act in accordance with the Code and the "Treasury Management Policy Statement".

## **Banking Arrangements**

### **16 Arrangements with Council's Bankers**

All arrangements with the Council's bankers must be made by or under arrangements approved by the Chief Finance Officer or nominated officer, who is authorised to operate such banking accounts and other electronic transactions as they may consider necessary.

### **17 Funds Held on Behalf of Others**

All funds held on behalf of others (Trust or Private) shall be subject to an annual audit, which shall be undertaken by a suitably qualified person. A copy of all audit reports and the final accounts shall be made available, on request, to Internal Audit for information. In respect of Schools, the audit report and the findings shall be presented to their School Governors.

## **18 Value Added Tax**

The appropriate officers who are responsible for the administration of Trust or Private funds shall be responsible for ensuring that all Value Added Tax is correctly accounted for, and shall have due regard to the treatment of Value Added Tax on donated funds (as detailed in Section 15 of the Local Government Act 1972).

## **19 Investment**

Officers shall be responsible for ensuring that Trust and Private Funds are appropriately invested for the benefit of the fund. Advice as to the most appropriate method of investment will be obtained from the Chief Finance Officer or nominated officer.

## **Financial Planning ‘Accounting’ and the Budget Process**

### **20 Financial Strategy**

The Medium Term Financial Strategy will set out the parameters for the budget build process for the coming year in the light of likely grant settlement, service pressures, available balances, and consultation with clients and partners of the Council. The Budget and Policy Framework will be followed and the strategy will be approved by Council.

### **21 Capital and Revenue Budgets**

The detailed form of capital and revenue budgets shall be determined by the Chief Finance Officer or nominated officer consistent with the general directions of the Corporate Leadership Team. The Budget and Policy Framework will be approved by Council following recommendation from cabinet.

Where a service area submits a bid for external funding they must have approval from the Council’s Corporate Leadership Team made up of Corporate Directors, Service Directors and the Chief Executive and the relevant cabinet member prior to submission. Where there is an element of Council revenue or capital match funding identified this must already exist within the revenue budget or capital investment budget (or recommended by Cabinet for approval at the next Council meeting to add to the capital investment budget). When external grants are awarded and funding covers costs already in the current revenue budgets, the one off savings from these grants should be vired corporately so the available budget can be used on other priorities, or to top up reserves.

### **22 Capital Programme**

In accordance with the Prudential Code for capital finance in local authorities 2021 the Chief Finance Officer will maintain a Capital Strategy which sets out capital and strategic resources. Directors and their nominated budget holders, in consultation with the Chief Finance Officer or nominated officer, shall jointly prepare for consideration by the Corporate Leadership Team, a draft Capital Investment Budget alongside the revenue income and expenditure budgets. These must be prepared in accordance with the policies



and timescales determined by the Cabinet. The Budget and Policy Framework, including the Capital Programme, will be approved by Council.

## **23 Approval of Estimates**

The estimates, once approved by the Council shall become the Council's Revenue Budget and Capital Investment Budget for the next financial year.

Approval of the annual estimates by the Council will confer authority on the Corporate Directors, Service Directors and Heads of Service of the Council to incur revenue expenditure so provided for the next financial year subject to compliance with the relevant provisions of the Contract Procedure Rules.

## **Revenue Expenditure – Budgetary Control**

### **24 Role of Corporate Directors and Service Directors**

It is the responsibility of each Corporate Director and Service Director to ensure that the budgets for which they are responsible are used to deliver the Service Plan and are not overspent. Where budget pressures indicate that overspending may occur, then the Corporate Director and Service Directors must apply the rules set out under cash limited budgets below.

Corporate Directors and Service Directors are responsible for allocating responsibility for managing each cost centre within their service. They must inform the Chief Finance Officer or nominated officer of the allocation and any changes as soon as they occur.

Corporate Directors and Service Directors must ensure that their managers who are budget holders are properly trained in budget management and apply adequate budgetary control through local commitment accounting by requiring regular reports from budget holders.

### **25 Moving Budgets between Cost Centres**

The rules for moving budgets between revenue cost centres (virement) are shown in the table in the financial procedure rules.

The following transfers will not count as virement for these purposes:

- (a) Budget movements which occur as a result of year end procedures
- (b) Transfers of budgets when a whole or part service transfers from one directorate to another as a result of a service restructure or change in line management responsibilities
- (c) Income and expenditure budget changes reflecting additional grants not included in the Council's approved budget
- (d) Transfers arising from changes in legislation
- (e) Any support service recharges (allocation of overheads) for accounting purposes.

Any in-year unplanned contributions from reserves will need to be reported in line with the Reserves Policy; those at year end are

considered by Cabinet as part of approving the Council's financial statements. The use of funds in an emergency are set out in the financial procedure rules (Emergency Situations).

## **26 Directorate under/overspends**

Corporate Directors (excluding interims and those working their notice period), may authorise expenditure which would otherwise exceed the approved budget for a cost centre, provided that the expenditure:

- can be met from savings or under spending on other cost centres within the same service with the exception of windfall increases in income or decreases in expenditure;
- will not constitute capital expenditure or result in:
  - (a) a change in the level of service provision; or
  - (b) a commitment to incur expenditure in future years; or
  - (c) a change in policy; or
  - (d) a breach of the Council's Workforce and Organisation Development Strategy.
- is not a virement from a support service recharge code.
- is notified in the prescribed form to the Chief Finance Officer or nominated officer who may if they consider that the expenditure is significant, require a report to be submitted to Cabinet.

However any permanent budgetary pressures or surplus budgets must be reported through the monitoring process and notified to the Chief Finance Officer.

## **27 Monthly Forecasting**

The Council will operate a monthly budget forecasting process. Budget holders are required to provide forecasts of expenditure and income for the financial year on a monthly basis. They are also required to provide details of any management action plans to contain any potential overspends. Budget holders will also be required to provide comprehensive explanations for any budget variances.

Quarterly budget monitoring reports will be presented to Cabinet.

## **28 Approved Budgets and unauthorised overspends**

In the event that a director forecasts that they cannot contain expenditure within their approved budget this is regarded as an unauthorised overspend unless alternative funding sources have been secured or agreed by the Chief Finance Officer.

Any potential directorate overspends must be reported to the Corporate Leadership Team for consideration.

The Corporate Leadership Team will need to take a view on what is a significant overspend in terms of the overall budget for the Council and anything which they consider significant should be reported to

Cabinet. Approval from the Chief Finance Officer will only be given in exceptional circumstances. In all cases Financial Procedure Rules must be complied with. The approval of the additional expenditure budget may include provision for the repayment of the overspend.

## **29 Carry Forward of Under and Overspends**

Where budget holders wish to carry forward any unspent budget into the next financial year, then they must provide a business case (<https://apps.herefordshire.gov.uk/financetoolkit/SitePages/Business%20Case%20templates.aspx>) to the Chief Finance Officer.

These cases will be assessed against the relevant accounting guidance and the explanations provided in the case. The final decision for the carry forward of under spends is for the Chief Finance Officer.

## **30 Coding of Expenditure and Income**

All expenditure and income must be charged / credited to the cost centre and appropriate account code to which it relates.

The detailed form of Capital and Revenue budgets shall be determined by the Chief Finance Officer or nominated officer consistent with the general directions of the Corporate Leadership Team and after consultation with Cabinet.

Journal transfers may only be actioned by the finance support team.

Budget holders may only charge expenditure against budgets for which they are responsible.

## **31 Staffing Budgets**

Service directors are responsible for maintaining their staffing establishment in line with their approved budget.

Any changes to the establishment list must go through the council's approval process.

Service directors are not permitted to engage supernumerary staff, whether on a permanent or interim basis, unless the funding source has been identified and agreed.

When the funding source has been fully utilised the contracts for supernumerary staff must end.

## **32 Earmarked reserves**

When establishing reserves the council needs to ensure that it is complying with the Code of Practice on Local Authority Accounting and in particular the need to distinguish between reserves and provisions.

A reserve is a budget amount kept to fund a future event.

A provision is recorded as a cost against a cost centre when the council has a present obligation as a result of a past event, it is probable that the cost will be paid to settle the obligation, and a reliable estimate of the value of the cost can be made.

New reserves may be created at any time, but must be approved by The Cabinet member when a reserve is established. The setting, reporting and reviewing of reserves must be in accordance with the council's Reserves Policy.

The Chief Finance Officer has a fiduciary duty to local tax payers and must be satisfied that the decisions taken on balances and reserves represent proper stewardship of public funds.

The overall level of reserves balances will be reported to Cabinet at least annually or when new reserves are proposed.

The annual budget report to Council will include:

- A statement of movements in reserves for the year ahead and the following two years;
- A statement of the adequacy of general reserves and provisions in the forthcoming year and in the Medium Term Financial Strategy; and
- A statement on the annual review of reserves.

The level of reserves for the next three years will be reviewed at least annually as part of the Annual budget setting cycle. The Chief Finance Officer will review the Council's earmarked reserves for relevance of propose and adequacy.

Any amendments to earmarked reserves will be reported to the Cabinet.

Once a reserve has fulfilled the purpose for which it was established, any remaining balance should be reallocated to another similar purpose earmarked reserve or surrendered to General Reserves.

## **Capital Expenditure - Control**

### **33 Council Approval of Capital Investment Budget**

Council's approval of the Capital Investment Budget, known as the capital programme, – The Budget and Policy Framework - constitutes allocation of:

- Capital expenditure to be incurred in the budget year and for commitments to be made on capital schemes included for the budget year and for the previous years to the extent that provision has already been made. This is not an authority to spend, this requires executive approval to proceed;
- Expenditure to be incurred or commitments to be made for advance site acquisition, design fees and other associated preliminary expenditure but only if an appropriate budget allocation has been approved in the relevant year within the Capital Strategy and Programme.
- All authority is to be in line with the capitalisation policy that describes the process to be followed in relation to feasibility

works, new capital schemes and monitoring of those schemes.

### **34 Variations to the Approved Capital Strategy and Programme**

The Council's Capital Strategy and Programme, which forms an integral part of the Council's Budget and Policy Framework, is agreed by Council. External grant funded schemes can be approved by the Chief Finance Officer, the rules for capital budgets are shown in the table in the Financial Procedure Rules.

### **35 Other Additional Expenditure Requests**

Any other additions to capital budgets outside the agreed Budget and Policy Framework must be approved by Council.

### **36 Official Orders**

Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments (rent + rates), petty cash purchases, or such exceptions as the Chief Finance Officer or nominated officer may approve. Orders must clearly state the quantity of the goods and nature of the work or services and whether covered by contract or an agreed price and discounts specified therein or an estimated value. In line with the Councils no purchase order no pay, no payment will be made to suppliers without a purchase order having been raised. Unless payment falls within the procurement card policy.

### **37 Raising a Purchase Requisition**

The Head of Service / Service Director (or equivalent) shall nominate those Officers eligible to raise purchase requisitions on the Council's financial system. The financial system converts the purchase requisition into a purchase order upon the approval of the budget holder or nominated authorising officer.

### **38 Placing an Order**

Unless the service has a budget an order should not be placed. Placing an order commits the Council to spending the money.

All official orders for goods and services must be raised using the Council's Financial System. Exceptions to this requirement require written approval from the Chief Finance Officer or nominated Officer. Purchases made using a Corporate Procurement Card do not require a purchase order. Requirements for use of the Corporate Procurement Card are contained within the Corporate Procurement Card Policy and should also be adhered to at all times.

The Council's Finance system will generate the appropriate commitment accounting record of outstanding orders. Verbal orders must not be made except as a matter of genuine urgency and must be confirmed immediately with a written order produced through the Council's Finance System.

Other than in cases of genuine emergency, no supplier shall be asked to provide goods or services before a purchase order has

been issued to them.

### **39 Regular Periodic Payments**

Any circumstances causing the cessation or variation of a regular periodical payment must be notified immediately to the Payments Manager.

### **40 Approval of Order**

The ability to raise a requisition for goods or services and the subsequent approval and creation of the Order must only be undertaken by Officers nominated by the Corporate Director or Service Director. Nominations shall be set up by submitting an authorised signatory form in the financial system which will workflow for the relevant approval before the roles are allocated.

Orders can be approved in line with the approval limits detailed in the financial procedure rules.

Goods properly supplied or work done without an official order due to a genuine emergency must be covered as soon as possible by a confirmation order.

Whenever practicable the duties of requisitioning goods or services and the subsequent confirmation of their receipt (goods received note process) shall not be performed by the Officer authorising the Order.

Each Head of Service / Service Director (or equivalent) shall be responsible for all orders issued from their Service.

### **41 Goods Received Process**

The Head of Service / Service Director (or equivalent) or Delegated Officer shall ensure that the Corporate Finance System is promptly updated when goods or services are received. Before completing the Goods Received Note process the verifying Officer shall, save to the extent that the Chief Finance Officer or nominated Officer may otherwise determine, be satisfied:

- that the goods have been duly received examined and approved as being in accordance with the specification or match the official order and are satisfactory;
- that the works done or services rendered have been satisfactorily carried out and that, where applicable, the materials used were of the requisite standard;
- that the proper entries have been made in the inventories or stores records, where appropriate;
- that the Council's purchasing guidance has been followed.

## **Payment of Accounts**

### **42 Payment of Invoices**

It is the Council's policy to pay all invoices within 30 days of invoice date. It is therefore the responsibility of all staff to assist the Payments Team in ensuring invoices can be processed for payment as soon as possible through full compliance with all the relevant financial procedures.

### **43 Other Payment Requests**

Payment requests shall be prepared in accordance with the format determined by the Chief Finance Officer or nominated officer who if satisfied, shall process and pay in accordance with a timetable prepared by them.

### **44 Destination of Invoices**

Invoices for payment must be sent in the first instance to the Payments Team in Plough Lane.

### **45 Amendments and Deletions**

Amendments to or deletions from an invoice must only be made in exceptional circumstances and must be authorised by the Chief Finance Officer or nominated officer. Where changes are required they must be made in ink of a distinctive colour and initialled by, or on behalf of the Head of Service / Service Director (or equivalent), and the reasons, if not obvious, briefly stated on the invoice. No alterations to a Value Added Tax invoice may be made but a new invoice or credit note must be sought from the supplier. To avoid the possibility of duplicate payments photocopies or faxes are not accepted as valid invoices except in emergencies.

### **46 Payment of Invoices**

The Chief Finance Officer or nominated officer shall pay all invoices and other payment requests which they are satisfied are in order, apart from petty cash imprest accounts or local bank accounts.

The Chief Finance Officer shall ensure that appropriate arrangements are in place for ensuring that invoices received by the Payments Team are matched against official orders. Payment of invoices shall only be made when:

- the ordering Service has confirmed that the goods have been duly received, examined and approved;
- the prices are in accordance with the order;
- the payment is in accordance with council policy and legally payable;
- the account is correct, and that VAT is properly accounted for where appropriate;
- the item has not been previously passed for payment and is a proper liability of the Council.

The normal method of payment of money due from the Council shall be by cheque, electronic transfer or other instrument drawn on the Council's bank account by the Chief Finance Officer or nominated officer. Alternatively credit cards are used to pay for goods, these transactions are uploaded onto the financial system and payment made to the card supplier in the normal process.

The Chief Finance Officer shall be responsible for authorising the issue of corporate procurement cards and determining spending limits. Cardholders are required to comply with the policy issued by the Chief Finance Officer regulating the use of corporate credit cards. Purchases must be made in accordance with the contract

procedure rules. This policy will include the requirement for cardholders to obtain a receipt for each transaction and monthly coding of all transactions on the Smart Data OnLine (SDOL) banking system, within 7 days of the monthly card statement being available on-line.

Corporate Directors and Service Directors shall provide the Chief Finance Officer with a list of authorised officers showing their signing levels as specified below, with specimen signatures. This list should be reviewed at intervals to ensure it is up to date and accurate and any changes being reported promptly.

Authorisation limits are shown in the Financial Procedure Rules.

## **47 Examination of Accounts**

The Chief Finance Officer or nominated officer may at their discretion examine the verified accounts passed for payment, as to their compliance with the minutes and Council regulations, contracts, accepted tenders or other authorities and for this purpose shall be entitled to receive such information and explanation as may be required.

## **Local Bank Accounts - Imprest / Petty Cash Accounts**

### **48 Imprest / Petty Cash Advances**

The Chief Finance Officer or nominated officer will provide imprest and petty cash advances, where appropriate, to officers for the purpose of defraying expenses.

The maximum permitted limit for imprest and petty cash is 10% of the service area budget. For schools the maximum limit is 2% of the school DSG allocation plus £1,000 per Hoople employee (this is to allow Hoople invoices for the recruitment of Teaching Assistants etc. to be paid by Direct Debit from the school imprest account).

A receipt shall be signed in respect of each advance by the officer concerned, who shall be responsible for accounting for monies. A receipt should be signed in respect of floats issued to officers.

### **49 Changes to Officers**

Any changes to Officers responsible must be immediately notified to the Chief Finance Officer or nominated officer. An outgoing imprest holder must reconcile the imprest to the total amount held, whilst the incoming responsible Officer should satisfy themselves that all is in order before accepting responsibility for the imprest.

### **50 Disbursements**

Vouchers for disbursements must be obtained, and attached to claims for reimbursement. Claims must be properly certified and forwarded for payment to the Payments Team at specified intervals, normally not exceeding one month.

### **51 Security of Cash**

Heads of Service are responsible for ensuring that all cash is kept in a safe and secure place and that bank accounts are reconciled on a regular basis, not less than monthly. A bank statement must be received at least monthly for all imprest bank accounts.



## **52 Use of Imprest Accounts**

Imprest accounts can be used for amounts agreed by the Chief Finance Officer or nominated officer:

- to pay for local purchases by cheque at the time of collection or delivery;
- to secure discounts or take advantage of special offers;
- to reimburse staff who have purchased small value items directly; All such payments must be supported by VAT invoices or receipts.

## **53 Use of Imprest Funds**

Imprest funds must never be used to pay salaries, wages, or other employee expenses i.e., travel/subsistence and removal/relocation expenses, without the specific approval of the Chief Finance Officer or nominated officer. Such payments may attract liability to Income Tax or National Insurance contributions and must therefore be made via the payroll system.

## **54 Examination of Local Bank Accounts**

The Chief Finance Officer or nominated officer may at their discretion examine and reconcile local bank accounts and for this purpose shall be entitled to receive such information and explanation as may be required.

## **55 Partnership Arrangements**

Where it is intended that the Council should enter into a partnership arrangement to further the delivery of Council policy and/or services, this must comply with the council's framework for partnership governance and a supporting assurance self-assessment process must be completed.

The Council's partnership governance risk assessment must be carried out, and for any proposed partnership that is ranked High or Medium risk under that assessment, and in all cases where the Council's financial contribution to the partnership exceeds £100,000 per annum, including any grant or external funding for which the Council would act as Accountable Body, a full assessment must be carried out using the self-assessment process.

# **Income**

## **56 Collection of Monies**

The framework and regulation of the collection of all monies due to the Council shall be subject to the approval of the Chief Finance Officer or nominated officer and shall comply with these Financial Procedure Rules.

The general ledger shall be updated promptly of all monies due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council. The Chief Finance Officer or nominated officer shall have the right to inspect any documents or other evidence in this

connection as they may decide.

## **57 Invoicing for Sums Due**

Each Head of Service / Service Director (or equivalent) shall establish procedures to ensure that invoices are raised on the Council's Finance System in respect of work done, goods supplied, services rendered and all other amounts due to the Council. These procedures must ensure that all invoices due are raised promptly in order to assist recovery of the debts.

## **58 Payment of Amounts Due**

All accounts rendered in respect of amounts due to the Council shall contain a statement that payment must be made direct to the Chief Finance Officer or nominated officer and that cheques, money orders, and postal orders should be made payable to Herefordshire Council.

All cheques, money orders and postal orders received in any Service Unit shall be crossed "Herefordshire Council". Personal Cheques must not be cashed out of the money held on behalf of the Council.

Our preferred payment method is though utilising the Bankers Clearing Automated System (BACS).

## **59 Netting off of expenditure**

Where a third party owes the council monies, but the council also owes that third party a debt then the two transactions must not be netted off. This is to ensure that expenditure is appropriately authorised.

Where this situation arises the gross income to the council should be recorded by way of a sales invoice and the gross expenditure incurred should also be recorded on the council's finance system and approved in the normal way.

A purchase invoice must be supplied by the third party.

## **60 Introduction of New Electronic Payment Facility**

The Chief Finance Officer or nominated officer shall be consulted at an early stage on any proposals to introduce a new electronic payment facility. No such facility shall go live without the specific authorisation of the Chief Finance Officer or nominated officer.

The Council prohibits the use of any PayPal or any similar electronic payment facilities (unless specific authority has been obtained).

## **61 Payment into Council Account**

All monies received by an Officer on behalf of the Council shall, without delay, be paid to the Chief Finance Officer or nominated officer. No deduction may be made from such money save to the extent that the Chief Finance Officer or nominated officer may specifically authorise.

Officers who bank money shall enter on the paying in slip and on the reverse of each cheque a reference to the related debt (receipt number or the name of the debtor) or otherwise indicate the origin

of the cheque.

The name of the originating Service/Section shall be recorded on the paying in slip.

## **62 Issue of Receipts**

Every sum received by a cashier or other Officer of the Council shall be immediately acknowledged by the issue of an official receipt, ticket or voucher except in the case of cheques other arrangements may only be established with the express approval of the Chief Finance Officer or nominated officer.

All official receipts, tickets, books and other cash tokens shall, except by special arrangements approved by the Chief Finance Officer, be controlled and issued by the Chief Finance Officer or nominated officer, who shall keep a register of their receipt and issue. Departments shall keep proper records of the issue and use of all receipts, tickets and cash tokens.

## **63 Recording Receipt of Monies**

Each Officer who receives monies on behalf of the Council, or for which they are accountable to the Council, shall keep records in a form approved by the Chief Finance Officer or nominated officer.

## **64 Transfer of Monies**

Every transfer of official money from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving Officer.

## **65 Grants and External Funding**

The acceptance and spend of grants may be recorded as record of officer decisions as long as they are part of an approved strategy of the council and there is a delegation in place in either a scheme of delegation or a bespoke delegation from Cabinet or Cabinet Member. The relevant strategy and delegation will need to be stated in the record of officer decision. If neither of these are in place, then an executive decision will need to be taken before the grant can be accepted. Any grants awarded above £500k are treated as key decisions

Authorisation to submit a bid for grant or other external funding, or accept an offer of such funding, must be obtained in advance of bid documents or acceptance documents being signed. This includes a situation where the council intends to act as Accountable Body in respect of partnership funding, in which case authorisation to accept this Accountable Body status must also be obtained.

The Chief Finance Officer shall be consulted on, and certify if necessary, any application for grant or external funding.

The Chief Finance Officer shall:

- (i) agree the terms and conditions of all grant offers made to the Council, and
- (ii) accept such grant offers and sign appropriate documentation on behalf of the Council,

Where the application for grant, or other external funding, is being

made on behalf of a partnership, for which the council will take on the Accountable Body role, the Corporate Director or Service Director to whom the Accountable Body role is relevant, in consultation with the Chief Finance Officer and the Solicitor to the Council, shall agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the Council.

The Chief Finance Officer shall be responsible for the completion, authorisation and submission of any grant or external funding claim forms to the relevant organisation(s) and, if necessary, the Internal or External Auditor, in accordance with any guidelines applicable to the claim(s) in question. The Chief Finance Officer can give delegated authority to relevant and responsible team to conduct this function for specific works.

Senior responsible officers shall ensure that records are retained to enable audit requirements to be met and provide explanations, as necessary, for any matters raised during the audit.

For funding requests over £10k the agreement to be sourced from the Corporate Leadership Team in advance of submission of grant application using the set template "External Funding Proceed Agreement".

That Grants and Programmes team are given a copy of the "External Funding Proceed Agreement" along with the Corporate Leadership Team to view potential cross funding streams and to keeps a register of external funding received.

A record of officer decision published on acceptance of the external funding, making clear the amount awarded and its purpose.

## **66 Developer Contributions S106**

Developer contributions continue to support investment need associated with developments throughout the Country. Once a S106 has been completed, planning permission has been granted and the development subject to agreement has commenced, with the right governance in place the Council will be able to internally borrow to fund the project to commence prior to the developer contributions being received. The borrowing will be funded short term within the cash balances and repaid once the developer contributions have been received. Do note however there may be a risk to the Council that if the development does not reach the trigger point for payment, the Council would then have to find alternative funding. The trigger points for the contributions to be paid are tailored to each development on a case by case basis and are not standard.

## **Write-Offs - Income**

### **67 Discharge of Debts**

No debt due to the Council, after it has been correctly established, shall be discharged otherwise than by payment in full or by the writing-off of the debt or the unpaid portion of it, on the authority of the Chief Finance Officer or nominated officer where either:

- (a) the debt is not enforceable or that attempted recovery is likely to involve expensive litigation with limited hope of success; or

- (b) the cost of recovery would be disproportionate to the amount involved.

## **68 Written-off Debts**

The approval limits for debt write offs are set out in the financial procedure rules.

Budget Holders will be provided with details of those debts where write off is appropriate. Such details are to include information on recovery action already taken.

In exceptional circumstances Corporate Finance may recommend to the chief finance officer that a debt should not be written off to the service budget but will be written off corporately.

## **Fees and Charges**

### **69 Fees and Charges**

#### Annual budget setting

Fees and Charges are approved by Full Council as part of the annual budget setting process and should align to the following principles:

- 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 charges reflect the full cost of provision, 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.
- 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, where appropriate, seek to influence the charging policies of partner organisations engaged in delivering council services align with council policies through robust commissioning arrangements.
- j. Inflationary uplifts will be applied as part of the annual budget setting process
- k. Cost effective and efficient income collection channels should be in place. This includes all fees and charges being collected before a service is provided.
- l. Services must be as efficient as possible when seeking full cost recovery so that the cost of collection is minimised

### Changes

Fees and Charges may also be changed (including increasing, reducing, stopping or introducing a new charge) in year by a decision of the relevant Director. Where a change is proposed by the Director, then the Chief Finance Officer, relevant Lead Members and Group Leaders must be consulted. The same group will then also be notified of the decision. Changes should align to the above principles for charging.

## **Salaries and Wages**

### **70 Responsibility for Payments to Employees**

The Chief Finance Officer shall be responsible for making arrangements for the payment of all salaries, wages, pensions and other payments to all current and former employees of the Council.

## **Travelling and Subsistence**

### **71 Claims for Payment**

All claims for payment of officer car allowances, subsistence allowances, travelling and incidental expenses shall be made through Business World

Officer's claims should be submitted promptly at the end of each month in which the journeys were made or the expenses incurred. The Chief Finance Officer or nominated officer may refuse to make payment of claims over 2 month old.

## **Stocks / Stores**

### **72 Responsibility for Stocks**

Each Head of Service / Service Director (or equivalent) shall ensure:

- the proper custody of their stocks and stores in their Service Unit and shall ensure that they are subject to an effective system of stock recording and control;
- that stores are held in reasonable quantities and that consideration has been given to turnover, value, delivery quantities and delivery periods;
- that practicable steps are taken to ensure that a delivery note is submitted by a supplier for every delivery at the time of delivery;
- as soon as practicable after the delivery has been made that goods are checked to ensure that the correct quantity has been delivered and that they meet the appropriate quality standard;
- that no articles or goods are removed from stock without proper authority;
- that an annual review of stocks held is undertaken with a view to reducing the number of slow moving items and disposing of obsolete stock items;
- that obsolete or other stocks no longer required for the purpose acquired are disposed of under the disposals policy;
- that accounts and records are maintained in connection with the receipt and issue of stores in such form and timetable as the Chief Finance Officer ;
- that on the 31st March each year the value of stocks held is certified and reported to the Chief Finance Officer or nominated officer.

### **73 Surplus or Deficiency**

Where any surplus or deficiency is revealed in excess of £5,000 in any item of stock the Chief Finance Officer shall be advised and disciplinary action taken where necessary.

### **74 Checking of Stock**

The Chief Finance Officer or nominated officer is entitled to check stores and be supplied with any information relating to the accounting, costing, and financial records of the Council.

## **Disposal of Surplus or Obsolete Goods, Plant and Stocks**

### **75 Authorisation for Disposal**

Surplus or obsolete goods or plant, whether held in store, on inventories or otherwise up to the value of £2,000 per item or group of like items, must not be disposed of either by sale or destruction except upon the authorisation of the appropriate Corporate Director or Service Director of the Service Unit concerned. Where the value is between £2,001 and £10,000 the authorisation of the Deputy S151 Officer or nominated officer must also be obtained. Where the value exceeds £10,000, authorisation from the Chief Finance Officer must be obtained.

In relation to inventory items (e.g. desk and chairs) with a potential value but surplus to requirements be considered for reuse within different part of the organisation For sale best value or price should be consideration (balanced with cost of disposal). Options should also be considered for release to voluntary sector organisations and schools on a fair and equitable basis. A records of options retained and decision of disposal agreed at head of service level or above.

IT equipment through a disposal provider with all information wiped.

## **76 Sale of Stock**

Sale must be effected by public tender except when, in the opinion of the appropriate Head of Service / Service Director (or equivalent) concerned and the Chief Finance Officer or nominated officer, the financial interest of the Council is better served by disposal by any other means. This could be by public auction.

## **77 Recording Disposal**

A record of each disposal should be maintained (i.e. the approval, the price obtained and if appropriate the alternative method of disposal used). Inventories or stock records should be up-dated in a timely fashion to reflect the disposal. Officer decisions for disposals in excess of £50,000 must be published.

## **78 Income from Disposal**

Income from disposals shall be credited to the cost centre unless a capital receipt. Capital receipts are sales of assets recorded on the asset register in excess of £10,000. These are credited to the capital receipts reserve and used to fund the capital investment budget.

## **79 VAT**

Value Added Tax shall be accounted for on the sale proceeds if appropriate and the amount identified when banking the income. The Chief Finance Officer or nominated officer should be contacted if clarification of the VAT position is required.

## **80 Voluntary funds**

A voluntary fund is any fund which is held or controlled by the Council as trustee for the benefit of a third party and/or for a specified purpose. Such funds may be administered solely, or in part, by an officer by reason of his or her employment with the Council.

The Chief Finance Officer shall be informed of the purpose and nature of all voluntary funds maintained or managed by any Officer in the course of their duties with the Council.

Voluntary funds registered with the Charity Commissioners must comply with all requirements set by the Commission in respect of the format of accounts and the need for audit or independent examination by a competent person, and must meet the timescales set out for such reports.

Voluntary funds not registered with the Charity Commissioners shall have formal accounts prepared and examined annually by a competent person independent of the fund. A copy of the accounts



and Independent Examiner's Statement shall be supplied to the Chief Finance Officer immediately after the examination. The Chief Finance Officer shall be entitled to verify that the reports have been made and to carry out such checks on the accounts as he considers appropriate.

## **81 Accountable body status**

Where it is intended that the council should act as Accountable Body for a partnership and related funding, authorisation must be obtained before entering into such an arrangement.

The Corporate Director or Service Director to whom the Accountable Body role is relevant, in consultation with the Chief Finance Officer and Monitoring Officer, will agree the terms and conditions of that Accountable Body role, and sign associated documentation on behalf of the council.

Unless there is explicit agreement to the contrary, which must be documented fully in the Accountable Body agreement, the governance rules of the partnership will be expected to follow both the Financial and Contract Procedure Rules agreed by the council.

In all cases, where the partnership funding includes grants or other external funding, then the provisions contained in the Financial Procedure Rules will apply. Approval must be obtained by the relevant Cabinet member and Council.

## **Insurance**

### **82 Responsibility for Insurance**

The Chief Finance Officer or nominated officer is responsible for the arrangement of risk funding on advice from Internal Audit. The administration and resolution of all losses is the responsibility of the nominated officer in consultation with other Officers where necessary by reporting to the Chief Finance Officer or nominated officer.

### **83 Record of Insurances**

The Chief Finance Officer will keep a permanent record of all insurances, risks covered, premiums paid and of all self-funded risks and losses paid. This includes third parties arranging insurance where the Council has an insurable interest. Documents to be permanently retained must include policy schedules and all liability insurance certificates for every period of insurance. Such responsibilities may be delegated to the nominated officer.

### **84 Incident / Accident Reporting**

Every event with the potential to give rise to a financial loss, or involving injury to a member of staff, an elected Councillor or client of the Council, must be reported in accordance to the Health & Safety Arrangements Policy.

### **85 Review of Risk Financing Arrangements**

The Chief Finance Officer or nominated officer and Internal Auditor shall annually review the Council's risk financing arrangements and look at adequacy of provision in the light of changes in the

environment including new legislation, imposed or contractual responsibilities, legal precedent, newly identified and quantified risks, or other concerns identified.

## **86 Consultation**

Before any indemnity requested from the Council is provided, the Head of Service / Service Director (or equivalent) responsible shall obtain written agreement from the Chief Finance Officer or the nominated officer. Generally Heads of Service should not allow burdens or responsibilities to be imposed on the Council through contract that would not otherwise be imposed by common law or statute.

## **Security**

### **87 Responsibility for Security**

All Heads of Services are responsible for maintaining proper security at all times for all information, buildings, stocks, stores, furniture, equipment and cash under their control. They should report to Facilities Management where they consider security is thought to be defective or where they consider special arrangements are needed.

Appropriate security controls for all assets shall be identified by the risk assessment process and by referring to security standards and procedures. Arrangements shall be agreed as above.

Maximum limits for cash holdings shall be identified by the risk assessment process and agreed with the Chief Finance Officer or nominated officer and shall not be exceeded without permission.

Key holders for safes and similar security receptacles are to be agreed by each Head of Service / Service Director (or equivalent) in conjunction with the Chief Finance Officer or nominated officer. The loss of keys shall be reported immediately using the security incident reporting procedures.

### **88 Data Protection Legislation**

The Chief Executive in conjunction with the Chief Operating Officer (Hoople Ltd) and Corporate Support, and in consultation with Heads of Service and the Data Controller, will ensure that all computer systems and written records, (including those in the possession of elected Councillors) which store sensitive personal data are operated in accordance with the Council's Data Protection Policy, Data Protection legislation, and that proper security and confidentiality is maintained. IT systems only installed by the council's IT service.

### **89 Anti money laundering, bribery and corruption**

All staff must have regard to the Council's Anti-Money Laundering Policy and Anti Bribery and Corruption Policy. A member of staff should consider, in line with the Policy and Guidance, reporting any transaction which involves the receipt of £5,000 or more of cash to the Money Laundering Officer (the Head of Strategic Finance); notwithstanding such financial limit, any member of staff who has reasonable grounds to believe that money laundering is taking

place (or is being attempted) in respect of a smaller amount of cash should report the matter to the Council's Money Laundering Officer.

Staff should also have regard to the Council's Gifts and Hospitality Protocol. All staff must immediately report to their manager or the Monitoring Officer any circumstances where inappropriate gifts or hospitality have been offered to them.

## **Estates**

### **90 Responsibility of Corporate Directors and Service Directors in Relation to Asset Register**

The Chief Finance Officer or nominated officer will maintain an asset register of all land and properties owned by the Council recording the purpose for which the property is held, the location, extent and plan reference(s), purchase details where available, details of interest and rents payable and particulars of tenancies of other interests granted. This register is also updated by the assets team as appropriate.

All changes to the asset register must be communicated through business world.

### **91 Valuation of Assets**

The Chief Finance Officer or nominated officer shall ensure that all assets are valued (reinstatement and open market valuation) for capital accounting purposes in accordance with the latest CIPFA code.

### **92 Notification of Purchase or Disposal of land and / or buildings**

Any purchases or disposals of property must be actioned on Business World (including requiring a valuation prior to disposal).

Acquisitions of land and / or properties must follow the completion of an independent Royal Institute of Chartered Surveyors (RICS) red book valuation.

### **93 Leases to external organisations (excluding non-maintained schools)**

All leases must be provided on commercial terms and not included in waived terms of contract award. To be agreed in consultation with the Head of Programme Management Officer.



## Section 8 - The planning rules

### **4.8.1 Councillor involvement in planning applications**

### **4.8.2 Initial submission of applications**

4.8.3 All members will be informed by email on the submission of a new planning application in their ward.

4.8.4 All applications will proceed and will be determined under delegated powers unless they fall within the category of applications automatically to be referred to committee or are redirected as provided for under the redirection arrangements in these rules.

4.8.5 In addition:

- (a) In the case of a major planning application the case officer will identify to the ward member whether an application triggers the need for a Section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document
- (b) in the case of major applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure that local mitigation measures are appropriately incorporated. As part of this process officers and members will be guided by the council's adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the planning obligations manager.

4.8.6 The ward member(s) for the purpose of this rule is/are the member or members in whose ward the application is located, or whose wards are materially affected by the application.

### **4.8.7 Determination of application at Committee**

4.8.8 Councillors at Planning and Regulatory Committee will determine those matters which under the functions scheme are to be determined by the Committee including those matters redirected under the redirection arrangements set out in these rules.

4.8.9 At Committee the ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 6). The ward member would initially address the Committee immediately after the public speaking.

4.8.9a In the case of the ward member who isn't a member of the Committee, they would be invited to address the Committee for that item. They are not a decision maker and cannot vote.

4.8.9b In the case of the ward member who is a member of the Committee, they can act as the ward member as set out above but, as a decision maker, cannot vote on that item

4.8.9c To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.

#### **4.8.10 Post decision**

4.8.11 Ward members would be advised where appropriate by the case officer, the enforcement team, or the planning obligations manager of the following events:-

- (a) any evolving inconsistencies between a planning permission and development taking place
- (b) any appeal against the refusal of planning permission
- (c) the receipt/apportionment of Section 106 Agreement monies
- (d) any proposed variations to the Section 106 Agreement.

#### **4.8.12 Redirection of delegated planning decisions**

##### **4.8.13 The redirection arrangements**

4.8.14 Many planning applications are delegated to the chief executive and determined by planning officers acting under the chief executive's Scheme of Delegation in accordance with the Functions Scheme (Part 3).

4.8.15 Ward councillors may choose to ask that sensitive or controversial applications be redirected for a decision by the Planning and Regulatory Committee. A ward councillor for the purpose of this redirection procedure is the ward councillor and any councillor whose ward is materially affected by the application.

4.8.16 Redirection needs to be made as soon as possible after the date a valid application is submitted to avoid unnecessary delays in determining applications.

4.8.17 Redirections should normally be made by the relevant ward members before the expiry date of the consultation period, subject to 4.8.24 below.

4.8.18 A redirection will occur in the following circumstances:

- (a) the application raises unusual or sensitive planning issues which would benefit from the consideration of the Committee, or
- (b) the application has attracted an unusually high level of public interest in the relevant area. This might be reflected in the number of letters or e-mails or a petition received in connection with the application, or
- (c) there has been a recent and significant change of planning policy (either at national or local level) which would result in a different recommendation being made in respect of an application than would previously have been the case.

##### **4.8.19 Conditional redirection**

4.8.20 In some cases, Councillors may be content that the application be redirected only if planning officers are intending to grant or refuse planning permission. In that case a Councillor can ask that the matter only be redirected in accordance with this procedure if it is either the intention of the planning officer to grant or refuse the application.

**4.8.21 Other circumstances**

4.8.22 Any other reasons for requesting a redirection other than those set out above will be considered on their individual merits and circumstances.

**4.8.23 Referrals requested after the expiry date of the consultation period**

4.8.24 Any of the circumstances set out above could justify a late redirection provided the reasons for the lateness of the request are explained when the request is made. In these circumstances, the service director, regulatory will make a judgement based on the issues raised, and the stage reached in the processing of the application.

**4.8.25 Exceptions to redirection**

4.8.26 A redirection will occur unless the request is made:

- (a) in order to “resolve” a disagreement between an applicant and the objector(s) to an application.
- (b) where the applicant considers that there is more likelihood of a grant of planning permission if the application is referred to the Committee for a decision.
- (c) where the objectors to an application consider that there is more likelihood of a refusal of permission if the application is referred to Committee for a decision.

**4.8.27 Procedure**

4.8.28 A councillor requesting the redirection of an application should always provide sound planning reason(s) for doing so based on the circumstances and material planning considerations of the proposal.

4.8.29 Any such request should be made in writing to the case officer and the development control manager.

4.8.30 All requests for redirections will be discussed by the service director, regulatory (or their delegate) with the chairperson of planning and regulatory committee together with the member who has requested the redirection. A decision whether to accept the redirection will be made by the service director, regulatory (or their delegate) on the basis of guidance set out in these rules and the circumstances and material planning consideration of the case. The decision will be confirmed in writing. In the chairperson’s absence, the vice chairperson will be consulted.

4.8.31 There will be circumstances in which an application is amended in order to respond to issues raised in the normal processing of the application by the case officer, statutory consultees or local residents. In the event that the issue(s) which caused the application to be redirected to the Committee by the ward member (and supported by the appropriate officers and the chairperson of the Committee) is/are resolved the ward member will be at liberty to withdraw his or her request for a Committee determination. Thereafter the decision will revert to a delegated decision.

**4.8.32 Delegations to officers**

4.8.33 If the service director, regulatory, is unavailable or unable to fulfil any of their functions in these rules, they may nominate a substitute to exercise those functions on their behalf.

**4.8.34 Public speaking at planning and regulatory committee**

4.8.35 In the case of the planning and regulatory committee the public will be permitted to speak at meetings when the following criteria are met:

- (a) the application on which they wish to speak is for decision at the planning and regulatory committee
- (b) the person wishing to speak has already submitted written representations within the time allowed for comment
- (c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee
- (d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- (e) at the meeting a maximum of three minutes (at the chairperson's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- (f) speakers may not distribute any written or other material of any kind at the meeting
- (g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- (h) on completion of public speaking, councillors will proceed to determine the application
- (i) the chairperson will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.



## Section 9 - Employment rules

### **4.9.1 Employment and dismissal of senior officers**

- 4.9.1a These Rules shall be regarded as Standing Orders of the Council for the purposes of The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') and Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 ('the 2015 Regulations').
- 4.9.2 Subject to paragraphs 4.9.2 to 4.9.5, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the council must be discharged, on behalf of the council, by the head of paid service or his nominees.
- 4.9.3 Paragraph 4.9.2 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) head of paid service
  - (b) section 151 officer
  - (c) monitoring officer
  - (d) corporate director, community wellbeing
  - (e) corporate director, children and young people
  - (f) corporate director, economy and environment
  - (g) director of public health
- 4.9.4 Where a committee is discharging, on behalf of Council, the function of the appointment or dismissal of an officer designated as the head of paid service, or the dismissal of the council's monitoring officer or section 151 officer Council must approve that appointment before an offer of appointment is confirmed to him or, as the case may be, must approve that dismissal before notice of dismissal is given. The designation of a post, but not the appointment of an individual to that post, as monitoring officer or section 151 officer must be approved by Council.
- 4.9.5 Where a committee of Council is discharging, on behalf of Council, the function of the appointment or dismissal of any officer referred to in paragraph 4.9.3 at least one member of the cabinet must be a member of that committee or sub-committee. Where the appointment is for the Director of Public Health this process is undertaken jointly with the Secretary of State for Health in accordance with s73A National Health Service Act 2006.
- 4.9.6 In paragraph 4.9.7 "appointor" means, in relation to the appointment of a person as an officer of the council, Council or where a committee is discharging the function of appointment on behalf of Council, that committee, as the case may be.
- 4.9.7 An offer of an appointment as an officer referred to in paragraph 4.9.3 must not be made by the appointor until:

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the cabinet of:
  - (i) the name of the person to whom the appointor wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointor had notified to the proper officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the leader on behalf of the cabinet to the proper officer; and
  - (iv) the leader has, within the period specified in the notice notified the appointor that neither they nor any other member of the cabinet has any objection to the making of the offer;
- (c) the proper officer has notified the appointor that no objection was received by them within that period from the leader; or
- (d) the appointor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.8 In paragraph 4.9.9, “dismissor” means, in relation to the dismissal of an officer of the council, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.

4.9.9 Notice of the dismissal of an officer referred to in paragraph 4.9.3 must not be given by the dismissor until:

- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the cabinet of:
  - (i) the name of the person who the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the leader on behalf of the cabinet to the proper officer; and either:
- (c) the leader has, within the period specified in the notice notified the dismissor that neither they nor any other member of the cabinet has any objection to the dismissal;
- (d) the proper officer has notified the dismissor that no objection was received

by them within that period from the leader; or

- (e) the dismisso is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.10 The employment panel shall be the appropriate body for the purposes of the functions set out in paragraphs 4.9.4 to 4.9.9 of these rules.

**4.9.11 Interim senior officer arrangements**

4.9.12 The head of paid service will make such interim appointments of up to 12 months for senior officers named in 4.9.3 above as may be necessary from time to time to ensure that the functions of the council are adequately fulfilled. Individual appointments for a period of greater than 12 months with the same interim individual (or to extend for a period of greater than 12 months) can be made by a decision of the Employment Panel.

**4.9.13 Appointment of officers**

4.9.14 All jobs will be open to competition and appointments will be made on merit except as provided for in the council's employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.

4.9.15 Where the council propose to appoint an officer to any post the head of paid service or his nominee will:

- (a) draw up a statement specifying:

- the duties of the officer concerned; and
- any qualifications or qualities to be sought in the person to be appointed.

- (b) make arrangements for the post to be advertised in such a way that is likely to bring it to the attention and attract the maximum interest of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.

4.9.16 The head of paid service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.

4.9.17 Where the appointment is to a post specified in paragraph 4.9.3 above, the head of paid service or their nominee will carry out all steps related to the appointment following consultation with the leader of the council or their nominee.

4.9.18 Where the appointment is to the post of head of paid service, the leader of the council will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.

- 4.9.19 The short-listing and interview of candidates for posts specified in paragraph 4.9.3 above will be carried out by the employment panel. Where the appointment is for the Director of Public Health this process is undertaken jointly with the Secretary of State for Health.
- 4.9.20 Every appointment of any officer specified in paragraph 4.9.3 above shall be made by the employment panel, save that the appointment of a head of paid service must be approved by full Council.
- 4.9.21 The employment panel shall be advised by the head of paid service or in the event of the appointment of the head of paid service by the officer nominated for that purpose by the leader of the council.
- 4.9.22 The leader of the council (in relation to the appointment of the head of paid service) and the head of paid service in consultation with the leader in relation to those officers to be appointed by the employment panel may appoint external recruitment consultants to assist or advise the employment panel.
- 4.9.23 Disciplinary action – head of paid service, section 151 officer and monitoring officer**
- 4.9.23a The Employment Panel has power to decide whether to investigate any allegation of misconduct by a statutory chief officer, and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.
- 4.9.23b These rules are in accordance with the 2015 Regulations.
- 4.9.23c **Suspension**
- 4.9.23d The Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer may be suspended on full pay whilst an investigation takes place into alleged misconduct.
- 4.9.23e The decision to suspend the Chief Executive (Head of Paid Service) will be the Monitoring Officer and the Director of Human Resources with the Leader of the Council. The decision to suspend the Monitoring Officer and Chief Finance Officer will be the Chief Executive and the Director of Human Resources.
- 4.9.23f The Employment Panel may take disciplinary action short of dismissal or recommend to full Council that the Chief Executive (Head of Paid Service) or the Chief Finance Officer (S151 Officer) or the Monitoring Officer be dismissed.
- 4.9.23g Only full Council can approve the dismissal of the Chief Executive (Head of Paid Service), the Chief Finance Officer (S151 Officer) or the Monitoring Officer.
- 4.9.23h The disciplinary procedure involves four stages: an Investigating and Disciplinary Committee, an Appeals Committee, the Independent Panel and the Council.
- 4.9.23i The Employment Panel is a politically balanced committee comprising six members, at least two of whom will be a member of the Cabinet. Arrangements for flexibility will be required, including the use of reserve members or substitutes,

in the event that a member of the Panel has a conflict of interest in the matter to be considered.

- 4.9.23j The Investigating and Disciplinary Committee (IDC) is a committee comprising of three elected members from the Employment panel and at least one of whom will be a member of cabinet.
- 4.9.23k The Appeals Committee is a committee comprising three members selected from the Employment Panel and at least one of whom will be a member of the Cabinet, who have not been involved in the IDC. It hears appeals against action short of dismissal, and decides either to confirm the action, impose no sanction or a lesser sanction.
- 4.9.23l The Independent Panel is an advisory panel comprising at least two independent persons appointed by the Council for the purposes of hearing complaints under the Members' standards regime. The Independent Panel is only used if the IDC, having received the report of the independent investigator and held a hearing, is minded to recommend dismissal to full Council.
- 4.9.23m If the recommendation is for any action short of dismissal such as a written warning, the Employment Panel has the power to impose this without referring to either the Independent Panel or full Council. The relevant officer can then appeal the sanction to the Appeals Committee.
- 4.9.23n If the Employment Panel recommendation is dismissal, then the Independent Panel will hold a hearing where it will listen to both the chair of the IDC and the relevant officer and a report from an independent investigator and will then give their advice/views/recommendations to Council. The matter then goes to full Council for a decision. The relevant officer is allowed to put his or her case to council before a decision is taken.
- 4.9.24 The head of paid service, section 151 officer and monitoring officer may not be dismissed unless the procedure set out in these rules are complied with. The head of paid service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the head of paid service in which case the leader of the council will nominate an officer to carry out these steps in accordance with the JNC for chief officers' model procedures.
- 4.9.24a The IDC and Appeals committee will also hear grievances by the chief executive.
- 4.9.25 The investigating and disciplinary committee (IDC) will meet at least 20 working days before the full Council meeting and will consider whether or not to dismiss.
- 4.9.25a The IDC and Appeals committee will also hear grievances by the chief executive.
- 4.9.26 An "*independent person*" means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -
  - (a) a relevant independent person who has been appointed by the authority under section 28(7) of the localism act 2011 and who is a local government elector;

- (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
- 4.9.27 [No longer used]
- 4.9.28 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, Council must take into account, in particular -
  - (a) any advice, views or recommendations of the independent advisory panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- 4.9.29 The employment panel**
- 4.9.30 The employment panel consists of six members of the council and must include at least two members of the cabinet.
- 4.9.31 Terms and conditions of employment**
- 4.9.32 The employment panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.3 above, and will be a consultee on overall employment terms and conditions (including policies) to be determined by the head of paid service.
- 4.9.33 Voting on appointments**
- 4.9.34 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the employment panel in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.
- 4.9.35 Declarations and member involvement**
- 4.9.36 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or head of paid service as appropriate
- 4.9.37 No member will seek support for any person for any appointment.
- 4.9.38 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council

# PART 5

## CODES AND GUIDES





## Section 1 – Code of Corporate Governance

### 5.1.1 Introduction

5.1.2 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.

5.1.3 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."

### 5.1.4 Principles

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



5.1.6 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.

### **5.1.7 Compliance**

5.1.8 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.

5.1.9 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.

### **5.1.10 Governance arrangements**

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

Constitution	<ul style="list-style-type: none"> <li>➤ Establishes the values of the council and sets of the policy setting and decision making processes</li> <li>➤ Defines roles and responsibilities</li> <li>➤ Details the internal financial control framework through financial and contracts procedure rules and schemes of delegation.</li> <li>➤ Sets out the standards of behaviour for elected members and employees</li> </ul>
County plan, medium term financial strategy, and delivery plan	<ul style="list-style-type: none"> <li>➤ Sets out the vision for intended outcomes for the county and its residents</li> <li>➤ Informs planning and resource allocation</li> <li>➤ Translates the vision into courses of action</li> </ul>
Performance, risk and opportunity management framework, and performance reports	<ul style="list-style-type: none"> <li>➤ Provides the framework for measuring the performance of services and projects ensuring they deliver defined outcomes and represent value for money</li> <li>➤ Sets out how the council will understand and manage risk</li> </ul>
Partnerships' governance framework and register	<ul style="list-style-type: none"> <li>➤ Provides the framework for measuring the effectiveness of the council's partnership arrangements</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Ensures risks associated with working in partnership are understood and managed</li> <li>➤ Ensures the principles of good governance are incorporated into the council's partnership arrangements</li> </ul>
Internal and external audit reports	<ul style="list-style-type: none"> <li>➤ Provide assurance that the councils control arrangements are operating effectively</li> <li>➤ Inform improvement</li> <li>➤ Support effective management of risk</li> </ul>
Whistleblowing policy, complaints procedure and reports, Local Government Ombudsmen reports	<ul style="list-style-type: none"> <li>➤ Ensure communication channels are open so that concerns may be raised and acted upon</li> </ul>
Communications strategy and protocols	<ul style="list-style-type: none"> <li>➤ Sets the framework for the council to communicate effectively with stakeholders</li> </ul>
Information governance policies	<ul style="list-style-type: none"> <li>➤ Ensure data held by the council is managed safely and effectively</li> <li>➤ Ensure that the quality of data used is robust</li> </ul>
Anti-fraud and corruption policy	<ul style="list-style-type: none"> <li>➤ Sets out the councils arrangements for mitigating the risks of fraud and corruption</li> </ul>
Scrutiny reports	<ul style="list-style-type: none"> <li>➤ Provide transparent accountability</li> </ul>

## **Herefordshire Council**

### **LGA Model Councillor Code of Conduct – Adopted May 2022**

#### **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

#### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**



Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9. Interests**

### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **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 disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **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.

#### **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.

#### **Honesty**

Holders of public office should be truthful.

#### **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.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
  - a. to a greater extent than it affects the financial or well-being interests of the majority of inhabitants of the ward affected by the decision and/or;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registrable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer

<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses / civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- \* 'director' includes a member of the committee of management of an industrial and provident society.
- \* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union
  - (iv) is not open to the public without formal membership

**Table – 3**

Where a member has a Disclosable Pecuniary Interest, Other Registerable Interest or Non-Registerable interest as detailed above the following applies:

<b>What is the interest</b>	<b>Do I have to complete the form and register?</b>	<b>Do I have to declare this interest?</b>	<b>When do I disclose this interest?</b>	<b>Can I participate?</b>	<b>Can I vote?</b>	<b>Do I have to leave the room?</b>
Disclosable Pecuniary Interest	Yes Within 28 days of: <ul style="list-style-type: none"> <li>• becoming a member or re-appointment to office</li> <li>• re-appointment to office</li> <li>• Disclosing at a meeting a previously undisclosed interest</li> <li>• Becoming aware of any change or new interest</li> </ul>	Yes	As soon as you are aware that you have an interest	No	No	Yes
Other Registerable Interest	Yes Within 28 days of: <ul style="list-style-type: none"> <li>• Becoming a member or re-appointment to office</li> <li>• Disclosing at a meeting a previously undisclosed interest</li> <li>• Becoming aware of any change or new interest.</li> </ul>	Yes	As soon as you are aware that you have an interest	Yes if member of the public are able to speak at the meeting.	No	Yes
Disclosure of Non-Registrable Interests	No	Yes	At the meeting – As soon as you are aware that you have an interest	Yes if members of the public are able to speak at the meeting	No	No





## EMPLOYEE CODE OF CONDUCT

The highest standards of conduct are expected from everyone who works for the council. The Employee Code of Conduct (the code) sets out the standards the council expects of all employees, irrespective of grade or role. The code is intended to provide guidelines which help maintain and improve standards of service as well as protecting employees from misunderstanding or criticism.

Every member of staff is responsible for working in a way that is consistent with the code of conduct set out below. If you are unsure about any part of the code you should get clarification from your line manager or from human resources.

If you supervise or line manage other employees you should make sure they know about and understand the code. If you supervise people who are not council employees, for example contractors, consultants, or temporary agency workers, you should make them aware of the code and that they need to meet these standards when working for the council.

Council employees are expected to uphold the values that underpin the council's work:

**People:** treating people fairly, with compassion, respect and dignity

**Excellence:** striving for excellence, and the appropriate quality of service, care and life in Herefordshire

**Openness:** being open, transparent and accountable

**Partnership:** working in partnership, and with all our diverse communities

**Listening:** actively listening to, understanding and taking into account people's views and needs

**Environment:** protecting and promoting our outstanding natural environment and heritage for the benefit of all.

## Standards of Conduct

The Standards of Conduct expected of each employee are: selflessness, integrity, accountability, openness, honesty, and leadership. Each one of these is expanded below.

### 1. Selflessness

#### 1.1 Taking reasonable action to keep yourself and others safe.

You are expected to adhere to the council's health, safety, wellbeing and equality policies, which can be found on the intranet.

#### 1.2 Demonstrating loyalty to the council.

There are things you can say or do that may be damaging to the council, not all of which can be listed here. If you do something which a reasonable person would consider to be disloyal to the council it may be a breach of the code and could lead to disciplinary action.

You may have legitimate roles to carry out, such as being a trade union representative. If you are engaged in such a role, please ensure you make it clear when you are acting in this

capacity rather than as an employee of the council. In this capacity you are expected to avoid personal opinions or make derogatory or slanderous remarks which may be damaging to the council.

### **1.3 Behaving in a way which is compatible with your role.**

You are expected to use your position, or information you gain from work, appropriately and not to the detriment of the council.

It is important that you let your line manager know if there is anything, or any change of circumstances, which prevents you from legally carrying out some or all of your duties. This could include for example: if you are banned from driving and this is part of your role; if you cease to be a member of a professional body where this is required for your role.

If criminal charges are brought against you or you receive any convictions, you must let your line manager know.

### **1.4 Using council resources wisely, demonstrating value for money.**

Securing value for money is a council priority. Before spending the council's money or deploying resources, you should ask yourself:

- Would I spend this money if it were my own?
- Is what is proposed affordable?
- Would this be spending money wisely?
- Am I authorised to spend this money?

If you are involved in contracts or purchasing or have budget management responsibility, please ensure that you are familiar with, and comply with, the relevant rules, including:

[Financial Procedure Rules](#)  
[Contracts Procedure Rules](#)

## **2. Integrity**

### **2.1 Using council facilities and resources appropriately**

This includes using council computers appropriately and responsibly, avoiding accessing or distributing inappropriate, offensive or political material. Material relating to private or personal interests should be accessed outside of work time and in accordance with council policies including:

Handling Information Personal Responsibilities policy  
Email usage policy.

### **2.2 Ensuring you comply with any legal requirements.**

Given the wide range of duties which council staff carry out it isn't possible to set out here the legal requirements for every role. If a piece of legislation is particularly relevant to your area of work, your manager will explain the requirements to you and it will be reflected in policies and procedures.

You will not be disciplined for refusing to do something which is a criminal offence.

### **2.3 Ensuring that public funds and assets, including information entrusted to you, are used in a responsible and lawful manner.**

You are expected to use public resources (such as funds, data and equipment) in a responsible and lawful way, in line with relevant council policies, including:  
Information governance policy

## **2.4 Using property, vehicles or other council facilities appropriately and only for personal use if authorised to do so.**

You are expected to make personal use of the council's facilities only if you do so as a member of the public, or if there is a scheme or policy in place which permits personal use.

Personal use includes using the facilities on behalf of any person, business or organisation other than the council, except as a legitimate part of your role with the council. For example:

If you work in a building where the public can use the photocopier for a charge and you pay the same fees as other members of the public, you can use the photocopier for personal use.

A permit or policy that allows you to use council facilities when carrying out your duties, such as a car park pass, should not be used for personal use.

## **2.5 Maintaining appropriate, professional relationships with children, young people or vulnerable adults who are service users.**

If you work in close contact with children and young people or vulnerable adults (or have access to information about them) you are expected to declare any personal relationships with those who access these services.

Personal relationships should be avoided with service users which involve:

- Financial affairs (including borrowing or lending money, or acting as an executor)
- Unprofessional emotional or physical interaction
- Any element of sexual interaction.

## **2.6 Using materials appropriately and respecting copyright** Anything you create as part of your job belongs to the council. This includes, but is not limited to, intellectual property, documents, photos, reports and computer programmes.

You are expected to uphold the council's copyright. In particular, the council holds copyright on its logo and other elements of the corporate identity. You should take care to uphold copyright by using the logo and/or corporate identity only for authorised purposes, and you are expected to respect any other persons or organisations intellectual property including their trademarks, copyrights, design rights or patents.

[Communications Support](#)

## **3. Objectivity**

### **3.1 Offering political advice only if your job specifically provides political advice.**

Unless you work in a role which specifically provides political advice, such as a political assistant, you should not be asked by any political group to provide political advice either in regard to the work of the group or of the council.

You are expected to seek permission from your manager before attending any political group meeting, or any meeting which is explicitly for members of one or more political parties, as an employee of the council.

### **3.2 Serving the council as a whole without political bias.**

You are expected to remain professionally neutral and not allow your own personal and/or political opinions and/or interests to interfere with your work. You are expected to follow reasonable instructions from your manager, as long as they are legal and do not breach any council policy, even if you do not personally agree with them.

As employees of the council, we serve all of the council's councillors, not just those of the controlling group.

You are expected to act at all times in accordance with the member and officer relations code in the council's constitution.

## **4 Accountability**

### **4.1 Being accountable to the council for your actions and decisions.**

You may be asked to explain any decisions or recommendations you make as part of your council duties.

### **4.2 Discharging your public functions reasonably.**

If you do something on behalf of the council, or make decisions on behalf of the council, this should comply with the principles of good decision making and the council's code of corporate governance.

### **4.3 Cooperating fully with any council investigations.**

You are expected to cooperate with reasonable instructions, including requests for information, issued as part of formal investigations.

Formal investigations include (but are not limited to):

- investigations conducted under the council's human resources policies;
- investigations conducted under the council's Anti-Fraud, Bribery and Corruption policy, or Whistleblowing policy;
- investigations undertaken by the council's statutory officers, internal or external auditors, ombudsmen or other inspection agency.

## **5 Openness**

### **5.1 Using and sharing information appropriately, having regard to data protection, the council's values, and the council's code of corporate governance.**

The law requires that certain types of information should be made available to councillors, auditors, government departments, service users and the public. The council may decide to be open about other types of information.

However, certain information should not be widely shared. You are expected to be aware of which information you are authorised to release and to who. If you have any doubts about whether information should be released, please speak with your manager.

You are expected to follow the relevant council policies, including:

Access to Information Rules

[Information Governance policies and procedures.](#)

### **5.2 Treating information with the appropriate level of confidentiality.**

You may have access to, or be given, sensitive or confidential information. You are expected to treat this information appropriately.

For example, if a councillor gives you information, or tells you something, which is not in the documents that the public would have access to, then you should only share that any further if the councillor gives permission, or if the law requires or allows you, to share the information.



## 6 Honesty

### 6.1 Using your official position or information acquired in the course of your employment appropriately and honestly.

You are expected to use your official position honestly, avoiding using information you gain from work which is not available to members of the public for personal gain or to further your personal interests of those of others.

### 6.2 Avoiding engagement or involvement in any bribery or corrupt activities or practices.

Under the Bribery Act 2010, it is a criminal offence to:

- offer a bribe to someone in the course of your duties
- solicit a bribe from someone (indicating that you are open to being bribed)
- accept a bribe from someone

If you commit any of these offences during the course of your employment it may amount to gross misconduct which may result in your dismissal without notice or pay in lieu of notice. There is more detail in the council's Anti-fraud, Bribery and Corruption Policy.

### 6.3 Being alert to and avoiding any reasonable suspicion of bribery, corruption and/or any reasonable perception of bribery and/or corruption

You are expected to avoid situations where your personal interests are so significant that they could be considered to be likely to prejudice your public interest / judgement.

A conflict of interests arises where doing what is best for the council in your role is not the same as doing what is best for you, or for a person or organisation you are associated with.

You are expected to comply with council policies and procedures on:

- Employee gifts and hospitality
- Employee outside interests
- Politically restricted posts

You will be required to make an annual return in regard to your personal interests, in addition to declaring any gifts and hospitality or interests as they arise.

You are expected to make decisions and give recommendations to decision makers fairly and objectively, avoiding situations where you have a conflict of interests. 'Decisions' include, but are not limited to, delegated decisions, employment decisions, and decisions about awarding contracts, allocating services, spending or receiving money.

You would be acting corruptly if you were to abuse your entrusted power for private gain:

- **Entrusted power** is the power or authority you have as an employee.
- **Abuse** is when you use your entrusted power wrongly. You would be using your entrusted power wrongly if you act in the best interests of someone (or something) other than the council.
- **Private gain** can mean financial gain, such as money, but also non-financial advantages, such as favours, gifts, or permission to do something someone would not otherwise be allowed to do. Something can be 'private gain' whether you gain directly, or another person or organisation gains.

For further details see the [Employee interests](#), Employee gifts and hospitality and Politically restricted posts policies

#### **6.4 Maintaining honest impressions with regards to your level of authority to speak on behalf of the council.**

You are expected to conduct yourself in a way that is honest and that would not give the impression that you are speaking for the council, or in the role of a council employee, unless you have been authorised to do so.

You are expected to only instruct contractors or suppliers, or enter into commitments on behalf of the council if you are authorised to do so and have the appropriate governance in place to support your actions.

### **7 Leadership**

#### **7.1 Dealing with the public, councillors and other employees fairly with compassion, respect and dignity.**

You are expected to ensure you are courteous, efficient and impartial, to all groups and individuals, treating everyone with fairness and equity.

It is essential to the way local government works that employees and councillors respect each other. You are expected to make sure you are aware of the guidance or protocols about relationships with councillors including.

- Close personal familiarity between employees and individual councillors can damage the relationship so should be avoided.
- If you have a pre-existing relationship with someone who becomes a councillor, or if you develop a close friendship or personal relationship with someone who you know or later discover, to be a councillor, then you should report this, as set out in the council's procedure on employee interests.
- If you are in a politically restricted post you should comply with the council's policy on politically restricted posts.

The council is an equal opportunities employer and is committed to:

- eliminating unlawful discrimination, harassment and victimisation
- advancing equality of opportunity
- fostering good relations within and between our communities with a view to building good community relations

You are expected to comply with equality policies and undertake mandatory training.

You are expected to pay due regard to the health, safety and wellbeing of staff you manage.

#### **7.2 Maintaining standards of dress and appearance which are appropriate to your role.**

You are expected to ensure that your standards of dress and your appearance are appropriate to the work that you do.

You are expected to wear any safety equipment (personal protective equipment) or uniform that is issued to you.

#### **7.3 Behaving appropriately when involved in tendering contracts and dealing with contractors.**

If you are involved in the tendering process, or dealing with contractors, you are expected to be clear on the separation of client and contractor roles within the council, and ensure that actions are in accordance with contract requirements. If you have both a client responsibility and a contractor responsibility, you are expected to be particularly aware of the need for accountability and openness.

Remember that you need to declare interests in contracts and personal relationships with contractors as set out in the council's procedures on employees outside interests.

If you are aware of confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any third party or organisation. If you are involved in awarding contracts, you are expected to ensure that no special favour is shown in awarding contracts including to businesses run by current (or former) employees, or by people they have a personal relationship with. You are also expected to ensure no special favour is shown to current (or former) employees, or to people they have a close personal relationship with, by employing them.

#### **7.4 Dealing with the media only if you are authorised to do so.**

The 'media' means any organisation or person who is concerned with reporting news, current affairs etc. regardless of whether that is through newspapers, television, radio, the internet or any other means.

The following people are authorised to deal with the media:

- The Chief Executive
- People who report directly to the Chief Executive
- Staff in the corporate communications team

You may only give reports, answer questions or speak to the media on matters relating to employment with the council, council business or decisions of the council, if you are specifically nominated and authorised to do so. This restriction applies under any circumstances where people could possibly think you are speaking as an employee of the council.

Further details can be found in the council policies:

[Corporate communications protocol](#)

#### **7.5 Following the guidance for contact with the media when speaking in the capacity of a trade union representative, in a personal capacity and/or in your capacity for other organisations.**

You may carry out roles outside of your council work such as official trade union work, or for example as a representative of a community action group or a tenant committee. These roles may involve you in taking part in public meetings, making statements to the media or posting on social media on behalf of your particular organisation.

You are expected to make clear the capacity in which you are speaking in public or dealing with the media, stating explicitly which organisation you are representing or that you are speaking in a 'personal capacity'. To avoid any misunderstanding, you are expected not to wear a council uniform or council ID badge if speaking to the media in a non-council capacity.

You are expected to take great care in presenting the facts to avoid statements which may be unreasonably critical of the council, derogatory or defamatory about council employees or members.

#### **7.6 Using social media appropriately**

You are expected to use social media appropriately and with regard to your employment with the council. Inappropriate comments made on social networking sites (whether you have enabled privacy settings or otherwise) about your employment with the council, the council at large or any employees or former employees of the council could amount to a breach of this code. You may face disciplinary action which could ultimately result in your dismissal.

## **8. Reporting wrong-doing**

### **8.1 In following this code, you have a duty to report suspicions or knowledge of wrong-doing you become aware of**

For example:

- activities which you believe to be illegal, improper, unethical or otherwise inconsistent with the code.
- anything which involves – or you think involves – irregularities concerning cash, stores, IT use, or other property of the council.
- any suspected irregularity in the exercise of the functions of the council, including unofficial funds.
- council employees or any other individuals being involved in potentially fraudulent or corrupt activities, or theft.
- the council failing to fulfil its statutory duties.

Further guidance is available in the council policies:

Whistleblowing policy

You should normally report matters to your manager, giving them enough detail to understand your concerns and to follow them up. You should not report suspicions of misconduct to anyone who you believe is (or is likely to be) involved in the alleged misconduct.

If you need to report something, but have a good reason not to report the matter to your line manager, you should tell one of the following people:

- A director (either your own director, or the one for the area where the breach may have occurred).
- The monitoring officer or the section 151 officer
- The Head of Internal Audit: [Jacqui Gooding, SWAP Internal Audit Services, jacqui.gooding@swapaudit.co.uk](mailto:jacqui.gooding@swapaudit.co.uk)

If this fails to resolve the situation, you can refer to the council's whistleblowing policy which contains more information on the protections offered to staff reporting legitimate concerns.

## **9. Following the employee code of conduct**

If you do not understand any aspect of the code of conduct or the council's requirements, speak to your line manager.

If you are a line manager and the people you supervise behave in ways that are inconsistent with the code, you should consider taking action. You should ask your supervisor for guidance, or consider using another policy, for example the managing performance policy and procedure, to guide your response.

If you fail to follow the code you may be referred into formal policies and procedures, including:

[Procedure Where Performance, Conduct or Behaviour Falls Below Expected Standards](#)  
[Disciplinary Procedure.](#)

Depending on the circumstances, including the seriousness of any breach of the code, a potential outcome of disciplinary action could be dismissal.

## Section 4 – Member/Officer relations code

### **5.4.1 Introduction and principles**

- 5.4.2 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.
- 5.4.3 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.
- 5.4.4 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.
- 5.4.5 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.
- 5.4.6 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.

### **5.4.7 The role of members**

- 5.4.8 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.
- 5.4.9 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.
- 5.4.10 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.
- 5.4.11 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.
- 5.4.12 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.

- 5.4.13 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.
- 5.4.14 Some members may be appointed to represent the council on local, regional or national bodies.
- 5.4.15 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](#).
- 5.4.16 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.
- 5.4.17 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the council.
- 5.4.18 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.
- 5.4.19 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.
- 5.4.20 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.
- 5.4.21 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.
- 5.4.22 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.

#### **5.4.23 The role of officers**

- 5.4.24 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.
- 5.4.25 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.
- 5.4.26 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.
- 5.4.27 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.
- 5.4.28 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.
- 5.4.29 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.
- 5.4.30 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.
- 5.4.31 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.
- 5.4.32 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.

#### **5.4.33 The relationship**

- 5.4.34 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.
- 5.4.35 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.

- 5.4.36 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.
- 5.4.37 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 'chairperson/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.
- 5.4.38 Members and officers should inform the monitoring officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 5.4.39 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.
- 5.4.40 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.
- 5.4.41 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.
- 5.4.42 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.

5.4.43 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.

5.4.44 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.

#### **5.4.45 Advice to political groups**

5.4.46 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.

5.4.47 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.

5.4.48 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.

5.4.49 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.

5.4.50 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).

#### **5.4.51 Members' access to information, council documents or employee advice**

5.4.52 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.

5.4.53 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.

5.4.54 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.

5.4.55 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.

5.4.56 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.

5.4.57 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.

5.4.58 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.

5.4.59 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.

5.4.60 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.

5.4.61 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.

5.4.62 More detailed advice regarding members' rights to inspect council documents may be obtained from the monitoring officer.

5.4.63 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.

#### **5.4.64 Involvement of members**

5.4.65 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.

5.4.66 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.

5.4.67 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.

5.4.68 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

5.4.69 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 chairperson, committee chairpersons or cabinet members to council sites or establishments in their ward, except where these are purely courtesy visits.

5.4.70 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.

5.4.71 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.

5.4.72 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.

5.4.73 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 chairperson 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.

#### **5.4.74 Scrutiny**

5.4.75 The reports drafted by officers for decision makers may be subject to scrutiny and examined by a scrutiny committee.

5.4.76 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.

- 5.4.77 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.
- 5.4.78 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.
- 5.4.79 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.

#### **5.4.80 Publicity**

- 5.4.81 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.
- 5.4.82 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.

#### **5.4.83 Breaches of this protocol**

- 5.4.84 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.

# Section 5 – Whistleblowing Policy

## 5.1 Purpose

This policy is intended to cover concerns that fall outside the scope of other existing Council procedures (e.g. complaints procedures, safeguarding reporting and employment policies and procedures).

If something is troubling you, which you think we should know about or look into, please use this policy and the procedures below. If, however, you wish to make a complaint about your employment or how you have been treated, please use existing employment (HR) policies and procedures (e.g. grievance policy, which you can obtain from your manager or HR).

Whistleblowing arrangements are not intended to give you a further opportunity to pursue a grievance once other relevant employment procedures have been exhausted.

You should only consider raising concerns through Whistleblowing arrangements if:

- You have genuine reasons why you cannot use the above policies and procedures;  
**or**
- You have reason to believe that these policies are failing or are not being properly applied; **and** in any case;
- There is a public interest aspect.

## 5.2 Scope

This policy applies to all those who work for Herefordshire Council, whether full time or part-time, employed or working through an agency. It also applies to staff working for Hoople and any other contractors that have adopted the Council's Whistleblowing Policy.

If you are an employee at a Council maintained school, then your school should have its own whistleblowing policy which you should use. However if you feel that you cannot report your whistleblowing at your school, then you can raise your concern with the Council through [whistleblowing@herefordshire.gov.uk](mailto:whistleblowing@herefordshire.gov.uk) and this policy will apply to you.

If you are unsure whether to use this policy or you want confidential advice at any stage, you may contact the independent whistleblowing charity Protect on 020 3117 2520 or by e-mail to [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk).

Further detail on this is available at <http://protect-advice.org.uk>

This service is available to all employees of the Council and allows you the opportunity to speak freely about your concerns, discuss all related issues and receive practical, constructive advice.

## 5.3 Introduction

Sometimes you may have concerns about what is happening at work. In most cases these concerns can be dealt with through the usual line management arrangements and are easily resolved. However, if that is not possible or if your concern feels more serious because it may relate to illegal, improper or unethical conduct and could threaten service users, colleagues, public or the Council itself then you may wish to use the whistleblowing procedures as an alternative.

The Council is committed to running the organisation in the best way possible and to do so we need your help. Experience shows that employees are often the first to realise that there may be something seriously wrong or often have worries or suspicions and could, by reporting their concerns help put things right and stop potential wrongdoing.

We have introduced this policy to reassure you that it is safe and acceptable to speak up and to enable you to raise any concerns you may have at an early stage, and in the right way.

## 5.4 What is Whistleblowing?

Whistleblowing is the formal raising of concerns that are in the public interest. A whistleblower is generally a term used for a person who works for an organisation and raises a concern about a danger or illegality that has a public interest aspect to it, usually because it threatens others (service users, colleagues, public).

Examples of concerns that may be in the public interest (this list is not exhaustive):

- Criminal offences (Fraud, Corruption, Bribery etc.);
- Failure to comply with legal obligations;
- Actions which endanger the health or safety of any individual;
- Actions which may cause damage to the environment;
- Actions which are intended to conceal any of the above.

This policy provides you with a framework for raising concerns, which you believe are in the public interest.

## 5.5 Public Interest Disclosure Act

The Public Interest Disclosure Act 1998 (PIDA) protects individuals who make certain disclosures of information in the public interest and provides that employers must not victimise any worker who blows the whistle in one of the ways set out in the legislation. This policy complies with PIDA.

## 5.6 Our Commitment to you



## **Your safety**

We recognise that you may be worried about formally raising a concern for a number of reasons:

- Fear of reprisal or victimisation (e.g. loss of job);
- Too much to lose (reputation, damage to career etc.);
- Feelings of disloyalty;
- Worries about who may be involved;
- Concerns that there is no proof, only suspicions;
- Fear of repercussions if there is no evidence or you are proved wrong.

The Corporate Leadership Team, Chief Executive and Trade Unions are committed to this policy. If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any reprisal such as harassment, victimisation or bullying. Provided you are acting in good faith, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

## **Your confidence**

We would like to assure you that if you raise a concern:

- 'Openly' - we will protect you from reprisal;
- 'Confidentially' - we will protect you from reprisal and will not disclose your identity, without your consent, unless required by law.

As mentioned we will endeavour to protect your identity wherever possible; however, you must understand that there may be circumstances where this is not feasible. For example, if you are an essential witness and further investigation would be prevented without revealing your identity or the concern could only have come from one service. Should this situation arise, we will discuss directly with you, whether and how the matter can best proceed.

If you raise a concern 'anonymously', we will not be able to protect your position and if you experience victimisation it will make it very difficult to link it to the fact that you raised whistleblowing concerns, as your manager and others will not know you have done this. We would also be unable to provide you with feedback, or seek any further information from you.

If you are already the subject of disciplinary, capability or redundancy procedures for other reasons, whistleblowing will not halt these procedures - but every effort will be made by the investigating officer(s) to ensure that the issues are not inter-related or connected in any way.

## **5.7 Raising your concerns**

We hope that the assurances above allow you to raise your concern internally and openly with us. If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made. You may also choose not to identify yourself at any stage, to anyone, but we do not encourage anonymous reporting as the concerns are

more difficult to investigate and we are unable to offer you the same protection as an open or confidential whistleblower.

We trust that you will:

- Raise concerns at an early stage (i.e. when you have reasonable suspicion);
- **Not** wait and investigate yourself, or wait to prove that your concern is well founded.

If you are unsure about raising a concern at any stage, you can get independent advice from Protect (the independent charity whose details are set out in 5.2 above). They provide free independent legal advice on how best to raise a concern and your protection as a whistleblower.

### Step one

The seriousness of the issue may influence who you decide to raise it with, but we hope that in the first instance, you will raise it with your immediate line manager. If this is not practical (for whatever reason), please raise the concern with another senior officer (Head of Service) or Director.

This may be done verbally or in writing and we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern, including background and history giving names, dates and places where possible. If you have any personal interest in the matter, we do ask that you tell us at this stage.

### Step two

If you feel unable to raise the matter with any of the above (for whatever reason) please raise the concern with the Monitoring Officer ([whistleblowing@herefordshire.gov.uk](mailto:whistleblowing@herefordshire.gov.uk)). The Monitoring Officer (Director of Governance & Legal Services) is the officer with overall responsibility for this policy, and they will arrange for you to be contacted and for the matter to be dealt with independently of your own service area. The Monitoring Officer has a legal duty under S5 Local Government & Housing Act 1989 to report to the Council any instances of non-compliance with the law or maladministration.

### Step three

If these channels have been followed and you still have concerns, or you feel that the matter is so serious that you cannot discuss it with any of the above, you can properly report a concern to an outside body. In fact, we would rather you raised a matter with the appropriate regulator - such as the Care Quality Commission, Ofsted, your professional regulator - than not at all. There is a list of bodies to whom you can make a referral if you wish to do so: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies>

[Protect](#) (details above) will be able to advise you on such an option if you wish.

You may also find it helpful to consider other relevant Council policies including, for example, the Anti-Fraud, Bribery & Corruption Policy which are available on the Council's website or at [Anti Fraud Bribery and Corruption Policy \(herefordshire.gov.uk\)](#)

## 5.8 How we will handle the matter

Once you have told us of your concern, the person you have reported it to (either your line manager, head of service, director under step one above, or the Council's Monitoring Officer under step two) will assess it and consider what further action may be needed. Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take - these will be made confidentially. The Monitoring Officer will be notified that a concern has been raised, and at this stage it will be agreed with the Monitoring Officer how the matter will be dealt with. The person you have reported it to will tell you who will be handling the matter, how you can contact them, and what further assistance we may need from you. If they think your concern falls more properly within our existing complaints or employment policies and procedures, they will let you know.

The further response will depend on the nature of the concern and may be:

- Advice only;
- Resolved by agreed action without the need for investigation;
- Investigated internally;
- Referred to the relevant safeguarding team;
- Referred to the Police;
- Referred to the external auditor;
- The subject of an independent inquiry.

Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person. While we cannot guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly and properly. By using this policy, you will help us to achieve this.

## **5.9 Responsible Officer**

The Monitoring Officer (Director of Law and Governance) has overall responsibility for the maintenance and operation of this Whistleblowing Policy. This officer maintains a record of concerns raised and the outcomes (in a form which does not endanger employee confidentiality) and will report as necessary to the Audit & Governance Committee. This allows us to make sure that all reported whistleblowing is dealt with and that we have an understanding of the outcome and any actions needed.

## Appendix A - Procedure for Managers Receiving a Concern

These procedures should be used in conjunction with the Whistleblowing Policy.

### 1. Managers receiving the whistleblowing concern

It is important that you listen carefully to the concern being raised and avoid pre-judging the issue. If you feel unable to do this, the employee should be encouraged to raise the concern with a more senior officer or the Monitoring Officer.

### 2. Establish the details of the concern

You should complete the whistleblowing checklist.

### 3. What happens next?

#### Step 1 - Explain to the employee what will happen next

- Now that I have listened to and recorded your concern, I will assess it and consider what further action may be needed and I will consult the Monitoring Officer to assist me in this.
- Initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take – but you will not be involved in this process;
- I will tell you who will be handling the matter, how you can contact them, and what further assistance they may need from you (or they may contact you direct regarding this).
- If the person dealing with your concern thinks it falls more properly within our existing complaint or employment policies and procedures, they will let you know;

#### Step 2 - Record the concern

You **must** contact the Monitoring Officer to make them aware you have received this concern, provide them with a copy of the whistleblowing checklist and agree how it will be dealt with. The concern will be held on a central log by Monitoring Officer and will be routinely reviewed by them (or their designated officer) to ensure all cases are dealt with appropriately, and to ensure that advice and support can be given if needed.

#### Step 3 - Assess if wider investigation is needed

You should consider the information in the context of what you know about the particular area or activity and the information the employee provides. The first issue to be decided is whether the concern is best dealt with under the Whistleblowing Policy or some other existing policy/procedures. You should seek assistance from the Monitoring Officer to assist you in deciding this, and the Monitoring Officer will advise how the matter should be taken forward.

Whistleblowing is about serious matters of public concern (examples are given in the policy); it is not about whether the whistleblower agrees with the approach or ethos of

the service. Thus, a complaint that the service is not sufficiently helpful or is not engaging with the community effectively is not whistleblowing concern.

Concerns or allegations which fall within the scope of specific existing procedures (HR, Safeguarding, etc.) should normally be referred for consideration under those procedures.

#### Step 4 - Assess if anyone else should be involved

Depending on the nature of the concern you may also:

- Report the concern to your Director;
- Report the concern to HR who will be able to provide any support or additional assistance if required;
- Subject to taking advice from the Monitoring Officer, refer the matter to an external body.

<b>Whistleblowing Checklist</b>	<b>Confidential reporting</b>
<b>Date received: 19 May 2022</b>	
<b>Date acknowledged: 19 May 2022</b>	
<b>Date replied:</b>	
<b>Date informed IA:</b>	

<b>Items to consider</b>					
1.	Substance of concerns				
2.	Risk identified				
	Make you feel uncomfortable in terms of known standards	In breach of the officer or councillor code of conduct	Fall below established standards of practice that the council subscribes	Are not in keeping with the council's constitution and policies	Improper
3.	Any action already taken				
<b>Steps to take</b>					
1.	Confidentiality requested?				
2.	Identify appropriate lead				
3.	Gather information to understand information				
4.	Decide on action to take				
5.	Provide feedback				

## Section 6 - The Planning Code

This Code supplements the Councillor Code of Conduct. (Part 5 Section 2) Where the provisions of this Code conflict with or are inconsistent with the Councillor Code of Conduct, the latter shall prevail. However, following this Planning Code should assist Councillors in complying with the Councillor Code of Conduct. Councillors should ensure that they are familiar with both Codes and take advice from the Monitoring Officer where necessary to ensure compliance.

The obligations and responsibilities of this Code apply to all Councillors of the Planning and Regulatory Committee and in similar ways to all other Councillors.

The Council's planning policies are adopted in the public interest for the benefit of the whole community rather than for any particular individual or interest group. Decisions are required to be taken in accordance with the current development plan and having regard to all material considerations. Each planning application is considered on its merits. However, planning decisions by their very nature are often contentious, with strong contrary views being expressed. Any decision can be the subject of detailed scrutiny or challenge. Failure to follow the requirements of this Code may result in sanctions under the Councillor Code of Conduct, or may be regarded by the Local Government Ombudsman as incompatible with good administration.

This code covers the conduct of both Councillors and Officers. It relates to the whole of the planning process, including policy formulation and development control, and all Councillors and Officers who come into contact with it. The code is designed to promote greater mutual support and understanding between Councillors and Officers to the benefit of all involved in the planning process. It is also designed to give the public greater confidence that Herefordshire Council discharges its planning responsibilities fairly and openly.

This code is set out in the form of a series of headings with a brief outline of the issues involved, followed by practical advice.

This code consists of three principal parts. The first relates to Members of the Committee. The second relates to all other Members of the Council and the third relates to Council officers

### **PART 1 - THE ROLE OF COUNCILLORS WHO ARE MEMBERS OF THE COMMITTEE**

5.6.1 In making decisions on planning applications, **you will**:

- (a) act fairly and openly and without prejudice**
- (b) approach each application with an open mind**
- (c) carefully weigh up all the material planning considerations**
- (d) avoid inappropriate contact with interested parties**
- (e) ensure that valid reasons for decisions are clearly stated.**

5.6.2 **You will** be free to vote on planning applications as you consider appropriate (that is, without a Party 'whip'), deciding them in the light of all the relevant information, evidence and arguments. In accordance with the requirements of the

Town and Country Planning Act, **you will** base your decisions on the provisions of the Herefordshire Local Plan Core Strategy 2011 - 2031 and all material planning considerations.

5.6.3 **You must not** give instructions to officers nor may you place pressure on officers in order to secure a particular recommendation on an application.

5.6.4 **You will not** use your position improperly to confer or secure for yourself, or for any other person, an advantage or disadvantage.

#### **5.6.5 Discussions with applicants**

5.6.6 **Pre-application meetings** with prospective applicants are encouraged, but, to avoid misunderstandings, they require a degree of formality. They **will normally involve officers**, and will follow the guidance in the following paragraph.

5.6.7 It will be made clear at pre-application meetings that:

(a) Member or officers' initial views and advice are given on a without prejudice basis which will be consistent with the provisions of the current Local Plan Core Strategy and other adopted Council policies

(b) no decisions may be made or advice given which would bind or otherwise compromise any planning decision

(c) Members should avoid giving separate advice on the development plan, material considerations, or planning obligations

5.6.8 A written note is made of the discussion and will be made available for public inspection, subject to the usual rules about access to information, if and when an application is submitted.

5.6.9 **You may, following discussion with the appropriate planning officer, take part in organised post-submission meetings with applicants or other parties.** A note of any discussions will be taken and will be made available for public inspection, subject to the usual rules about access to information. It is recommended that at least one Planning Officer will be present at all such meetings.

5.6.10 The above rules apply to all decision makers on committee i.e. those who are voting members.

5.6.11 A ward member who is a member of the committee is not a voting member of the committee.

5.6.12 A member of the committee who does not intend to take part in any discussion or vote (because they have either predetermined a matter or have an interest) is not a voting member of the committee.

5.6.13 Non-voting members of the committees may speak to applicants without adherence to the above restrictions, since they are not able to vote on that item.



## **PART 2 - THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE (OR NON-VOTING MEMBERS OF THE COMMITTEE)**

### **5.6.14 Lobbying**

5.6.15 Lobbying can take place by way of an approach to you, by telephone, or on a chance meeting, or by way of a request to see all or some of the Members of the Planning Committee. It is an essential part of the democratic process that members of the public should be able to make their views known to you. However, to avoid compromising your position before you have received all the relevant information, evidence and arguments, **members will:**

- (a) take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have taken into account all relevant considerations.**
- (b) direct lobbyists or objectors to the planning officer, and**
- (c) advise the head of regulatory and development management services as soon as possible of the existence of any substantial or abnormal lobbying activity.**

### **5.7.16 Site Inspections**

5.6.17 Site Inspections by the committee can be helpful in reaching a decision on issues where site circumstances are clearly fundamental to the decision. This is true particularly when the issues concern, for example, visual impact, the character of an historic building or the effect of development on local amenity. However, site inspections are costly, cause delay to decisions and are an unsuitable place for holding a reasoned debate.

The criteria for holding site inspections are:

- (a) the character or appearance of the development itself is a fundamental planning consideration; or
- (b) a judgement is required on visual impact; or
- (c) the setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.

The chairperson of the planning committee and the service director, regulatory will determine which applications will be the subject of a prior site inspection. This does not prevent any member of the committee requesting a site inspection of a site at the committee meeting when it has not already been visited by this procedure.

5.6.18 Site Inspections should not be held when inspection of the site is irrelevant to the material conditions. Any member of the committee may request a site inspection, but reasons based on the above criteria must be stated.

- 5.6.19 **The purpose of the site visit is fact finding.** Officers will be able to point out relevant features of the site and surroundings. You will be able to see the physical features of the site and ask questions through the chairperson or the officers to seek clarification. Neither the applicant/agent nor third parties will be allowed to participate in the site inspection. The input of these parties is made at the committee meeting itself. At the discretion of the chairperson of the planning and regulatory committee the appropriate parish or town council may be invited to observe the inspection. In these circumstances the parish or town council may not contribute to the opportunity to ask questions of officers on site.
- 5.6.20 **No discussion of the merits of the case is permitted at site inspections and all questions from you will be put through the chairperson.**
- 5.6.21 The visiting party will stay together as a group. Wherever possible the party should arrive at and leave the site together.
- 5.6.22 As a member of the planning and regulatory committee when on site visits you should not make any comments that could create an impression that you had already formed a view on the merits of the application. No decision on the application should be made until the meeting of the planning and regulatory committee at which the application is to be considered, when they will have before them all necessary information to be able to make an informed decision, including any material facts arising from the site visit which the assistant director regulatory, environment and waste services considers should be reported to the committee.
- 5.6.23 Conduct of visits
- (a) visits will be conducted in a formal manner.
  - (b) the chairperson or vice-chairperson will open the visit and remind members of its purpose and conduct.
  - (c) Officers will highlight issues **relevant to site inspection**. If issues are raised which necessitate consultation with the applicant or his agent, this should be done after the close of the visit and the outcome reported to the subsequent committee.
  - (d) Ward members will be invited to site inspections in their wards and asked to highlight local issues relevant to the site inspection.
  - (e) the chairperson or vice-chairperson will close the visit.
- 5.6.24 General matters
- (a) No decision will be made concerning the application on site.
  - (b) no formal notes will be made.
  - (c) no hospitality will be accepted.
- 5.6.25 **If you find it necessary to visit a site alone (perhaps because it was not possible for you to attend a committee visit), you should view the site only from public vantage points, seek to avoid any discussion with interested**

**parties, and, if there is such discussion, make it clear that no decision on the application will be taken until it has been discussed at committee.**

**5.6.26 Material submitted to committee**

5.6.27 If you receive material from or on behalf of an applicant or third party in connection with an application before a committee you should establish from the planning officers whether the material has been received by them. If it has not, you should make it available as soon as possible to the assistant director regulatory, environment and waste services.

5.6.28 Documents in connection with an application should all be dealt with in the officer's report to committee. Any additional information received after the preparation of that report up to noon on the day before the committee meeting will also be brought to the attention of the committee if it raises new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their accuracy or to give consideration to their implications. A printed committee update will be published to the council's website the evening before the meeting.

**5.6.29 Declaration of interests at committee**

5.6.30 Interests need to be considered and declared as necessary in accordance with the code of conduct.

5.6.31 **If you have a Table 1: Disclosable Pecuniary Interest or Table 2: Other Registerable Interest** then under the code, you may attend a Planning and Regulatory Committee meeting only as a member of the public, for the purposes of making representations, **provided** that the public are also allowed to attend the meeting for the same purpose. You must declare that you are attending the meeting as a member of the public at the start of the meeting. If you have such an interest you should notify the monitoring officer before the meeting that you wish to speak.

5.6.32 If you have such an interest the procedure in committee will be as follows. The planning officer will present the report. If you want to make representations, you take your place in the space allocated to public participation. You will not be acting in your capacity as a councillor and may make representations for no longer than three minutes (the time allocated to public participants at planning and regulatory committee). Thereafter, you may take no further part in the debate or decision-making of the planning and regulatory committee, and must immediately leave the meeting. You may not stay in the meeting or listen to any other public participation in respect of the application.

5.6.33 Withdrawal from the meeting involves physically leaving the meeting room. Moving to the public gallery is not sufficient. The chairperson of the committee should suspend the proceedings of the committee briefly while you leave the committee room.

5.6.34 Where you have a dispensation granted by any appropriate person or body allowing you to speak and/or vote on a matter in respect of which a disclosable

pecuniary interest has been declared, that dispensation applies also to this code, but you still need to declare the interest.

**5.6.35 Cabinet members**

5.6.36 There will be occasions when a cabinet member will wish to express comments on a particular application. This may include where the council is the applicant. Cabinet members are permitted to **speak at the planning and regulatory committee meeting for the item, but must then withdraw from the meeting while the application is discussed and determined.**

5.6.37 Where a cabinet member has a ward representation role, they may, at the discretion of the chairperson, also speak as local member.

**5.6.38 Planning and regulatory committee members who serve on parish and town councils**

5.6.39 Some councillors will be members of parish or town councils as well as Herefordshire councillors. In such circumstances members may express their views and vote at the respective meetings of both councils having regard to the information available to them at that time. Having voiced a view and/or voted at a parish council meeting will not of itself prevent involvement in decision making at planning and regulatory committee. Prior indication of a view on matter does not amount to predetermination. Similarly members on the planning and regulatory committee can attend parish meetings in their ward and speak about planning applications. Talking to constituents be they applicants or objectors is permitted; it does not mean you have a closed mind. A committee member will not be taken to have a closed mind just because they may previously have done anything that directly or indirectly indicated what view they had, would have or might take.

**5.6.40 Voting at committee**

5.6.41 **You will only be able to vote on an application before a committee if you have been present for the whole of the presentation of and discussion on the application.**

**5.6.42 Decisions contrary to officer recommendations or to development plan policies**

5.6.43 From time to time, there will be occasions when you or the planning and regulatory committee disagree with the professional advice on an application given by the assistant director regulatory, environment and waste services.

5.6.44 The law requires that decisions should be taken in accordance with the development plans unless material considerations indicate otherwise (S38A Planning and Compulsory Purchase Act 2004)

5.6.45 If the Planning and Regulatory Committee makes a decision contrary to the officers' recommendation (whether for approval or refusal) a detailed minute of the Committee's reasons should be made and a copy placed on the application file. In this context Members should be prepared to explain in full their reason for

not agreeing with the officers' recommendation. In so doing, Members should observe the 'Wednesbury principle' which requires all relevant information (i.e. material considerations) to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored.

#### **5.6.46 Applications in which a member of the council has an interest**

5.6.47 All applications which are submitted by or on behalf of a member of the council in their private capacity, by their partner, a member of their family or a close association must be drawn to the attention of the assistant director regulatory, environment and waste services by the member in writing. If the member has a material interest in the outcome of the application or if the application is submitted by their partner, it will be determined by the planning and regulatory committee and if you are a member of that committee **you must take no part in the determination of the application. You must declare a disclosable pecuniary interest and may only speak as the applicant or appoint an agent to speak on your behalf in accordance with the Planning Rules (Part 4 Section 8 paragraph 4.8.34 (Public Speaking at Planning and Regulatory Committees)).**

5.6.48 If the application is from a member of your family or a close association, or you otherwise have a conflict of interest, then the chairperson of the planning and regulatory committee will appoint another member of the council to provide procedural and other advice and information to the applicant, and to the town or parish council concerned. If the application is also in your ward this member will speak at committee.

#### **5.6.49 Hospitality**

5.6.50 As a member of the council **you are strongly discouraged from receiving hospitality from people with an interest in any planning proposals.** If receipt of hospitality is unavoidable, you will ensure that it is of the minimum level and, if it exceeds the level to which the requirement for declarations of gifts and hospitality applies, you must declare the offer as soon as possible in the register kept by the monitoring officer.

#### **5.6.51 Training**

5.6.52 As a member of the planning and regulatory committee you are required to undergo training in planning procedures. This will normally take place within three months of appointment to the committee and at appropriate intervals thereafter. A record will be kept by the monitoring officer of the training you undertake. Members who have not undertaken the training, may not participate in meetings of the committee until such training has been completed.

### **PART 2 - THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

5.6.53 Non-committee members who are members for wards affected by an application represent their own views or that of their constituents as a consultee and will be consulted on the application invited to speak at the planning and regulatory committee and attend any site inspections that take place in their ward.

- 5.6.54 Non-committee members should not lobby planning and regulatory committee members in order to secure the outcome on a planning application that either they or their constituents seek. The ward member, the appropriate town or parish council and local residents will have the opportunity to present their views to the Planning and Regulatory Committee in accordance with the council's procedure for public speaking at the planning and regulatory committee.
- 5.6.55 All council members may attend meetings of the council's planning and regulatory committee even if they are not a member of the committee. You should not sit in the public gallery, but in the place reserved in the committee room for members of the council who are not Members of the Planning and Regulatory Committee.

### **PART 3 - THE ROLE OF OFFICERS**

- 5.6.56 In making delegated decisions on applications, officers will:
- (a) act fairly and openly
  - (b) approach each application with an open mind
  - (c) carefully weigh up all the material planning considerations
  - (d) avoid inappropriate contact with interested parties
  - (e) ensure that reasons for decisions are clearly stated
- 5.6.57 In reporting to committee, officers will:
- (a) provide professional and impartial advice
  - (b) make sure that all information necessary for a decision to be made is given
  - (c) set the application in the context of the development plan documents and all other material considerations
  - (d) include the substance of objections and the views of people who have been consulted
  - (e) provide a clear and accurate written analysis of the issues
  - (f) give a clear recommendation
- 5.6.58 Record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. Particular care is to be taken with delegated decisions, which should be as well documented and recorded as those taken by members. These principles apply equally to enforcement and development plan matters.
- 5.6.59 Any material planning information which is received after the written report has been prepared and before the cut-off time specified in paragraph 5.6.24 above will be presented orally to the Planning and Regulatory Committee by officers.
- 5.6.60 The assistant director regulatory, environment and waste services in discussion with the Chairperson of the Planning and Regulatory Committee, may withdraw

any item from the agenda of the Planning and Regulatory Committee after the preparation of the report but before discussion by the Planning and Regulatory Committee if the circumstances of the consideration of an application change within that period.

- 5.6.61 Officers are responsible for carrying out the decisions of the Planning and Regulatory Committee, whether or not those decisions are in line with officer recommendations.

**5.6.62 Discussions on Planning Applications**

- 5.6.63 All officers taking part in pre-application or post-submission discussions with applicants, supporters or objectors should make it clear that decisions on planning applications are taken either:

- (a) by the elected Members in Committee, or
- (b) in specific circumstances by the assistant director regulatory, environment and waste services or by an officer to whom they have the power to delegate.

- 5.6.64 A written note will be made of all such meetings and may be distributed. The meeting note and any follow-up correspondence must be placed on the planning application file, in case an application is made following initial discussions.

**5.6.65 Disclosures of Interest**

- 5.6.66 Officers must play no part in the processing of any application in circumstances where there is, or would be perceived to be, a conflict between their personal or financial interests, those of their families or friends, and their professional duty. They must openly declare the existence of any such conflict in writing to the assistant director regulatory, environment and waste services. Any interest the assistant director regulatory, environment and waste services has in an application must be declared to the Monitoring Officer.

**5.6.67 Applications Submitted by Officers**

- 5.6.68 All applications submitted from officers who are employed in the planning service or work closely with it or who are a senior manager as defined in the council's pay policy statement, or by a close family member such that the officer has a material interest in the application, must be reported to the Planning and Regulatory Committee for a decision, rather than being dealt with in accordance with the scheme of delegation to officers. If the officer concerned is present at the meeting of the Planning and Regulatory Committee at which such an application is determined, they must leave the room during consideration of the application.

**5.6.69 Hospitality**

- 5.6.70 Officers may not receive gifts or hospitality beyond usual refreshment (such as tea or coffee) at a meeting, from people with an interest in a planning proposal.

**5.6.71      Action on Decisions Taken Contrary to Professional Advice**

5.6.72      In cases where an officer recommendation for approval has been overturned by Committee and an appeal is lodged:

- (a) officers will give full support to Members and any external witnesses in preparing evidence for any public inquiry, short of giving evidence themselves; and
- (b) officers will give evidence themselves only in exceptional circumstances, where their Code of Professional Conduct is not breached; and
- (c) where a hearing is to be held, with no cross-examination, officers may give evidence themselves, but this will normally be only if the officer concerned has not been involved in formulating the original recommendation; and
- (d) officers must give full support to Member decisions which are appealed using the written representations procedures.



## Section 7 – Councillor call for action

### **5.7.1 Introduction**

- 5.7.2 The CCfA, in brief, allows any member of the council to refer a “local government” matter to a scrutiny committee and require them to consider the matter.
- 5.7.3 The purpose of CCfA is to help councillors resolve issues of local concern on behalf of their residents.
- 5.7.4 The CCfA is also an opportunity to look at the range of solutions open to members to solve problems.
- 5.7.5 The best practice guidance produced on behalf of the government states that CCfA will be a means of “last resort” in a broad sense with issues being referred to a scrutiny committee only after other avenues have been exhausted.
- 5.7.6 Other avenues available to councillors to resolve matters to be addressed first include:
- (a) that relevant complaints procedures have been complied with
  - (b) that the relevant director has been approached
  - (c) that the relevant cabinet member has been approached
  - (d) that any relevant partnership bodies or local groups have been approached.
- 5.7.7 It is also important that the councillor considers whether any of the following approaches would be more appropriate:
- (a) formal letters written on behalf of constituents
  - (b) public meetings
  - (c) petitions
  - (d) motions on the agenda at full council
  - (e) communication with local MPs
  - (f) communication with councillors in other councils
  - (g) web or e-mail based campaigns.
- 5.7.8 Issues statutorily excluded from CCfA**
- 5.7.9 The following matters are specifically excluded from CCfA:
- (a) any matter relating to a planning decision
  - (b) any matter relating to a licensing decision

- (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment
- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for or to be discussed at, a meeting of the overview and scrutiny committee.

Except where the function in question:-

- (i) has not been discharged at all;
- (ii) is systematically not being discharged in a way that it should be;

irrespective of whether the function is subject to the right of review or appeal in law).

#### **5.7.10 What the CCfA can provide**

Recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it;

- (a) A public forum for discussion of the issues;
- (b) An opportunity to discuss the issues in a neutral environment;
- (c) An opportunity to discuss a problem with the explicit and sole aim of solving it;
- (d) A high-profile process owned by the ward councillor.

#### **5.7.11 Resolution of an issue**

5.7.12 The concept of resolution is arguably at the centre of CCfA – ensuring that CCfA actually helps councillors to resolve intractable issues. The purpose of CCfA is to provide resolution where other techniques might not be able to do so.

5.7.13 To assist in establishing what would represent resolution it will be expected that:

- (a) the councillor bringing the CCfA will be clear at the outset as to what the expected outcomes are.
- (b) the committee discussion will focus on these expected outcomes.
- (c) the committee will challenge the expected outcomes at the outset if it is felt that these outcomes are unreasonable, however, where this is the case there is a clear expectation that discussion will take place with the councillor to modify and reach an accord on expectations with the councillor having the final say.

#### **5.7.14 Conventions**

5.7.15 It will be a convention that where a matter has previously been the subject of a call in (within the last six months and there have been no material changes in circumstances as is currently the case with notices of motion) that the person lodging the CCfA will be asked to withdraw it. If they still wish to pursue the matter a report will be made to the next meeting of the relevant scrutiny committee recommending rejection of the CCfA without further action.

- 5.7.16 Where the relevant councillor has clearly not complied with the expectation that other means to resolve matters will be addressed first (as outlined in section 5.7.6 – 5.7.7 above) the member lodging the CCfA will be asked to withdraw it until they have explored those other means. If they still wish to pursue the matter a report will be made to the next scheduled meeting of the relevant scrutiny committee recommending rejection of the CCfA without further action until those steps have been explored.
- 5.7.17 It will be a convention that where a CCfA is lodged as an issue and has been concluded no further CCfA will be raised on an issue on substantially the same point.

### **Crime and disorder matters**

- 5.7.18 Under the Police and Justice Act 2006 a broadly similar CCfA procedure can be followed in relation to “crime and disorder” functions. Such matters must be considered by a committee designated by the council as its crime and disorder committee.

### **Procedure**

- 5.7.19 The guidance states that some processes and procedures are necessary to ensure that CCfA is targeted and relevant and that it occupies a central role in improving services but that these should not be too prescriptive. The procedure for dealing with CCfAs is set out below:

<b>1.</b>	If a councillor wishes to initiate a CCfA they must provide, in writing, full details of the issue concerned, including an explanation of what the issue is, why it is being raised as a CCfA and the steps that have been taken to resolve the issue and submit it to: <a href="mailto:councillorservices@herefordshire.gov.uk">councillorservices@herefordshire.gov.uk</a>
<b>2.</b>	Governance services will confirm within three days whether the CCfA falls within any of the statutory exempt criteria (see 5.7.9 above,) or is vexatious, discriminatory or not reasonable to include in the agenda for a meeting of the relevant scrutiny committee.
<b>3.</b>	If the CCfA is accepted governance services will: <ul style="list-style-type: none"> <li>(i) inform the chairperson of the relevant scrutiny committee, relevant cabinet member, monitoring officer, chief executive, relevant director and any relevant partner agencies</li> <li>(ii) request those listed above to confirm within five working days that they agree that the CCfA fully reflects the position and that there are not, for example, any initiatives in hand to resolve the subject in issue and asked if they have any other observations on the CCfA (including in particular the proposed outcomes and critical deadlines)</li> <li>(iii) inform the communications.</li> </ul>
<b>4.</b>	If the relevant councillor lodging the CCfA has clearly not complied with the expectation that other means to resolve matters will be addressed first they will be advised of the alternative means of resolution to be pursued. If they still wish to progress the CCfA a report will be made to the next

	scheduled meeting of the relevant scrutiny committee explaining the position and recommending rejection of the CCfA without further action until those other steps have been explored.
<b>5.</b>	<p>Once the grounds for the CCfA to proceed are established, the chairperson of the relevant scrutiny committee and officers will then meet the councillor raising the CCfA. This will be within 15 working days of the submission of the CCfA.</p> <p>If it is considered that any of the desired outcomes are considered unreasonable negotiations may take place.</p> <p>At this meeting the chairperson of the relevant scrutiny committee and officers will consult and negotiate with the member who submitted the CCfA on the required information and witnesses for the relevant scrutiny committee meeting and agree timescales, venue and publicity requirements.</p>
<b>6.</b>	The committee will meet to consider the CCfA either as part of a scheduled meeting or at an extraordinary meeting as agreed by the chairperson. The expectation will be that the meeting will be held in public unless there are statutory grounds in accordance with the access to information rules in Part 4 section 2.
<b>7.</b>	The committee could determine no action be taken in response to the CCfA, make recommendations; or agree that the issue is complex and requires further investigation and review.
<b>8.</b>	The councillor who raised the CCfA, relevant cabinet members, officers and partner organisations will formally be notified of the outcome of the scrutiny committee's consideration within five working days of the meeting and invited to respond as appropriate.
<b>9.</b>	A response to any recommendations made by the scrutiny committee will be reported to the next scheduled meeting or within two months whichever is the shorter.

## Section 8 – Public Guide to Participation

5.8.1 A healthy democracy depends upon active citizenship. Citizens are encouraged to make conscientious use of their roles as both voters and members of a wider community, and this guide gives an overview of the ways in which you can do that.

### **5.8.2 Attending meetings**

5.8.3 We encourage the public to attend meetings of the council and its committees, and anyone attending is able to record or film what takes place at them provided that doesn't disrupt the meeting. Details of what meetings are coming up are published on the council's [website](#), and also published in public offices of the council.

5.8.4 The agenda and papers are normally published on our website at least five working days in advance of the meeting and a small number of copies are available for members of the public at the meeting. Draft minutes of the meeting are also published on the website as soon as possible after the meeting.

5.8.5 [not used].

### **5.8.6 Why are some meetings private?**

5.8.7 Nearly all meetings of the council and its committees are held in public. However on rare occasions an agenda item includes information which may be personal to an individual, which would compromise the commercial position of the council or another individual or organisation or which there are other particular legal or employment reasons for considering asking the public to leave the meeting for discussion of that item. When this is the case we will explain the reasons why and, as far as is legally possible, will afterwards provide a public summary of the decision taken.

### **5.8.8 Asking questions at meetings of the council**

### **5.8.9 Which meetings can the public ask questions at?**

5.8.10 Questions can be asked at public meetings of:

- Full Council
- Audit and governance committee
- Cabinet
- Employment panel
- Health and wellbeing board
- Scrutiny committees

#### **5.8.11 Who can ask questions?**

- 5.8.12 Appropriate questions can be put by anyone living or working in Herefordshire and any elected member of Herefordshire Council

#### **5.8.13 What notice is required for questions?**

- 5.8.14 A question must be delivered by email ([councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)) or in writing to the monitoring officer, Herefordshire Council, County Offices, Plough Lane, Hereford, HR4 0LE by no later than 5.00 pm three clear working days **before** the date of the meeting. A working day is defined for this purpose as Monday through Friday, excluding days designated as bank holidays in England and Wales. Each question must provide the name and address of the questioner. See table below:

<b>Meeting Day</b>	<b>Deadline for questions (5pm in all cases)</b>
Monday	Tuesday
Tuesday	Wednesday
Wednesday	Thursday
Thursday	Friday
Friday	Monday

- 5.8.14a The Council's Monitoring Officer will reject questions which are not submitted in writing, within the time limit. You will be notified if your question is rejected for these reasons and you may be able to re-submit your question, provided your question is in accordance with constitution rules relating to public questions.

#### **5.8.15 How many questions can be asked?**

- 5.8.16 One question and one supplementary question per person is allowed at any public meeting of the council as listed above. Questions must not take longer than one minute to ask or to read out.

#### **5.8.17 What is the purpose and scope for questions?**

- 5.8.17a The purpose of questions is to enable both members of the public and any councillor to ask the council about an issue that is of local concern and is the most practical way of progressing the members concerns.
- 5.8.18 Questions must relate to the function of the committee or relate to a matter on the relevant agenda. The monitoring officer can redirect questions to the correct meeting. They should be of a strategic nature, i.e. not personal to the questioner or a person employed by the council. Questions can be addressed to any chairperson or cabinet member and must relate either to something that the council is responsible for or that affects the county. It is accepted that questioners may highlight their experiences to support their question.
- 5.8.19 The Monitoring Officer will reject a question if it is not appropriate to be asked at a public meeting, reasons for rejection or redirection may include but are not limited to:

1. It is not about a matter for which the council has a responsibility, or which affects Herefordshire; or
2. It requires the disclosure of confidential or exempt information; or
3. It relates to an identifiable individual or employee of the council; or
4. it is more than 140 words; or
5. It relates to a planning or licensing application.
6. It is deemed to substantively relate to a request for data (including statistical information) under EIR or FOI rules. For these purposes, a dataset is collection of factual, raw data that HC gathers as part of providing services and delivery of our functions as a public authority.

If a question is rejected because it is not appropriate the Monitoring Officer will give the reason(s) for the rejection

#### **5.8.20 What happens at the meeting?**

- 5.8.21 Time is made available early on the agenda for any accepted questions to be dealt with. Copies of any questions and answers will be published on the council's website before the start of the meeting, and will be made available to members of the public who attend the meeting.
- 5.8.22 The chairperson will invite the questioner to put a supplementary question to the councillor named in the notice. If the questioner is unable to attend the meeting a written supplementary question will be permitted, in line with the council and committee meeting rules at paragraph 4.1.41, and read on the questioner's behalf. Written supplementary questions must be provided in writing 90 minutes before the start of the meeting.
- 5.8.23 A questioner who has put a question in person or in writing can also ask one supplementary question, without notice, in response to the reply to their question. A supplementary question must arise directly out of the original question or the reply given. The chairperson can reject a supplementary question in consultation with the Monitoring officer/deputy monitoring officer/legal officer in attendance at the meeting on any of the grounds detailed in the section above.

#### **5.8.24 What form will the reply take?**

- 5.8.25 The answer may be either a direct oral answer, a referral to an existing publication, or if the question requests service information a referral to an officer to respond in writing. If the reply cannot conveniently be given orally, if the questioner or the member to whom the question is put is absent, or the time allowed for public questions has expired, a written answer will normally be provided within ten clear working days.
- 5.8.26 There cannot be any discussion on questions but any matters raised by a question can be referred to the relevant cabinet member or the appropriate committee to consider.

**5.8.27 Petitions**

5.8.28 We welcome petitions from those who live or work in Herefordshire and recognise that petitions are one way in which people can let us know their concerns or the strength of public feeling.

**5.8.29 What is the scope for petitions?**

5.8.30 Petitions must relate to a matter over which the council has powers or duties and may be rejected if they: contain language or statements which are defamatory, frivolous, vexatious, discriminatory, false, or otherwise offensive; disclose confidential or exempt information; name individuals, or provides information where they may be easily identified, e.g. individual officers of public bodies; make criminal accusations; contain advertising statements; refer to an issue which is currently the subject of a formal council complaint, Local Government Ombudsman complaint or any legal proceedings; or relate to a matter where there are other statutory processes in place for dealing with these matters (such as planning or licensing application matters or statutory petitions for a referendum.

**5.8.31 How can a petition be submitted?**

5.8.32 Petitions may be paper based or online and an online facility for running a petition is provided on the council's website. There is no standard format for a petition but it must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish us to take;
- the name and address and signature of any person supporting the petition, which must be not fewer than 15 people; and
- contact details, including an address, for the petition organiser who will be the person we will contact to explain how we will respond.

5.8.33 The chairperson of the council is available to receive petitions before the start of each ordinary meeting of full Council; if you wish to arrange this please contact: [councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk) . During the meeting, as part of chairperson's announcements, any petitions received will be formally passed to the relevant cabinet member or committee chairperson who will respond in writing to the petition organiser. You may ask your ward councillor to present the petition on your behalf. Petitions may also be sent in to:

Democratic Services Manager  
Herefordshire Council  
Plough Lane  
Hereford  
HR4 0LE

Or scanned and emailed to: [councillorservices@herefordshire.gov.uk](mailto:councillorservices@herefordshire.gov.uk)



**5.8.34 What happens once a petition has been submitted?**

5.8.35 All petitions sent or presented to the council will receive an acknowledgement within 10 working days of receipt explaining how we will respond.

5.8.36 Details of all petitions received, and of our response, will be published on the website. The contact details of the petition organiser or signatories to a petition will not be placed on the website.

5.8.37 If your petition has been signed by a certain number of people who are registered to vote in the county then you may request that the petition is scheduled for debate at the next ordinary meeting of full Council. If that is the case up to 30 minutes will be allowed for the debate and the petition organiser will have the opportunity to briefly present the petition at the start of the debate. In order to be debated at a meeting of full council the number of Herefordshire electors who have signed the petition must be at least 5% of those on the electoral roll for the county.

**5.8.38 What do councillors and officers do?****5.8.39 What councillors do....**

5.8.40 Councillors are directly elected to represent the people and therefore have to consider not just the interests of their ward, but those throughout the whole county.

5.8.41 Your councillors are responsible for making sure that the services that the council provides meet the needs of residents and those who work in Herefordshire. They do this by setting the overall policies and strategies for the council and by monitoring the way in which these are implemented. Councillors have a complex role and act in a number of capacities: as committee member, constituency representative and party activist.

5.8.42 The full Council of 53 members is responsible for agreeing the main policies and priorities for all services, including the council's budget. The cabinet have responsibility for all decisions which the law, or the Council, does not require to be taken by others and agrees policies and actions to implement the budget and policies set by full Council. Councillors who are cabinet portfolio holders have more specialised roles in agreeing particular policies, representing the council while at the same time working with other agencies to tackle issues such as improving overall health and wellbeing, social care and safeguarding, education, housing, transport, and promoting economic growth within the county.

**5.8.43 What council officers do....**

5.8.44 Council officers are the professional people who work for the council and who are paid to deliver the services agreed by councillors.

5.8.45 Officers help councillors to develop policies and objectives through providing professional expertise and advice but they must remain impartial and serve the

council as a whole. Their main role is to provide the public with the highest possible standards of service within the budget that the councillors set and in accordance with the priorities agreed by the councillors.

**5.8.46 What can my councillor do for me?**

**5.8.47 Your councillor can:**

- be contacted to discuss your problem or ideas to improve the ward or county
- help you if you need information or are dissatisfied with a council service by advising or directing you to someone who can help sort out your problem, and can sometimes progress the case on your behalf
- as a community leader, put forward proposals to improve the ward they represent which may include bringing together different community groups to develop a case for change
- campaign on local issues
- represent your community within the council and to other organisations
- speak at planning and regulatory committee on matters affecting the ward they represent
- ask questions or put forward views on your behalf at public meetings of the council
- present petitions on your behalf
- get an issue (either within the remit of the council or on a matter affecting the county) debated at full Council by submitting a motion.

**5.8.48 Decisions**

**5.8.49 How do I know what decisions are being taken about matters that affect me or where I live?**

5.8.50 We provide on our website ([Forward Plan](#)) summary information about future significant decisions to be taken by the cabinet, together with contact details so that you can find out more information or provide your views. You can also contact your ward member and ask them to put forward your views on your behalf.

5.8.51 Planning or licensing applications which have been submitted are also published on the council's website so that those who may be affected are able to make comments on the proposal.

5.8.52 The agendas and minutes of meetings are published on the website, and where a decision has been taken by a cabinet member or officer, the decision report and notice of the decision are published on the website.

**5.8.53 Are all decisions recorded and published?**

5.8.54 Many are, but there are lots of day to day decisions which are not published. The council has decided that officer decisions with a financial value of less than £50,000 will not be published unless there is a legal requirement to do so. This is because the number of such decisions would make it impractical to publish.

**5.8.55 Why is some information kept confidential?**

5.8.56 We aim to publish information unless there is good reason not to. Sometimes a decision takes into account information which may be personal to an individual, or which would compromise the commercial position of the council or another individual or organisation. There may be particular legal or employment reasons for not making the information public. When this is the case we will explain why the information cannot be made public, and will periodically review whether those reasons remain valid. If they do not we will then release the information.

**5.8.57 How long is information about decisions kept?**

5.8.58 Generally the law requires information to be available for public inspection for six years from the date of the decision.

**5.8.59 How do I find out about decisions taken by partnerships?**

5.8.60 Herefordshire Council works with a wide range of partners to achieve shared objectives in an efficient and effective way. We keep a register of strategic partnerships on our website which includes information about where decisions taken by those partners is recorded and how you can find out more about them.

**5.8.61 What if I can't find the information I am looking for?**

5.8.62 The Freedom of Information Act 2000 gives you a general right of access to all types of recorded information that we hold. More information about how to make a request, and about your other legal rights to information, can be found at: [Access to information](#).

**5.8.63 Other ways of getting involved**

**5.8.64 Planning**

5.8.65 Information about planning applications submitted is available on the council's website and public notices are displayed in the area affected. You may submit comments on a planning application which will be considered by the decision-maker. If the application raises unusual or sensitive planning issues you can ask your ward member to request that the application is considered by the planning and regulatory committee rather than a single officer.

5.8.66 If you have provided comments on a particular planning application which is considered by the planning and regulatory committee you will be asked whether you wish to register to speak at the committee to present your views. Three minutes is generally set aside for public speaking in objection to an application. Registration is on a first come first served basis. The time can be shared with the agreement of the person who has registered first.

**5.8.67 Consultations**

5.8.68 The council encourages as many people as possible to give their views on decisions which affect them. Details of live consultations and how to get involved are available on the council website at [Get Involved](#). You can also find information about past consultations there.

**5.8.69 Scrutiny reviews**

5.8.70 You may request that a matter or concern be considered for inclusion in the future work programme of a scrutiny committee. The committees cannot include every suggestion but prioritise items taking into account: the significance and impact of the issue; the ability of scrutiny input to add value; the need to avoid any duplication; the timeliness of scrutiny involvement and the resources available to undertake the work.

5.8.71 The committee may invite members of the public to submit their views or evidence to inform its work; when they do this the call for evidence will be publicised.

**5.8.72 Vote**

5.8.73 Elections take place for Herefordshire Council and all the town and parish councils in the county every four years as well as national elections, and police and crime commissioner elections. Your vote in all these elections and any other referendums that take place is important, but in order to vote you must be on the electoral register. Information about how to register is available at [Register to Vote](#).

**5.8.74 Stand for election**

5.8.75 If you are interested in standing for election as a parish councillor or as a Herefordshire councillor you can find out more at [Standing as a Councillor](#).

**5.8.76 Volunteer**

5.8.77 We provide a wide variety of services to people in Herefordshire, particularly to those who are vulnerable and have complex needs. As more pressure is placed on our budget, and on the budgets of partner organisations, different ways of delivering these services are being developed. Individuals and communities are doing more to help each other and themselves. If you are interested in volunteering or have an idea for your community you would like to develop more information is available at [Volunteering](#).

**5.8.78 Give feedback**

- 5.8.79 We want to hear what you think about our services. What you say is important and will help us improve our services. More information can be found at:  
[https://www.herefordshire.gov.uk/info/200148/your\\_council/50/contact\\_us](https://www.herefordshire.gov.uk/info/200148/your_council/50/contact_us)

**5.8.80 Find out more...**

- 5.8.81 The council's website provides lots of advice and information as well as access to online services and you can sign up to receive updates on particular matters of interest. If you can't find what you are looking for some useful contacts are below:

Customer services.....

[https://www.herefordshire.gov.uk/info/200148/your\\_council/50/contact\\_us](https://www.herefordshire.gov.uk/info/200148/your_council/50/contact_us)

Freedom of information.....

[https://www.herefordshire.gov.uk/info/200148/your\\_council/15/access\\_to\\_information/2](https://www.herefordshire.gov.uk/info/200148/your_council/15/access_to_information/2)

Governance.....

[https://www.herefordshire.gov.uk/info/200148/your\\_council/61/get\\_involved](https://www.herefordshire.gov.uk/info/200148/your_council/61/get_involved)

Find your councillor or parish council information

[https://www.herefordshire.gov.uk/info/200152/elections/219/election\\_information\\_for\\_your\\_area\\_search](https://www.herefordshire.gov.uk/info/200152/elections/219/election_information_for_your_area_search)



## Section 9 – Guide to roles and responsibilities of councillors

### **5.9.1 Summary**

- 5.9.2 To serve all constituents within the ward, and the citizens of Herefordshire as a whole by acting as an effective advocate, campaigner and representative.
- 5.9.3 To promote the economic, social and environmental wellbeing of ward constituents and the those who live and work in the county as a whole, and to act in accordance with the high standards of probity in public life, seeking to serve the community without personal gain.
- 5.9.4 To be a corporate parent to looked after children and young people in the county.

### **5.9.5 Being effective**

- 5.9.6 To be effective councillors should:
- fully understand and act in accordance with the councillors' code of conduct and the general principles that govern councillors' conduct.
  - have a knowledge and understanding of the council's constitution.
  - have a knowledge and understanding of the council's organisation and management structure and who to ask for information and advice.
  - attend all meetings of bodies on which they serve together with seminars and training sessions on subjects of relevance to them and their particular areas of involvement and interest.
  - accept personal responsibility to take up opportunities for training and development that may be provided and generally to extend and broaden their knowledge of local government affairs through reading, discussion and enquiry.

### **5.9.7 Different roles for some councillors**

- 5.9.8 Some councillors will undertake markedly different roles (e.g. the leader, cabinet member, committee chairperson, scrutiny member etc). These differing roles are outlined in the role profiles at appendix 1 to this section.

### **5.9.9 Standards of conduct and probity**

- 5.9.10 All councillors must agree to abide by the councillor code of conduct. Councillors will be given suitable training on taking office and receive ongoing support and briefings on this subject during their time in office.
- 5.9.11 Councillors must also abide by all the requirements of the council's own constitutional arrangements. Any breach of the codes in the constitution may constitute a breach of the councillor code of conduct and councillors should be aware of the procedures for dealing with complaints.
- 5.9.12 Councillors are expected to behave at all times in accordance with the high standards of personal conduct and in a manner that is consistent with the values of the council to achieve best value for residents and maintain public confidence in Herefordshire Council.

**5.9.13 Working as part of the council**

- 5.9.14 At meetings of the council and as a member of one or more of the different council bodies, councillors will be expected to contribute to the formulation and review of policies and strategies and the review and development of services and programmes as appropriate.
- 5.9.15 Councillors should be constructive and forward looking. An innovative and questioning approach is required.
- 5.9.16 The work of the council is conducted in a political environment. As a councillor, who may have been elected with the endorsement and backing of a political party, or who may be a member of a political group within the council, members will naturally wish to secure aims and objectives that match their political affiliation. A political approach is legitimate, however, councillors should guard against pursuing political objectives to the point that it impedes the effective management of the council's affairs and undermines people's confidence in the council's ability to exercise a leadership role in the wider community.
- 5.9.17 Councillors should have regard to the council's corporate plan and other council policies and strategies, especially when considering the quality and scope of services and weighing the merits of competing interests and demands upon the council budget.
- 5.9.18 When participating in scrutiny activity councillors should have regard to the council's scrutiny procedure rules and in particular the requirement to take an independent approach, seek consensus on outcomes, be constructive and not judgmental.

**5.9.19 Community representative and advocate**

- 5.9.20 Councillors should be aware of the needs, priorities and aspirations of their local community. To do this, they should make yourself known to those who live and work in their ward (your constituents). Councillors may wish to hold regular surgeries, publish newsletters or otherwise make themselves accessible. Liaise/consult extensively and meet with local groups and organisations including parish councils.
- 5.9.21 Councillors should represent the views of ward constituents and local groups. In doing so councillors should take careful note of the different, often conflicting, interests, and attempt to represent the community as a whole. Councillors should act as an advisor or advocate to local groups with a special interest, or generally provide advice and assistance on matters within their ward and the implications of particular courses of action.
- 5.9.22 Such a representational role must be undertaken responsibly. As politicians, councillors will naturally want to have regard to the views of voters and avoid, or at least minimise criticism by political opponents. Councillors do, however, have a wider responsibility to protect the council's interests and reputation and help reach the best decision.
- 5.9.23 Councillors should encourage constituents to raise matters of importance or personal concern and take appropriate action, either responding personally or ensuring a response is provided. Where necessary councillors should seek advice on any response made as they may be seen to be acting on behalf of the council as a whole.



- 5.9.24 Councillors should seek to foster a sense of civic pride within the community and encourage all citizens to develop and maintain a personal commitment to civic responsibility, and should avoid statements and actions that serve to undermine confidence in the institutions of local government without justification or good cause.

**5.9.25 Working with others in the local community**

- 5.9.26 Councillors are expected to work with partners and other organisations with which the council is actively involved.
- 5.9.27 If a councillor is appointed by the council representative on any outside bodies they will have a responsibility to explain the council's policies and position where appropriate and to listen to the views of others and report back to the council.
- 5.9.28 Councillors should play a leading role in explaining to others outside the council how the decision making process operates and the respective roles of members and officers have.
- 5.9.29 Councillors may also be involved in other local organisations, such as those in the voluntary sector, and should recognise that as an elected councillor others may regard statements they make as having council backing. Councillors should always make it clear when they are speaking in an individual capacity, and follow the council's approved communication protocols.

**5.9.30 Accountability**

- 5.9.31 The roles, duties and responsibilities outlined in this guide relate to the political or member level activities of the council. Accountability for a councillor's performance is through the political and electoral process.

## Appendix 1: Member role profiles

### **All councillors:**

#### **Community leader**

- Champion your ward
- Deal with casework
- Represent the community within the council and other agencies
- Campaign on local issues
- Keep in touch with constituents
- Able to engage with all groups within your community

#### **Decision maker and influencer**

- Actively contribute to the development and scrutiny of the council's policies, strategies, budget, and service delivery
- Attend meetings of full Council and any committees you are appointed to
- Work with partners and outside bodies as a representative of the council
- Act as a corporate parent for children and young people in the care of the council
- Liaise with town and parish councils

#### **Day to day councillor**

- Juggle roles and responsibilities
- Understand and interpret information
- Use ICT effectively
- Communicate using all types of media ensuring adherence to corporate guidance for media, social media and internet usage
- Use a communication style that takes into account different needs of different audiences
- Act as a facilitator.
- Take personal responsibility for continuous professional development to develop and build understanding, knowledge and skills to ensure that the role is undertaken as effectively as possible
- Interact with officers, partners, community and fellow councillors in accordance with the council's codes of conduct and behaviour.

### **Chairperson of the Council**

- Uphold and promote the purpose of the constitution
- Decide what the constitution means if there is a dispute, on advice from the monitoring officer
- Chair full Council meetings so that decisions can be taken efficiently and with regard to the rights of councillors and the interests of the community
- Make sure that Council meetings are a place for debating matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account
- Promote public involvement in the council's activities and in the democratic process
- Be the conscience of the council
- Attend those civic and ceremonial functions which they or the council consider appropriate
- Approve, as urgent, decisions which will not be subject to call in, when no chair of a scrutiny committee is available.

The chairperson of the council fulfils several roles:

- (a) **Ceremonial role** - The chairperson is the ceremonial head of the whole Council and its countywide representative at civic and social occasions. The chairperson has considerable discretion in exercising the ceremonial aspects of the office.
- (b) **Apolitical role** - It is important that the chairperson maintains an apolitical stance especially when chairing Council meetings. The chairperson must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to any relevant procedure rules.
- (c) **Chairperson's announcements** - Any group leader or committee chairperson may approach the chairperson before a Council meeting to suggest items for the chairperson to use in making announcements to Council. The chairperson has complete discretion as to which items they may think appropriate to announce.
- (d) **Rules of debate** - The chairperson's role in conducting meetings is to enforce the council rules at the Council meeting as set out in part 4.
- (e) **Casting vote** - If there are equal numbers of votes for and against, the chairperson will have a second or casting vote. There will be no restriction on how the chairperson chooses to exercise a casting vote.

### **Committee Chairperson**

The key duties and responsibilities of the Chairperson of a committee or body ('the committee) of the Council are:

- To lead the work in respect to the purpose and proceedings of the relevant committee in accordance with its terms of reference.
- To demonstrate leadership skills including impartial chairing meetings and setting standards for the effective operation of the committee in such a way to facilitate open discussion and valid decisions.
- Facilitate fair and open decision-making by, or on behalf of, the committee
- Develop engagement with individuals and representatives for which the committee has responsibility.
- To ensure the work of the committee or body is transparent and open to public scrutiny and debate.
- To ensure that all attendees have an opportunity to contribute to the meeting
- To attend committee meetings and other stakeholder meetings with senior officials

- Ensuring a value for money approach to the financial and resource management of committee resources.
- To challenge constructively both within the committee or body and with internal and external with stakeholders
- To consider the outcome of the research, analyse the results and communicate how that evidence supports the committee or body decisions.
- To champion understanding and commitment to equality issues and challenging discriminatory practices.
- To act as spokesperson for the committee and liaise with community groups, partners, outside bodies and the public on matters that fall within the remit of the committee.
- To encourage the highest standards of behaviour and probity
- To work with officers and members to make sure that committee members develop the necessary skills and knowledge to contribute effectively to the work of the committee and to work with officers to provide training where appropriate on changing procedures and legislation.

### **Vice Chairperson**

- To assist/take on part of the above duties on behalf of the Chairperson on request of the Chairperson for the better discharge of the duties of the committee.
- To assist/take on the above duties on behalf of the Chairperson if he/she is unable to do so.

### **Group leader**

- Provide clear leadership to and be the main spokesperson and representative for members of their political group
- Promote the best interests of the county and ensure that members of their political group act in the same matter
- Lead their group by ensuring that:
  - Members of their group understand and uphold the council's codes of conduct
  - Members actively engage with and liaise in a positive manner with other political groups to further the interests of the council
  - Members actively engage with and liaise with members of the management board on all matters affecting the services provided, or commissioned by, them on behalf of the council
  - There is regular and meaningful communication within their groups and that members are fully briefed on all council matters
  - If in opposition, engage in constructive criticism, to provide credible checks and balances, challenges and realistic alternatives or amendments on proposed decisions of the cabinet where appropriate
  - There is adequate support is provided to group members to carry out and develop in their role (e.g. induction, regular meetings, supervision, identification of training needs and support)
- Make nominations to the membership of, and substitutes at, committees, as and when required
- Work with their group to formulate overall policy and priorities for the group
- Represent the council on local, regional and national bodies as appropriate

### **Group leader meetings**

The purpose of Group Leaders' meeting should be to:

- Provide information and communication to and from political groups
- Facilitate cross-party working to achieve County Plan objectives
- To promote good working relationships between political parties and between Members and Officers of the council for the benefit of all.
- To otherwise liaise with other group leaders as appropriate and as required

**Leader of the council**

- Provide an overall cohesive, corporate and strategic leadership and direction for the council
- Lead and chair the cabinet and ensure its overall effectiveness
- Lead in developing the council's partnerships with other organisations
- Work with portfolio holders to ensure effective delivery of services within their portfolios against the agreed policies of the council, and to ensure the delivery of the cabinet's responsibilities
- Ensure effective communication and explanation of all cabinet's decisions and recommendations to Council and the public
- Ensure that the cabinet manages the business of the council within the financial limits set by the council

**Cabinet member**

The cabinet is responsible for all council functions which are not the responsibility of any other part of the council, provided the decisions made are within the council's agreed policy and budget framework.

- Participate effectively as a cabinet member taking joint responsibility for all actions and be collectively accountable.
- Build good relationships with appropriate officers and work with them in developing policy
- Take a proactive approach to the early engagement of scrutiny committees to help in policy development
- Give political and strategic direction to officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the council's reputation through taking the national stage where possible and participating in regional and national networks
- Have an overview of performance management, efficiency and effectiveness of the portfolio
- Represent cabinet by attending scrutiny committees if requested in connection with any issues associated with the portfolio and consider scrutiny reports as required.
- Make executive decisions within the portfolio and in accordance with the principles of good decision-making
- Act as a strong, competent and persuasive figure to represent the portfolio and a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the council on external bodies and feedback to cabinet any issues of relevance and importance

**Overall responsibility**

- Ensure that cabinet exercises responsibility for the prudent management of the council's resources
- Have overall responsibility for the political management of the authority and the delivery of agreed council priorities, strategies and policies

**Working with partners**

- Be the main representative of the council, with others as appropriate, in dealing with the community, business, voluntary sector and other local and national organisations
- Ensure effective liaison with other political groups within the council

**Scrutiny member**

The scrutiny committees, and any task groups they establish, review and scrutinise decisions made or actions taken by the cabinet. They may also be involved in policy development prior to decisions being taken by the cabinet. The committees may make reports and recommendations to full Council, cabinet or any relevant partner in connection with council or certain other public functions such as health.

- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Lead the committee in prioritising its work so as to ensure effective scrutiny
- Develop a constructive relationship with cabinet, especially with relevant portfolio holders
- Develop a constructive relationship with members of management board in the areas that the committee scrutinises
- Be responsible for outputs and outcomes of scrutiny
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Make recommendations based on the committee's deliberation

**Committee member**

Council has established a number of committees through which functions which are not the responsibility of cabinet are fulfilled. Seats on these committees are allocated to political groups on a proportional basis and appointments to fill those seats are a matter for the relevant group leaders to determine. Members who are appointed to certain committees, such as planning and regulatory committee, are required to undertake training before taking up their seats.

- Maintain up to date knowledge of council and national policies and processes relevant to the work of the committee
- Attend meetings and, if unable to attend, liaise with your group leader or the monitoring officer to arrange a substitute
- Receive evidence in an impartial manner
- Analyse information presented to the committee
- Take decisions in accordance with the principles of good decision-making





# **PART 6**

## **COUNCILLORS' ALLOWANCES SCHEME**



## PART 6

# COUNCILLORS' ALLOWANCE SCHEME

6.1.1 The councillors' allowances scheme has been agreed following consideration of the recommendations of an independent remuneration panel. The scheme was reviewed in May 2022 and applies from 20 May 2022.

6.1.2 The main features of the scheme are:

- a basic allowance for all 53 members payable at the following levels:
  - a) £7,046 (if all relevant mandatory training has not been completed within three months of taking office)
  - b) £9,394 (for the whole year if all relevant mandatory training has been completed within three months of taking office, otherwise payable from the date mandatory training is completed)
  - c) Members will now also need to complete a second round of mandatory training in year three of their four year term - the basic allowance will revert back to 75% of the recommended Basic Allowance (£7,046 if all training has not been completed).
- a scheme of special responsibility allowances as shown below:

	<b>5 May 2023 £</b>
<b>Basic allowance – payable to all 53 members</b>	9,394
<b>Special responsibility allowances:</b>	
Leader	32,880
Deputy Leader	21,137
Cabinet members	16,440
Chairperson of Council	11,273
Chairperson of Planning and Regulatory Committee	11,273
Chairpersons of scrutiny committees	11,743
Standing chairperson of licensing sub committee	7,046
Chairperson of audit and governance committee	7,046
Adoption panel elected member representative	7,046

*\* to be uplifted in line with NJC pay award for the next four years (to October 2028)*

Part 6 – Councillors' Allowance Scheme  
Updated: May 2023

	<b>5 May 2023 £</b>
Cabinet support member  (An allowance is payable for these posts up to 50% of the cabinet member allowance) subject to the total budget currently allocated for individual cabinet members not being exceeded	Up to 8,220
Group leaders  (provided group membership exceeds 10% of the council's total membership)	1,747  and £124 per group member

- Special responsibility allowance to be in addition to basic allowance. Excluding group leaders' allowance, only one special responsibility allowance is payable per elected member.
- A childcare and dependants' carers' scheme: allowances payable for eligible duties where costs are incurred in the care of children aged 16 or under, and in respect of other dependants where there is medical or social work evidence that care is required, and where the work claimed for has been undertaken by persons other than family members resident in the household; all claims must be evidenced by receipts and will be paid at the current market hourly rates.
- All allowances to be updated annually in line with the national joint council for local government services pay award.

6.1.3 In addition attendance whether as an appointed member or at the invitation of a director, cabinet member or chairperson of the relevant body at any of the following will entitle a councillor to claim for travel and subsistence:

- Council meeting
- Council committee and sub-committee meeting
- Any of the other bodies described in this constitution including cabinet meetings;
- A working group established by any one of the above bodies;
- Official briefing session called by the chairperson of Council, leader, cabinet member, chairperson of a committee, sub-committee, working group, or by a group leader or his/her substitute - such attendance being limited to one councillor from each group per session;
- Meeting of any other approved body.

6.1.4 The undertaking by any of those listed below of any duty associated with the council or its committees and other bodies approved for such purposes by the chief executive or monitoring officer in consultation with the leader:

- The chairperson/vice chairperson of council
- A cabinet member

*\* to be uplifted in line with NJC pay award for the next four years (to October 2028)*

Part 6 – Councillors' Allowance Scheme  
Updated: May 2023

(c) The chairperson/vice chairperson of any committee, sub-committee or working group

(d) The leaders of the political groups

6.1.5 Attendance on site visits approved by the relevant committee or body.

6.1.6 Attendance at cabinet by political group leaders.

6.1.7 Attendance at a meeting of any scrutiny committee by the chairperson of the general scrutiny committee and/or the chairperson of the adults and wellbeing scrutiny committee and/or the chairperson of the children's and young people scrutiny committee.

6.1.8 Attendance at cabinet by the chairperson or in the absence of the chairperson and with his/her permission the vice chairperson of a scrutiny committee where cabinet is addressing matters within that committee's terms of reference.

6.1.9 Attendance at any conference by any councillor which has been authorised in advance by the relevant director.

6.1.10 Any other attendance for which prior approval has been given by the chief executive or monitoring officer after consultation with the leader.

6.1.11 In general expenses will not be payable for attendance at meetings of outside bodies. A list of appointments to outside bodies, which shall be approved by the chief executive or monitoring officer following consultation with group leaders, will be maintained by the monitoring officer. This list will identify those appointments to outside bodies where expenses are payable.

6.1.12 **Notes:** The single rate at which travel may be claimed for all vehicles including electric vehicles shall be at the rates used by Her Majesty's Revenues and Customs Service (Members are entitled to choose between claiming mileage allowance for bicycle travel, or claiming for an annual service for their bicycle instead.)

6.1.13 A subsistence allowance for councillors is paid for meetings held out of the county and on the basis of actual reasonable expenditure and where overnight accommodation is necessary, this will be for three star accommodation or equivalent, evidenced by receipts. If no suitable accommodation is available members may, with the approval of the monitoring officer, book accommodation to the value of £150.00 per night, evidenced by receipts.

- Co-opted and other non-elected members are entitled to claim travel, subsistence and dependant carer's allowances on the same basis as members of the council.
- Expenses claims must be claimed within 12 months of being incurred.
- It was recommended by the Independent Remuneration Panel and agreed by Council on 11 October 2024 that the following remuneration should be given to the

*\* to be uplifted in line with NJC pay award for the next four years (to October 2028)*

following and indexed linked to the National Joint Council annual pay award for the next four years;

1. Audit and Governance Independent Persons - £1,500 p/a (based on 10 meetings p/a)
2. Scrutiny Co-opted Members - £900 p/a (based on 6 meetings p/a)
3. Standard Independent Persons - £450 p/a (based on 3 meetings p/a)

*\* to be uplifted in line with NJC pay award for the next four years (to October 2028)*

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Part 6 – Councillors' Allowance Scheme  
Updated: May 2023

# PART 7

## CABINET PORTFOLIOS, MEMBERSHIP OF COMMITTEES AND THE COUNCIL'S MANAGEMENT STRUCTURE





## Section1 - Cabinet member portfolios

### **Leader (corporate strategy and budget): Councillor Jonathan Lester**

- Corporate policy and strategy
- Corporate budget
- Represent the Council on various business and economy organisations including the Marches LEP, Herefordshire Business Board and the Enterprise Zone Board. Working with the Portfolio holder for the Economy.
- Governance of external arrangements with companies, outside bodies and partnerships
- Member of the Council's Shareholder Committee
- External liaison and relationships
  - Local Government Association (LGA)/County Councils' Network (CCN)
  - European and national matters
  - Regional matters
  - Marches Local Enterprise Partnership
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any initiative not specifically allocated to any other portfolio

### **Environment (Deputy Leader): Councillor Elissa Swinglehurst**

- Deputise for the Leader in their absence.
- Cultural services
- Waste Management Strategy
- Waste collection and disposal
- Cabinet Commission on Phosphates
- Planning services, land use strategies including Core Strategy
- Environmental and conservation promotion, protection and sustainability including response to climate emergency.
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader

**Community Services and Assets: Councillor Harry Bramer**

- Council asset, investment property strategies and property strategies
- Council property services including facilities management
- Major Contracts
- Commissioning and procurement strategy and policy
- Community services:
  - Parks and countryside
  - Leisure Services
  - Libraries
  - Heritage Services
  - Archives
  - Public conveniences
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader

**Children and Young People : Councillor Ivan Powell**

- To provide leadership and ensure coordination across the range of council children's services, and through engagement with partners, with a particular focus on children and young people's health & wellbeing and safeguarding
- Services for vulnerable young people/children/families
- Lead member for children's services in accordance with the Children's Act 2004
- Corporate parenting
- Children and young people's education and attainment
- Post 16 education, training and skills development, including NMiTE
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader

**Finance and Corporate Services: Councillor Pete Stoddart**

- Agreeing and leading the process for developing revenue and capital budgets, medium term financial strategy, council tax and NNDR
- Financial policy, fees and charging policy, financial control and reporting
- Council tax benefits
- Council ICT services and digital strategy
- Human Resources
- Health and safety
- Performance, improvement, risk management, research and intelligence
- Services under Governance and Legal Services
- Registrars and Coroner Services
- Communications, and social media including website
- Digital Connectivity
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader

**Adults, Health and Wellbeing: Councillor Carole Gandy**

- Provide leadership and ensure coordination across the range of council adult social care services, and through engagement with partners
- Services for vulnerable adults
- Adult safeguarding
- Homelessness, housing allocation and condition
- Leadership of Health and Wellbeing Board and partnership working with health
- Co-chair of the Integrated Care Partnership Assembly
- Member of the Council's Shareholder Committee for Hoople
- Public Health Strategy
- Emergency planning and business continuity
- Community engagement and development, encompassing Talk Community, Talk Parish Summits and Parish Shared Services
- Customer services
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Community Safety including the Community Safety Partnership
- Bereavement services
- Any other specific responsibilities as allocated by the leader

**Economy and Growth: Councillor Graham Biggs**

- Economic development and regeneration
- Strategic Housing
- Tourism strategy
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader.

**Local Engagement & Community Resilience: Councillor Dan Hurcomb**

- Future Public Realm Contract.
- Land Drainage, flood alleviation.
- Public Rights of Way.
- Highways Act Enforcement.
- Parish Council Grant Schemes.
- Communications and Social Media.
- Any other specific responsibilities as allocated by the Leader.

**Roads and Regulatory Services: Cllr Barry Durkin**

- Animal health and welfare
- Environmental health and trading standards
- Markets and fairs
- Licensing
- Car parking policy and services
- Public realm contract management
- Gypsy and traveller services
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader

**Transport and Infrastructure: Councillor Philip Price**

- Transport and highways policy and strategy
- Public Transport and active travel measures
- Rivers and waterways
- Street scene design, policy and delivery
- Traffic Management
- Policy development, quality assurance, external liaison, performance improvement and risk assurance relevant to the portfolio at all times having regard to the cross cutting priorities of the council
- Any other specific responsibilities as allocated by the leader



## Section 2 – Membership of Committees

Chairperson of Council – Councillor Roger Phillips  
Vice-Chairperson of Council – Councillor Stef Simmons

CABINET		Cabinet Support Members
Corporate strategy and budget <b>(Leader):</b>	Jonathan Lester	
Environment (Deputy Leader)	Elissa Swinglehurst	
Adults, Health and Wellbeing	Carole Gandy	
Children and Young People	Ivan Powell	
Community Services and Assets	Harry Bramer	
Economy and Growth	Graham Biggs	
Finance and Corporate Services	Pete Stoddart	
Local Engagement & Community Resilience	Dan Hurcomb	
Roads and Regulatory Services	Barry Durkin	
Transport and Infrastructure	Philip Price	
EMPLOYMENT PANEL (6)		
Jonathan Lester (Chairperson) (Con)	Terry James (Lib Dem)  Clare Davies (True Ind)	
Stef Simmons (Green)		
Pete Stoddart (Con)		
Liz Harvey (IfH)		
AUDIT AND GOVERNANCE COMMITTEE (7)		
David Hitchiner (Chairperson) (IfH)	Peter Hamblin (Con)  Robert Highfield (Con)  Aubrey Oliver (Lib Dem)	
Mark Woodall (Vice-chairperson) (Green)		
Chris Bartrum (Lib Dem)		
Frank Cornthwaite (Con)		

<b>PLANNING AND REGULATORY COMMITTEE (15)</b>	
Terry James (Chairperson) (Lib Dem) Clare Davies (Vice-chairperson) (True Ind) Polly Andrews (Standing chair of licensing subcommittee) (Lib Dem) Bruce Baker (Con) Jacqui Carwardine (Lib Dem) Simeon Cole (Con) Dave Davies (Con) Matthew Engel (IfH) Catherine Gennard (Green)	Peter Hamblin (Con)  Stef Simmons (Green) John Stone (Con)  Charlotte Taylor (IfH) Richard Thomas (Con)  Mark Woodall (Green)
<b>SCRUTINY MANAGEMENT BOARD (12)</b>	
Ben Proctor (Chairperson) (Lib Dem) Louis Stark (Vice-chairperson) (Lib Dem)  Jenny Bartlett (Green) Simeon Cole (Con) Frank Cornthwaite (Con) Dave Davies (Con) Liz Harvey (IfH) Richard Thomas (Con) Rob Williams (Con)	<u>Members of the board due to their status as scrutiny chairpersons</u>  Ed O'Driscoll (Connected Communities) (Lib Dem)   Pauline Crockett (Health, Care and Wellbeing) (IfH)   Toni Fagan (Children and Young People) (Green)



<b>CHILDREN AND YOUNG PEOPLE SCRUTINY COMMITTEE (7)</b>	
Toni Fagan (Chairperson) (Green) Ben Proctor (Vice-chairperson) (Lib Dem) Frank Cornthwaite (Con) Clare Davies (True Ind) Dave Davies (Con) Robert Highfield (Con) David Hitchiner (IfH)	<u>Co-opted Members</u>  Jan Frances  Stuart Mitchell  Vacant
<b>CONNECTED COMMUNITIES SCRUTINY COMMITTEE (7)</b>	
Ed O'Driscoll (Chairperson) (Lib Dem) Frank Cornthwaite (Vice-chairperson) (Con) Bruce Baker (Con) Elizabeth Foxton (IfH) Roger Phillips (Con) Rob Owens (Lib Dem) Diana Toynbee (Green)	<u>Co-opted members</u>
<b>ENVIRONMENT AND SUSTAINABILITY SCRUTINY COMMITTEE (7)</b>	
Louis Stark (Chairperson) (Lib Dem) Justine Peberdy (Vice-chairperson) (Green) Robert Highfield (Con) Nick Mason (Unaligned) Rob Owens (Lib Dem) Richard Thomas (Con) Vacancy (IfH)	<u>Co-opted members</u>

<b>HEALTH, CARE AND WELLBEING SCRUTINY COMMITTEE (7)</b>	
Pauline Crockett (Chairperson) (IfH) Kevin Tillett (Vice-chairperson) (Lib Dem) Simeon Cole (Con) Dave Davies (Con) Mark Dykes (Lib Dem) Richard Thomas (Con) Rebecca Tully (Green)	<u>Co-opted members</u>

OFFICIAL  
**The Corporate Leadership Team**

**Leadership:** working with elected members.

**Strategic direction:** for all employees as set by the elected members and the senior management team

**Policy advice:** to elected members to help deliver their political objectives

**Partnerships building:** to improve the quality of life and public services for the people of Herefordshire

**Operational management:** coordinating financial performance, risk and change management

**Paul Walker**  
Chief Executive Officer

**Hilary Hall**  
Corporate Director,  
Community Wellbeing

Adult social care and adult safeguarding  
All ages commissioning,  
Public health,  
Talk  
Community and cultural services  
Housing  
Independent living services

**Tina Russell**  
Corporate Director,  
Children and Young People

Children's Improvement Plan  
Adoption and Fostering Services  
Safeguarding and Families  
Early years, schools and further education  
Education places  
Special educational needs services for children.

**Ross Cook**  
Corporate Director,  
Economy and Environment

Highways and Transport  
Regulatory and public protection  
Waste services  
Housing and growth  
Economic development  
Infrastructure delivery  
Major Capital Projects

**Claire Porter**  
Director of Governance and Law

Monitoring Officer  
Democratic Services  
Electoral Services  
Legal Services  
Complaints  
Information Governance  
Coroners  
Registration Services

**Rachael Sanders**  
Director of Finance

Strategic Finance (Corporate, Capital and Service Finance)  
Financial Regulations and Procedures  
Treasury Management  
Commercial and Procurement  
Fraud, Risk and Insurance  
Corporate Grants and Programmes

**Tracey Sampson**  
Director of HR and Organisational Development

Workforce strategy  
Employee engagement and wellbeing  
Workforce data, statutory reporting and compliance.  
Learning and development  
Health and safety

**Rosie Thomas-Easton**  
Director of Strategy and Transformation

Strategy and policy development  
Strategic transformation lead  
Performance and risk  
Strategic partnership



### **Record of changes made to the constitution of Herefordshire Council following implementation on 19 May 2017**

The constitution of the council was approved on 16 December 2016, with further approvals of codes and guides on 19 May 2017. The table below summarises the changes made to the constitution which was implemented on 19 May 2017, and explains the reasons for each change.

Significant revisions to the constitution were agreed by Council on 4 March 2022 and implemented from 20 May 2022. The detail of those changes is not listed here, please see the agenda papers to Council on 4 March and 20 May. Any changes below dates after 4 March 2022 are to the version of the constitution implemented on 20 May.

The monitoring officer has delegated authority to make technical changes (grammatical, formatting, and consistency) or those required by law.

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 0 Contents		Reference to glossary removed	Glossary no longer included in constitution	19/05/17	Monitoring Officer
Part 1 Introduction and Summary	1.1.2	Reference to glossary removed	Glossary no longer included in constitution	19/05/17	Monitoring Officer
Part 4 Section 6 Contracts procedure rules	4.6.19	Change extensions to exemptions.	Typographical correction	19/05/17	Monitoring Officer
Various	Various	Hyperlinks added to cross references. Cross references updated to correct typographical errors.	Improved connectivity between sections of constitution and typographical corrections.	19/05/17	Monitoring Officer
Part 6 Councillors Allowance Scheme	6.1.1 – 6.1.13	Updated allowance scheme added	Updated scheme approved at full council 19 May 2017.	01/06/17	Monitoring Officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 7 Section 1 Cabinet Portfolios	Various	Updated cabinet member portfolios added	Update cabinet portfolios with effect from 1 June	01/06/17	Monitoring Officer
Part 7 Section 2 Membership of committees	Various	Updated committee membership details	Updated membership as notified to scrutiny officer to be effective from 19 May	01/06/17	Monitoring Officer
Part 7 Section 3 Management Structure		Updated management structure added	Updated to reflect changes in personnel	16/06/17	Monitoring Officer
Part 5, Section 2 Councillor code of conduct	5.2.8 – table entry B	Corrected numbering of standards. Corrected value of gifts to be declared from £10 to £20.	Typographical correction	16/06/17	Monitoring Officer
Part 5, Section 2 Councillor code of conduct	5.2.17	Correction to ‘can I participate’ column against other declarable interests – tick changed to cross	Typographical correction	16/06/17	Monitoring Officer
Part 3, Section 1 Council Functions	3.1.1	Applied row numbers to table of functions	For clarity and ease of cross-referencing	26/06/17	Monitoring Officer
Part 4, Section 7 Financial Procedure Rules	4.7.120	Corrected cross reference from 4.7.18 to 4.7.132	Correction	11/07/17	Deputy Monitoring Officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7, Section 2 Membership of committees	Membership table	Updated committee memberships	Change of IoC membership on planning and regulatory committee	13/07/17	Democratic Services Manager
Part 7, Section 1 Cabinet Member Portfolios	N/A	Names and portfolios of cabinet members updated	To take account of changes caused by departure of Councillor Morgan	01/08/17	Deputy Monitoring Officer
Part 7, Section 2 Membership of committees	Membership table	Updated committee memberships	Change to membership to take account of Councillor Durkin becoming a cabinet member	01/08/17	Deputy Monitoring Officer
Part 4, Section 2 Access to Information	4.2.54	Change word 'meeting' to 'decision'	Typographical correction	09/08/17	Monitoring Officer
Part 7, Section 2 Membership of committees	Membership table	Updated committee memberships	Change to membership of General Scrutiny and Audit and Governance	16/08/17	Deputy Monitoring Officer
Part 3, Section 5, Other Functions	3.5.12	Add (j) to give audit and governance committee the ability to undertake community governance reviews and make recommendations to council	To add in a delegation given to the committee in March 2012 which had been omitted	11/10/17	Monitoring Officer
Part 3, Section 5, Other Functions	3.5.12	In (c) change "raising concerns at work" to "confidential reporting cycle"	To mirror the name of the policy in the constitution	11/10/17	Deputy monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7 Section 1 Cabinet Portfolios	Various	Updated cabinet member portfolios added	Update cabinet portfolios with effect from 1 December	01/12/17	Monitoring Officer
Part 7 Section 2 Committee Membership	Employment Panel	Add Cllr RJ Phillips to employment panel membership	To fill vacancy created by resignation of Cllr PM Morgan	5/5/18	Deputy monitoring officer
Part 4, Section 6 Contract Procedures Rules	2 boxes in table (High Value and EU Tender) and paragraph 4.6.13	New threshold levels	Technical: Crown Commercial Services – Procurement Policy Note – New Thresholds (04/17). New threshold levels being applied for purposes of the Procurement Regulations.	9/1/18	Monitoring Officer
Part 7 Section 2 Committee Membership	Audit and Governance Committee	Remove Cllr LC Tawn; replace with Cllr AJR Powers	Change requested by Cllr AJR Powers as Group Leader for IoC	24/1/18	Monitoring officer
Part 7 Section 2 Committee Membership	Children's Scrutiny / Employment Panel	Add Cllr RJ Phillips as vice chair Add Cllr ACR Chappell as member of children's scrutiny committee Remove Cllr M Lloyd-Hayes as member of children's scrutiny committee	Appointment of vice-chairman as part of the political proportional report to council in January 2018  Change in political proportionality following by-elections and as per report to council in January 2018.	31/1/18	Monitoring officer



Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7 Section 2 Committee Membership	Various	Changes to cabinet and general scrutiny	Update cabinet member details with effect from 13 March 2018 and to show vacancy in general scrutiny	13/3/18	Monitoring officer
Part 7 Section 1 Cabinet Portfolios	Various	Updated cabinet member portfolios added	Update cabinet portfolios with effect from 13 March 2018	13/3/18	Monitoring Officer
Part 7 Section 2 Committee Membership	Planning membership	Remove Cllr Swinglehurst from Planning and Regulatory Committee	Cllr Swinglehurst no longer member of planning and regulatory committee after meeting on 14/3/18	15/3/18	Deputy Monitoring officer
Part 7 Section 3 Directorate Structure Charts	N/A	Updated structure chart as at 1 January 2018	Structure chart was dated June 2017.	15/3/18	Monitoring Officer
Part 7 Section 2 Committee Membership	General Scrutiny	Remove Vice Chairman from Con vacancy. Replace Cllr Cutter with Cllr Anderson	Typo Cllr Cutter no longer a member of General Scrutiny Committee	20/3/18	Deputy Monitoring officer
Part 7 Section 2 Committee Membership	Various	Changes to AWB Scrutiny: Cllr Mayo replaced with Cllr Williams Genera Scrutiny: Cllr AW Johnson to fill vacancy CWB Scrutiny: Cllr Hyde replaced with Cllr Butler Planning: Cllr Williams to fill vacancy	To update the committee membership following notification of changes in memberships	23/3/18	Democratic services manager
Part 7 Section 2 Committee Membership	Cabinet	Change in portfolio name from Finance housing and corporate services to finance and corporate services	To reflect movement of housing from cabinet member for finance and corporate services to	3/4/18	Deputy monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			cabinet member for health and wellbeing		
Part 7 Section 1 Cabinet Portfolios	Various	Change in portfolio name from Finance housing and corporate services to finance and corporate services Move responsibility for housing to cabinet member for health and wellbeing	To reflect movement of responsibility for housing from cabinet member for finance and corporate services to cabinet member for health and wellbeing	3/4/18	Deputy monitoring officer
Part 7 Section 2 Committee Membership	Planning and regulatory committee	Replacement for Cllr Kenyon on Planning and Regulatory Committee	To reflect that Cllr Lloyd-Hayes has replaced Cllr Kenyon on planning and regulatory committee	9/5/18	Deputy monitoring officer
Part 6 Section 1 Councillors' Allowances Scheme	Various	Update allowances figures	To reflect the NJC pay award from 1 April 2018	25/5/18	Monitoring Officer
Part 7 Section 2 Committee Membership	Various	Update to committee membership following Council on 25 May 2018	To reflect the current membership of committees	12 June 2018	Monitoring officer
Part 4, Section 4 Cabinet Rules	4.4.11 (a)	Delete words "their question" and insert "question" after supplementary	Change to be in accordance with changes to council procedure rules	29/6/18	Monitoring Officer
Part 3, Section 1, Council Function	3.1.1.A Table of Functions	Insert council tax reduction scheme under S13A, Local Government and Finance Act 1992 as amended	Technical – legal requirement	29/6/18	Monitoring Officer
Part 7 Section 3	N/A	Updated structure chart as at 1 June 2018	Structure chart was dated January 2018.	29/6/18	Monitoring Officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Directorate Structure Charts					
Part 7 Section 2 Committee Membership	Planning Committee	To show Conservative vacancy	Changed to reflect the change of political party by Councillor E Holton	12/7/18	Monitoring Officer
Part 4 Section 6 Contracts Procedures Rules	4.6.19	Waiver forms to be sent to commercial services team, replacing head of law and governance.	Due to secondment of staff.	27/07/18	Monitoring Officer
Part 7 Section 2 Committee Membership	Planning Committee	Insert Cllr NE Shaw into the Conservative vacancy following Cllr Holton's move to Hfds Independents	To reflect the current membership of the committee	6/8/18	Monitoring Officer
Part 3, Section 1, Council Function	3.1.1.A Table of Functions	<p>Insert the delegations to:</p> <p>47 (d) Monitoring officer to recruit 3 independent persons</p> <p>(47) (e) Chief finance officer in consultation with cabinet member for finance and corporate sections to Make in year amendments to the capital programme to reflect additional external funding secured in year</p> <p>Correct typo in 47 (b) from 2001 to 2011</p>	<p>To add retrospectively the delegation to the monitoring officer for the recruitment of independent persons which was agreed at the council meeting on 25 May 2012</p> <p>To add the delegation approved at council on 13 July 2018</p>	6/8/18	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			Typo – as it is a reference to the Localism Act 2011.		
Part 4 Section 4, Cabinet Rules Part 4, Section 5, Scrutiny Rules	4.1.49 (d) 4.4.66 (d) 4.4.33 (d) 4.4.42 (d) 4.5.102 (d) 4.5.114 (d)	Insert word “not”	Typo – the word not is missing as otherwise the sentences do not make sense	6/8/18	Monitoring officer
Part 5, Section 5, Scrutiny Rules	4.5.12	Delete second paragraph to number	There is no longer a special responsibility allowance attached to a task and finish group chairperson.	6/8/18	Monitoring officer
Part 4, Section 3, Budget and Policy Framework Rules	4.3.12	Change to references to council and committee procedures from 4.1.108 and 4.1.109 to 4.1.06 and 4.1.07	Typo – following changes to the constitution	17/8/18	Deputy monitoring officer
Part 3, Appendix 1 Planning Functions	Fourth row of table	Add reference to sections 70B and 70C of the Town and Country Planning Act 1990	Update to reflect correct and current legislation	29/08/18	Monitoring officer
Part 3, Section 6 Additional Arrangements	Champion role profiles	Insertion of champion role profiles	Role profiles for member champion and member champion for the Civilian Military	26/10/18	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			Task Group (CMTG) added		
Part 3, Section 1 Council Functions	3.1.1 row 2	Add reference to capital strategy and asset management plan	To reflect new Cipfa guidance	26/10/18	Monitoring officer
Part 4, Section 1, Council and Committee Rules	4.1.105	Insert "in written text" after the word submit	To make clear that it is a written submission and not verbal	2/11/18	Monitoring officer
Part 7 Section 2 Committee Membership	Various	Replace Councillor Seldon from Planning and regulatory and replace with Councillor Holton Change the name order in all committees to alphabetical Update the names of the co-opted members for Children's Scrutiny	To reflect the change of political proportionately. Make it easier to see who sits on which committee To reflect the changes in the co-opted membership for children's scrutiny	2/11/18	Monitoring officer
Part 2, sections 8 and 9 Part 3, sections 4 and 5 Part 4, sections 8 and 9 Part 5, section 6	Various	Amended director and assistant director post titles to reflect new directorate structure	Consequence of changes to post titles following directorate restructure.	16/11/18	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 4, Section 1, Council and Committee Rules	4.1.155	Amend reference in paragraph to 4.1.165 to 4.1.64	Technical amendment as incorrect cross-referencing	29/1/19	Deputy monitoring officer
Part 7, Section 1 (Cabinet Portfolios) and Part 7, Section 2 (Committee Membership)	N/A	Update committee membership	Following the passing of Councillor Jenny Hyde	12/02/19	
Part 5, Section 2 councillor code of conduct	5.2.11	Updated address where physical copy of register of interests may be inspected	Change of office base for governance and democratic services staff	03/04/19	Monitoring Officer
Part 5, Section 3 employee code of conduct	Whole section	Replaced with new code of conduct	Revision of employee code of conduct completed and new version published	03/04/19	Deputy monitoring officer
Part 2, Section 8 planning, licensing and other functions	2.8.24	Updated arrangements for standards panel	To comply with Local Government Act 1972 and Localism Act 2011	09/04/19	Monitoring officer
Part 2, Section 9 joint	2.9.6	Updated to remove reference to Marches Enterprise Joint Committee	Joint committee ceased with effect from 31 March 2019	09/04/19	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
arrangements					
Part 3, Section 1 council functions	3.1.1	Under row 2 column 2 where it says council meeting only inserted "recommended from cabinet".  Under row 2 column 2 cut out s5 of the Licensing act 2003 and the pay policy and created a new row 3 with the heading other policies and added these two in which are council meeting only.	Technical corrections	11/04/19	Monitoring officer
Part 6, Section 1 councillor allowances scheme	Whole section	Updated allowances	Annual uplift applied	17/04/19	Monitoring officer
Part 3, Section 1 Council functions	3.1.1	Added taxi and private hire policy to list of 'other policies'	Correction to omission	17/04/19	Monitoring officer
Part 3, Section 1 Council functions	3.1.1 row 8	Added delegation to leader of the council to appoint chairperson of health and wellbeing board	Delegation made by council 25 May 2018	17/04/19	Monitoring officer
Part 2, Section 8 planning, licensing and other functions	2.8.10	Added delegation to leader of the council to appoint chairperson of health and wellbeing board	Delegation made by council 25 May 2018	17/04/19	Monitoring officer
Part 5, Section 9 role of members	Appendix 1	Added chairperson of council role profile	Correction to omission from list of roles	17/04/19	Monitoring officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 3, Section 6 additional arrangements	3.6.11	Added reference to codes of conduct to group leader role	Correction to omission from list of roles	17/04/19	Monitoring officer
Part 7 Sections 1 and 2 Cabinet Portfolios and Committee Membership	Both documents	Both documents taken down until decisions taken on or after 24 May with regard to appointment to cabinet member portfolios and committee membership	Local elections held on 2 May 2019	3/5/19	Monitoring officer
Part 7 Section 1 Cabinet Portfolios	Whole document	Updated with new cabinet members	New cabinet members appointed following local elections.	29/05/19	
Part 7 Section 3 Structure chart	Whole document	Updated with new interim AD in adults	Appointment of interim assistant director all ages commissioning	29/05/19	
Part 2, Section 11 Decision Making	2.11.2 (b)	Removed erroneous hyperlink	Hyperlink not required	29/05/19	Deputy monitoring officer
Part 5, Section 6 Planning Code	5.6.27 – 28	Minor amendments to text	Technical amendment	29/05/19	Monitoring officer
Part 7 Sections 1 and 2 Cabinet	Both documents	Update to cabinet member portfolios Change from Community and place based to Housing, regulatory and community safety.	Change by the Leader to portfolios	9.7.19	Deputy Monitoring Officer



Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Portfolios and Committee Membership		Community engagement and development and customer services moved to Health and adult wellbeing portfolio			
Part 2, Article 9 Joint Arrangements	7	Public health is no longer a shared function with Shropshire	Technical amendment	9.7.19	Monitoring officer
Part 3.3 Cabinet Functions	6	Remove reference to pay policy statement being a budget and policy framework item	Technical amendment	9.7.19	Monitoring officer
3.1. Council Functions	2a New 3a	Move 2a to become 3a to make it clearer that other policies are not budget and policy framework items	Technical amendment	9.7.19	Monitoring officer
4.6 Contract procedure rules	17	Permission changed to acceptance of the risk that is involved in proceeding	Typographical error given possible misinterpretation of the word "permission"	9.7.19	Monitoring officer
Part 2, Article 9 Joint Arrangements	2.9.23-25	Remove reference to Herefordshire Safeguarding Children's Board and add details of Herefordshire Safer Children and Young People Partnership	To reflect new arrangement for children's safeguarding.	12.08.19	Deputy Monitoring officer
Part 4, Section 1 council and committee meeting rules	4.1.14-15	Amendment to row 19 to move "(except in a year when there are ordinary elections)" to after reference to annual meeting	To clarify that no annual report from the leader is required at the first meeting following ordinary elections.	12.08.19	Monitoring officer
Part 3, Appendix	Power to grant consent for	Updated reference to regulations – now 2007/783	Update in regulations	12.08.19	Deputy monitoring officer –

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Planning Functions	the display of advertisements				confirmed by senior Planning, Highways and Regeneration Solicitor
Part 4, Section 1 council and committee meeting rules	4.1.98	Add right to reply to debate on motion by proposer, separate from rights on amended motion.	Clarity and in line with explanation at 4.1.115	12.08.19	Monitoring officer
Part 2 Section 5 the leader and the cabinet	2.5.11	Remove reference to section 3 of part 3	Correct typo - reference should refer to all of part 3, not just section 3	12.08.19	Monitoring officer
Part 2, Section 8	2.8.24	Change to be 3 members of audit and governance	Type change in case IP can sit as chair and three members of AGC still needed	4.9.19	Monitoring officer
Part 5, Section 5	5.5.50	Add named contact for external auditor	Approved at audit and governance committee on 24 September 2020	25.9.20	Monitoring officer
Part 3, Section 3	3.3.9 ©	Add reference to financial procedure rules guidance.	Updated to reflect guidance is now separate document.	07.11.19	Monitoring officer
Part 3, Section 3	3.3.9	Add new (b) regarding non-key decisions across more than one portfolio areas	Typographical correction	07.11.19	Monitoring Officer
Part 4, Section 3	4.3.22	Remove reference to 4.7.18	Changes to financial procedure rules so reference no longer appropriate	07.11.19	Monitoring Officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 4, Section 7	Table of FPRs	Correct approval required for movements over £250,001	Typographical correction (cannot have joint decision makers)	07.11.19	Monitoring Officer
Part 2, Section 9	2.9.24 onwards	Add reference to adoption and fostering bodies and update reference to safeguarding boards	To reflect changes in safeguarding arrangements and Herefordshire Adoption Service joining Adoption Central England (ACE)	07.11.19	Monitoring Officer
Part 2, Section 9	2.9.22	Added listing for Agreed Syllabus Conference	To reflect that the Council is required to convene an Agreed Syllabus Conference (ASC) to review the Agreed Syllabus every five years or upon request by SACRE.	21.11.19	Monitoring Officer
Part 5, Section 3	6.3	Updated web link to Employee Interests policy	Policy name and location changed following update.	04.12.19	Monitoring Officer
Part 3, Section 1	3.1.1	Clarified that recommendation on pay policy statement comes to council from employment panel	To make consistent with articles and functions of employment panel	23.12.19	Monitoring Officer
Part 7 Section 2 Committee Membership	Children and Young People's Scrutiny Committee	Add Cllr Graham Andrews to the vacancy for Herefordshire Independents	Group Leader notification that Cllr Graham Andrews is the Herefordshire Independent representative on the committee	8/1/20	Monitoring officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 7, Section 3 Directorate structure chart	Whole document	Updated structure chart:	Richard Ball now permanent director of economy and place Donna Vickers – change of name	8/1/120	Monitoring officer
Part 4, Section 6 (contract procedure rules) and Section 7 and 7b (finance procedure rules and guidance)	Whole document	Updated contract procedure rules; finance procedure rules and finance guidance	Updated version approved at audit and governance meeting held on 28 January 2020	28/1/20	Monitoring officer
Part 7, Section 7 (finance procedure rules)	Grants	Add in the words “Chief Finance Officer (in consultation with” ...	Legal Change as management board is not a decision making body	29/1/20	Monitoring officer
Part 7, Section 1 (cabinet portfolios)	Whole document	Add in Cllr Ellie Chowns as support member for Cllr Trish Marsh	Notification from Leader of the Council that a new cabinet support member had been appointed	1/2/20	Monitoring officer
Part 7, Section 2 (Committee Membership)	Cabinet portfolios	Add in Cllr Ellie Chowns as support member for Cllr Trish Marsh	Notification from Leader of the Council that a new cabinet support member had been appointed	1/2/20	Monitoring officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 4, Section 5 (Scrutiny rules)	4.5.109	Change to how questions are dealt with at scrutiny committees and to make clear that cabinet member will make reasonable endeavours to attend.	Approved at Council on 14 February 2020	14/2/2020	Monitoring officer
Part 4, Section 4 (Cabinet rules)	4.4.30 and 4.4.41	Change the deadline for questions to be submitted to 9.30 am on the third day prior to the meeting	Approved at Council on 14 February 2020	14/2/2020	Monitoring officer
Part 3, Section 1 (Council Functions)	Table 3.1.1 part 2a	Update reference to Corporate Plan to include "now known as the County Plan"	Adoption of new County Plan by Council on 14 February 2020.	03/03/2020	Monitoring officer
Part 7, Section 1 (Cabinet Portfolios)	N/A	Removed Councillor Trish Marsh and changed Councillor Ellie Chowns	Change in cabinet appointments as at 1 March 2020.	03/03/2020	Monitoring officer
Part 7, Section 2 (Membership of Committees)	Cabinet listing	Removed Councillor Trish Marsh and changed Councillor Ellie Chowns	Change in cabinet appointments as at 1 March 2020.	03/03/2020	Monitoring officer
Part 6, Section 1 (Councillor allowance scheme)	Various	Reference to extension of NJC pay award to May 2021 and that pay award will be applied and backdated once agreed	Approval at council of extension. NJC pay award not yet agreed so will be applied once finalised	13/4/2020	Monitoring officer
Part 5, Section 1 (Code of Corporate Governance)	Various	Replaced "Corporate Plan" with "County Plan"	To reflect the accurate description of the county plan	13/4/2020	Monitoring officer

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 5, Section 6 (Planning code)	5.6.30 and 5.6.43	Replace “prejudicial” with “disclosable pecuniary”	To reflect the correct terminology for declaring interests.	13/4/2020	Monitoring officer
Part 4, Section 1 (council and committee rules)	4.7.174	Replace disclosable interests with Schedule 1, Schedule 2 and Other interests	To ensure consistency of wording between the rules and the code of conduct	15/4/2020	Monitoring officer
Part 7, Section 3 (Structure Chart)	7.3	Replaced structure chart with latest version	Reflecting new appointments	15/04/2020	
NEW: Annexe	N/A	To insert a new annexe to amend the existing standing orders on a temporary basis	To reflect the changes required in light of Covid-19.	21/4/2020	Monitoring officer
Part 5, Section 8	Document	New version to reflect changes in light of Covid-19	To reflect the changes required in light of Covid19	28/4/2020	Monitoring officer
Article 8, Planning, licensing and other functions	Health and Wellbeing Membership	Update to the HWBB membership	At the request of the HWBB following a review by the Board.	17/7/2020	Council
Part 4, Section 1 Council and Committee Rules	4.1.13	Update to minimum number of council meetings from 4 to 5 per year.	Agreed at council	17/7/2020	Council
Part 4, Section 1	4.1.90	Delete the word “ordinary” in the first sentence	Typographical error identified by monitoring officer	28/7/2020	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Council and Committee Rules					
Part 3 Section 5, Other Functions	3.5.7 (o)	Additional function for the licensing sub committee to hear appeals in connection with pavement licences	Delegation from Council to monitoring officer to make a legal change once the Business and Planning Act 2020 came into force	28/7/20	Monitoring officer
Part 7, Section 1, Cabinet Portfolios	N/A	Added Cllr Yolande Watson to health and adult wellbeing portfolio	Additional cabinet support member appointment from 1 August	05/08/2020	
Part 7, Section 2, Membership of Committees	Cabinet and Planning Committee sections	Added Cllr Yolande Watson to cabinet support members list, removed Cllr Watson from Planning and Regulatory Committee and replaced with Cllr Wilding	Additional cabinet support member appointment and consequential change to membership of planning and regulatory committee	05/06/2020	
Annexe	3.7 (Voting)	Insert ability to use electronic voting	To reflect that electronic voting can be used in a virtual setting. Wording agreed with DMO.	03/09/2020	DMO
Part 6	All	Update the figures for the basic and SRA allowances	NJC pay award agreed at 2.75%	10/09/2020	MO
Part 7, Section 2, Membership of Committees	Employment Panel	Change the vice-chairperson from Cllr A Johnson to Cllr E Chowns Delete the children's scrutiny co-optees	Change at Council on 11 September 2020	11/09/2020	MO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7, Section 2, Membership of Committees	Various	Adults and Wellbeing Scrutiny Committee: remove Cllr Summers following resignation from the committee  General Scrutiny: replace Councillor Symonds for Councillor Stark  Cabinet support member in opposition: create title and add Cllr Symonds	Changes as notified by either the councillor, group leader or Leader of the Council	2/10/2020	MO
Part 7, Section 1, Cabinet portfolios	Cabinet member infrastructure and transport	Add Cllr P Symonds as the opposition cabinet support member for the cabinet member, infrastructure and transport	As notified by Leader of Council	2/10/2020	MO
Part 7, Section 3 Structure of the council	Whole document	Changes to the directorate management structure	As announced by the CX re the creation of deputy CX roles.	2/10/2020	MO
Part 7, Section 1, Cabinet portfolios	Leader's portfolio	Governance of external arrangements with companies, outside bodies and partnerships	Leader updated the details in his portfolio	07/10/2020	MO
Part 7, Section 2, membership of committees	General scrutiny and planning and regulatory committee	Remove Cllr B Hunt from General Scrutiny and planning and regulatory committee membership	Cllr Hunt passed away on 6 October 2020	07/10/2020	MO
Part 5, Section 5, Whistleblowing policy	Whole section	New whistleblowing policy added	New policy agreed by audit and governance committee.	02/11/2020	MO
Part 2, Section 9	2.9.20	Updated membership of SACRE	To reflect changes made to the	03/11/2020	SB



Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			membership to include additional faith representatives.		
Part 7, Section 2, membership of committees	2.12.20	Update membership of children's scrutiny, general scrutiny and planning and regulatory committee membership	To reflect the addition of two education co-optees; add Cllr Matthews to general scrutiny and add Cllr Graham Jones to planning and regulatory committee	2/12/2020	CM
Part 3, Section Appendix Planning Function	2.12.2020	Add delegation to chief executive re Article 4 and Article 5 to the Town and Country Planning (General Permitted Development) (England) Order 2015	Technical change as legislation was omitted	2/12/2020	MO
Part 4, Section 6, contract procedure rules Part 4, Section 7, finance procedure rules, Part 5.7b, financial guidance	26.1.2021	Update contract procedure rules, finance procedure rules and financial guidance	Annual update to the contract procedure rules, finance procedure rules and financial guidance	26.1.2021	Audit and Governance
Annexe	Covid19 Interim Standing Orders	Amendments to the interim standing orders	To reflect changes in practice, particularly the publishing of the recorded electronic	23/04/2021	Acting Chief Exec (solicitor to the council)

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			vote as an appendix to committee minutes.		
Part 4, Section 1 Council and committee rules, Part 4 Section 4 Cabinet rules Part 4, Section 5 Scrutiny rules Part 5, Section 5 Public participation	4.1.53, 4.1.72 4.4.11, 4.4.36, 4.4.45, 4.5.106 4.5.116, 5.8.23	Amended to show that supplementary questions can be submitted in writing as well as attending in person	Technical change so there is an option to attend in person or to submit in writing a supplementary question	17/5/2021	Monitoring officer
Part 7, Section 2, Cabinet Member Portfolios	Whole Document	Update to Cabinet Member Portfolios	Leader decision to amend portfolios and to add an additional cabinet member	1/6/2021	Monitoring officer
Part 7, Section 2, Membership of Committees	Whole document	Update to committee membership	Group leaders notifying of changes to the committee membership	28/5/2021 to 10/6/2021	Monitoring officer
Part 7 Section 1, Cabinet Member Portfolios	Two portfolio areas	Change of responsibility for Registration Services	As requested by the Leader, move the cabinet member responsibility for registration services	5 July 2021	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			from Cllr Tyler to Cllr Davies		
Part 7, Section 2 Membership of Committees	Planning and regulatory committee membership	Add Councillor Sebastian Bowen	Cllr Bowen added due to Cllr Kenyon resignation from the committee	5 July 2021	Monitoring officer
Part 5, Section 5, Whistleblowing	Whole document	Update to contact details	Contact details out of date	9/7/21	Monitoring officer
Part 3, Section 3, Cabinet Function	3.3.9 (b)	Delete (b)	typographical error has overcomplicated exceptional decision making	9/7/21	Monitoring officer
Part 7, Section 2, Membership of Committees	Whole document	Update to committee membership	Update to portfolio areas	1/8/21	
Part 7 Section 1, Cabinet Member Portfolios	Whole document	Change to cabinet portfolios	Leader changed cabinet member portfolio	1/8/21	
Part 5, Section 5, Whistleblowing	Whole document	Update to contact details	Contact details out of date	03/08/21	Monitoring officer
Part 5, Section 2	5.2.8 – table entry G	Update to Leadership principle to add “and treat others with respect”	Principle updated following standards in public life report in November 2021.	17/01/22	Monitoring officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Councillor code of conduct			<a href="#">Upholding Standards in Public Life - A report of the Standards Matter 2 review (publishing.service.gov.uk)</a>		
Part 7, Section 1, Cabinet Member Portfolios	Whole document	Change to portfolio title – Housing, Regulatory Services and Community	Minor change to portfolio title to reflect Talk Community and related service areas	21/04/22	Monitoring officer
Various	Various	Various	See agenda papers for Council 4 March 2022 for significant changes to constitution, implemented from 20 May 2022. Changes referenced after 4 March 2022 relate to changes made to revised constitution.	20/05/2022	Council
Part 2, Section 8	2.8.9	Titles of officers forming part of membership of health and wellbeing board updated	To reflect changes in corporate structure	20/05/2022	Deputy Monitoring Officer
Part 2, Section 8	2.8.17	Composition of employment panel updated to six councillors.	For consistency with other sections and reflecting change agreed by Council 4 March	20/05/2022	Deputy Monitoring Officer
Part 2, Section 10	2.10.8	Title of post designated as monitoring officer changed to director of governance and law	As designated by Council on 4 March 2022 following	21/03/2022	Council

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			organisational restructure		
Part 4, Section 9, Employment Rules	4.9.4	Updated titles of posts at (d) to (f) to corporate directors	To reflect new organisational structure	20/05/2022	Deputy Monitoring Officer
Part 3, Section 5, Other Functions	3.5.4	Replaced references to assistant director, regulatory, environment and waste services with service director, regulatory	To reflect new organisational structure	20/05/2022	Deputy Monitoring Officer
Part 4, Section 8, Planning Rules	4.8.24, 4.8.30 and 4.8.33	Replaced references to assistant director, regulatory, environment and waste services with service director, regulatory	To reflect new organisational structure	20/05/2022	Deputy Monitoring Officer
Part 4, Section 4 Cabinet Rules	4.4.11, 4.4.13, 4.4.24 changed 4.4.29 to 4.4.46 removed	Removed paragraphs on public and councillor questions and replaced with reference to new questions on notice section	To make rules consistent with new questions on notice section in council and committee rules	20/05/2022	Deputy Monitoring Officer
Part 5, Section 6 planning code	5.6.13	Replaced references to assistant director, regulatory, environment and waste services with service director, regulatory	To reflect new organisational structure	20/05/2022	Deputy Monitoring Officer
Part 4, Section 6 Contract procedure rules	Table	Updated thresholds	Thresholds updated in line with PPN 10/21 effected from 1 January 2022.	20/05/2022	Deputy Monitoring Officer
Part 3, Section 5	3.5.21	Remove reference to delegated authority to suspend to head of paid service.	Consequential change following approval of new paragraphs on	20/05/2022	Deputy Monitoring Officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Other functions			suspension in part 4, section 9 Employment Rules		
Part 4, Section 1 Council and committee meeting rules	4.1.40	Definition of working day added when calculating deadline for questions on notice and explanation added to table.	For clarity on deadlines.	20/05/2022	Deputy Monitoring Officer
Part 5, Section 8 Public participation guide	5.8.14	Definition of working day added when calculating deadline for questions on notice and explanation added to table.	For clarity on deadlines.	20/05/2022	Deputy Monitoring Officer
Part 5, Section 8 Public participation guide	5.8.22	Added reference to written supplementary questions	To bring in line with updated section in part 4, section 1 on questions on notice.	20/05/2022	Deputy Monitoring Officer
Part 6, Section 1 Councillor Allowances	Whole section	Updated councillor allowances	Following NJC award for April 2021 and changes agreed at Council 20 May 2022.	20/05/2022	Council
Part 4, Section 6 Contract Procedure Rules	Whole section	Key changes include: a. Legislative changes to the UK Procurement Threshold; b. A new paragraph on the Basic Principles has been included to provide clarity and ensure consistency on factors to take into account when initiating a procurement; c. A new paragraph has been included to support the existing guidance on the principles of evaluating procurements and is included in line with audit recommendations.	To ensure council Contract Procedure Rules are up-to-date and provide clarity of roles, accountabilities and process.	25/07/2022	Audit and Governance Committee

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By														
Part 7, Section 1 Cabinet member portfolios	Infrastructure and transport	Removal of the word ‘Opposition’ in ‘Opposition Cabinet Support: Councillor Paul Symonds (BBLP)’	To reflect a change in political group.	5 October 2022	Democratic Services														
Part 7, Section 3 Management Structure Chart	Whole chart	Updated post titles and holders.	To reflect new appointments.	30 November 2022	Democratic Services														
Various	2.6.6, 4.1.15, 5.4.69	Changed references to chairmen to chairpersons	In line with previous resolution to be gender neutral	5 April 2023	Monitoring Officer														
Part 4, Section 1 Council and Committee Meeting Rules	4.1.98	Change table of who can speak / time limits	To ensure clarity and consistency around time limits for speaking at meetings of the Council. With respect to the proposing and seconding of the budget, this is to formalise in the constitution the practice that has been followed by the Leader and Cab Member for finance in recent years.	4 May 2023	Monitoring Officer														
		<table><tr><th>Purpose of speech</th><th>Who can make the speech</th><th>Length of speech</th></tr><tr><td rowspan="2">Present a report</td><td>Leader</td><td rowspan="2">5 minutes</td></tr><tr><td>Cabinet member</td></tr><tr><td rowspan="2">Propose original motion</td><td>Committee chairperson</td><td rowspan="2">5 minutes</td></tr><tr><td>Proposer</td></tr><tr><td>Second the motion</td><td>Seconder (may reserve their right to speak</td><td>3 minutes</td></tr></table>				Purpose of speech	Who can make the speech	Length of speech	Present a report	Leader	5 minutes	Cabinet member	Propose original motion	Committee chairperson	5 minutes	Proposer	Second the motion	Seconder (may reserve their right to speak	3 minutes
		Purpose of speech				Who can make the speech	Length of speech												
		Present a report				Leader	5 minutes												
						Cabinet member													
Propose original motion	Committee chairperson	5 minutes																	
	Proposer																		
Second the motion	Seconder (may reserve their right to speak	3 minutes																	

Part and Section	Paragraph number(s)	Details of Change				Reasons for Change	Date of Change	Change Made By
				until the end of the debate)				
			Propose an amended motion	Any member other than proposer/second er of original motion	3 minutes			
			Second an amended motion	Any member other than proposer/second er of original motion	3 minutes			
			Speak during debate – <i>please note that the time limit indicates that a member may only speak once during a debate.</i>	Any member other than proposer and seconder of amended motion and proposer of the original motion	3 minutes			



Part and Section	Paragraph number(s)	Details of Change				Reasons for Change	Date of Change	Change Made By
			Right of reply to debate on amended motion	Proposer of original motion	3 minutes			
			Respond to specific question	Cabinet member	2 minutes			
			Propose the budget	Leader – <i>or nominee</i>	10 minutes			
			Second the budget	Deputy leader – <i>or nominee</i>	5 minutes			
			Respond to budget proposals	Group leaders	5 minutes			
			Right to reply to budget debate	Leader	5 minutes			
			<i>Ask a question of the Leader under</i>	<i>Any member</i>	<i>1 minute</i>			

Part and Section	Paragraph number(s)	Details of Change				Reasons for Change	Date of Change	Change Made By
			<i>Leader's report</i>					
			Point of order	Any member	2 minutes			
			Personal explanation	Any member	2 minutes			
			Member in attendance	Any member who is not a member of the committee that is meeting	Chairperson's discretion			
Part 4, Section 8 Planning Rules	4.8.5	<p>Remove part (a): the case officer will telephone the ward member (and/or where necessary arrange a meeting) to update the ward member on the processing of the application and any comments received and replace (a) and (b) with:</p> <p>(a) In the case of a major planning application the case officer will identify to the ward member whether an application triggers the need for a section 106 agreement in accordance with the council's adopted Planning Obligations Supplementary Planning Document</p> <p>(b) In the case of major applications requiring a Section 106 agreement the case officer will have a subsequent conversation/meeting with the ward member to ensure the local mitigation measures are appropriately incorporated. As part of this process</p>				All members are informed by email on the submission of a new planning application in their ward. The ward member can self-serve on the progress of a planning application as all statutory consultee responses and representations against a planning application are published to the planning application on the council website. The mandatory	4 May 2023	Monitoring Officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
		officers and members will be guided by the councils adopted Supplementary Planning Guidance and the evolving schedule of local needs co-ordinated by the planning obligations manager.	member training will include how to use the live planning application system. This amendment was identified by the Planning Improvement consultant (appointed by Economy and Environment Director). This work was concluded in March 2023.		
Part 4, Section 8 The Planning Rules	4.8.17	Redirections should normally be made by the relevant ward members before the expiry date of the consultation period, subject to 4.8.24 below.	The three week period attempts to align with the statutory consultation period on a planning application. This does not take into account the fact that site notices and notices in the newspaper which advertise the planning application may extend the consultation period beyond the three week period. This wording provides the ward member with the opportunity to review all representations having been received within the correct consultation	4 May 2023	Monitoring Officer

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
			period before exercising their rights at paragraph 4.8.24. The mandatory member planning training will show members how to track the consultation period and review the representations received to a planning application.		
Part 4, Section 8 The Planning Rules	4.8.23	Change reference to three week period to 'after the expiry date of the consultation period'	To reflect change to 4.8.17 above	4 May 2023	Monitoring Officer
Part 2, Article 8 Planning, licensing and other functions	2.8.9 and 2.8.10	Reference to the 'NHS Herefordshire and Worcestershire Clinical Commissioning Group', be removed and replaced with relevant 'NHS Herefordshire and Worcestershire Integrated Care Board' membership details.	The Clinical Commissioning Group structure ceased to exist as of 30 June 2022 and was replaced with the Integrated Care Board structure.	4 May 2023	Monitoring Officer
Part 5, Section 5 Whistleblowing	5.5.61	Updated contact details of deputy monitoring officer	New Deputy Monitoring Officer appointed	18 May 2023	DSO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7, Section 1	Whole section	Updated cabinet member names and portfolio titles	Following change of control at 2023 elections	24 May 2023	DSO
Part 3, Section 7  Part 4, Section 2  Part 5, Section 8	3.7.5, 3.7.7, 4.2.79, 5.8.54	Updated references to financial threshold triggering publication of record of officer decision from £50k to £250k	Following change of threshold agreed with MO and S151 officer.	8 June 2023	MO following consultation
Part 4, Section 7 and 7b Financial Procedure Rules	Whole section	Updates to reflect change to corporate structure as agreed through A&G.  Change to threshold triggering publication of record of officer decision from £50k to £250k.	Consequential changes	8 June 2023	A&G approval of FPRs  MO approval of RoOD threshold as per above.
Part 4, Section 6 Contract Procedure Rules	Table entry for medium value contracts plus 4.6.12, 4.6.43 and 4.6.46	Change to threshold triggering publication of record of officer decision from £50k to £250k.	Consequential changes	8 June 2023	MO approval of RoOD threshold as per above.

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 3, Section 7	3.7.5, 3.7.7, 4.2.79, 5.8.54	Reverted threshold triggering publication of record of officer decision to £50k from £250k	Increase in threshold not supported.	4 July 2023	
Part 4, Section 2					
Part 5, Section 8					
Part 4, Section 7b Financial Procedure Rules	Whole section				
Part 4, Section 6 Contract Procedure Rules	Table entry for medium value contracts plus 4.6.12, 4.6.43 and 4.6.46				
Part 5, Section 5 Whistleblowing Policy	Whole section	Updated policy inserted	Approval of new policy by A&G	18/07/2023	A&G 23/06/23

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 7, Section 2 Membership of Committees	Whole document	Updated committee membership	Following confirmation of memberships following elections May 2023	18/07/23	DSO
Part 2 Article 8 Planning, licensing and other functions	2.8.25	Removed reference to "Appeal"	Approval given by the Deputy Monitoring Officer as there is no longer an appeals process.	24/08/23	DSO
Part 3 Section 5 Other Functions	3.5.17	Removed reference to "Appeal"	Approval given by the Deputy Monitoring Officer as there is no longer an appeals process.	24/08/23	DSO
Part 7, Section 2 Membership of Committees	Whole document	Updated Employment Panel Membership	To be compliant with the constitution. For the panel to consist of at least two cabinet members.	07/09/23	DSO
Part 2 Article 7 - The audit and governance committee	2.7.4	Update to co-opted members voting rights	To provide more clarity around Co-opted members voting rights.	19/09/23	DSO

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 7, Section 2 Membership of Committees	Whole document	To reflect the change of Cllr Rob Williams to Cllr Roger Phillips on the Connected Communities Scrutiny Committee.	Change of committee member.	23/10/23	DSO
Part 4, Section 7B Financial Guidance	Pg 25-31  Section 69.	To reflect the Fees and Charges changes agreed at the Audit and Governance meeting on 24/10/23.	Change to the constitution	31/10/23	DSO
Article 8, Planning, licensing and other functions	Section 2.8.9	Amendments to the membership as agreed by the board at their meeting on 25 September 2023.	Change of membership / titles	30/11/23	DSO
Part 4, Section 1, Council and Committee Rules	Section 1	Amendments to the reference of registrable interests	Change from schedule 1 and 2 interests to Table 1 and 2 as per the Councillor Code of Conduct	11/12/23	DSO
Part 5 Section 6 Planning code	Section 6	Amendments to the reference of registrable interests	Change from schedule 1 and 2 interests to Table 1 and 2 as per the Councillor Code of Conduct	11/12/23	DSO



Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 4 Section 6 Contracts procedure rules	Whole document	Amendments to threshold values.	The procurement threshold values for the Public Contract Regulations are updated every 2 years by central government	2/1/24	DSO
Part 4, Section 4 Cabinet Rules	3.3.16 onwards	Addition of the Cabinet's newly appointed "shareholder committee" and details of the committee's terms of reference.	So the Shareholder committee and its terms of reference are recorded in the constitution.	2/1/24	DSO
Part 4, Section 1, Council and Committee Rules	Paragraphs 4.1.40, 4.1.41 4.1.46 4.1.51, 4.1.52, 4.1.53	Amendments to the process of public questions and supplementary questions.		1/2/24	DSO
Part 2 Article 8 Planning, licensing and other functions	2.8.24 & 2.8.27 – Standards Panel	Amendments to the composition and role of the standards panel.	As agreed by full Council 8 March 2024	12/3/24	DSO
Part 3 Section 5 Other Functions	3.5.19 – Standards Panel  3.5.14 – Code of Conduct	Amendments to the process of the Standards Panel.  Amendments to the process of Code of Conduct complaints.	As agreed by full Council 8 March 2024	12/3/24	DSO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
	3.5.12 – Governance	Additions to the functions of the Audit and Governance Committee.			
Part 5 Section 2 Councillor Code of Conduct	5.2. Appendix B at Paragraph 9 'Disclosure of Non- Registerable Interests'	The insertion of “or wellbeing” in paragraph 9a.	As agreed by full Council 8 March 2024	12/3/24	DSO
Part 4 Section 5 Scrutiny Rules	4.5.7	Changes to the Children and Young People Scrutiny Committee.	As agreed by full Council 8 March 2024	12/3/24	DSO
Part 7, Section 2 Membership of Committees	Whole document	Updated Employment Panel Membership - Cllr Toynbee elected, Vice Chairperson	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 4 Section 3 Budget and Policy Framework Rules	Whole document	Revised framework rules	As agreed by full Council 11 October 2024	16/10/24	DSO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 3 Section 1 Council Functions	47D	Recruitment of up to four <del>three</del> independent persons – to be carried out by the Audit & Governance Committee but delegated further to the Monitoring Officer (in consultation with Chair of Audit & Governance Committee).	As agreed by full Council 11 October 2024	16/10/24	DSO
	3.1.1	Amendments to the table of functions			
Part 3 Section 1 Council Functions	3a	Addition of Sex Establishment Venue policy under the Local Government (Miscellaneous Provisions) Act 1982 Tattooing, Body Piercing and Skins Policy under the Local Government (Miscellaneous Provisions) Act 1982	As agreed by full Council 11 October 2024	16/10/24	DSO
	11	To appoint up to four independent persons, and the appointment of the additional independent expert to the Audit and Governance Committee. to be carried out by the Audit & Governance Committee but delegated further to the Monitoring Officer (in consultation with Chair of Audit & Governance Committee).			
Part 2 Section 7 The audit and governance committee	2.7.4	Update to wording and delegation.	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 5 Section 6 - The Planning Code	Part 1 – 5.6.9 onwards	Additional rules	As agreed by full Council 11 October 2024	16/10/24	DSO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 4 Procedure Rules Section 8 Planning Rules	4.8.9	Amendments / clarity to wording	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 3 Section 5 Other Functions	3.5.5 - 3.5.7	Amendments / clarity to wording	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 2 Article 8 Planning, licensing and other functions	2.8.3 2.8.5	Amendments / clarity to wording	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 2 Article 9 Joint Arrangements	2.9.28	Amendments / clarity to wording	As agreed by full Council 11 October 2024	16/10/24	DSO
Corporate Services Scheme of delegation	12A	Addition of; To act on behalf of the council as 'Qualified Person' in respect of the Freedom of Information Act 2000 Monitoring Officer The Monitoring Officer is authorised by the Secretary of State as the primary qualified person for the purposes of the Freedom of Information Act 2000 (section 36 - prejudice to effective conduct of public affairs).	As agreed by full Council 11 October 2024	16/10/24	DSO

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 4 Section 9 - Employment rules	4.9.12	Amendments / clarity to wording	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 3 Section 7 Officer Functions	3.7.18	Addition: 3.7.18 By way of clarification, an officer decision which is to implement a key decision of cabinet or a cabinet member, is not itself a further key decision.	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 4 Section 5 Scrutiny Rules	4.5.62	Addition: An “officer with delegated authority” does not include any officer implementing an express delegation that has been delegated via a precise and expressly worded key decision of cabinet or a cabinet member	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 5 Section 9 Role of Members	Committee Chairperson and Vice Chairperson	Updates to the committee chairperson and vice chairperson roles	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 6 Section 1 Councillors Allowances	6.1.13	Remuneration to independent persons and co optees	As agreed by full Council 11 October 2024	16/10/24	DSO

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 2 Section 2	2.2.13	Foot note added with regards to Independent persons and co optees (2.2.13)	As agreed by full Council 11 October 2024	16/10/24	DSO
Part 4 Section 6 Contracts procedure rules	Whole document	Updates to the Contract and Financial Procedure rules	As approved by the Audit and Governance Committee	28/1/25	DSO
Part 7 Section 1 Cabinet Portfolios		Removal of Cllr Mason as Cabinet Member Support.	Cllr stepped down as a Conservative Cabinet Support Member and member of the Conservative group whilst investigations are underway	14/04/25	DSO
Part 2 Section 1 Articles	2.1.5	Content removed and clause no longer used	Obsolete information	28/04/25	Head of Legal Services
Part 7 Sections 1 and 2	Whole Document	References to Cllr Dan Hurcomb as Cabinet support removed and his new post as Cabinet Member Local Engagement & Community Resilience added	Leader Appointments	27/05/25	DSO

Part and Section	Paragraph number(s)	Details of Change	Reasons for Change	Date of Change	Change Made By
Part 4 Section 1 Council and committee meeting rules	Additional paragraphs added 4.1.41a&b 4.1.46a & b 4.1.52a 4.1.53a	To reflect the changes to Scrutiny Public Questions at meetings.	As agreed by full Council 23 May 2025	29/05/25	DSO
Part 3, Section 5, Other Functions	3.5.9e a)	Clarification made to reinforce the role of Audit and Governance in relation to risk management.	In consultation with the Chair of Audit and Governance and the Head of Legal Services	2/06/25	DSO
Part 7 Sections 1 and 2 Membershi p of Committees		Cllr Ben Proctor replaces Cllr Liz Harvey as Vice Chairperson of Children and Young People Scrutiny Committee. Cllr David Hitchiner replaces Cllr Harvey as member of CYPSC. Cllr Dave Davies replaces Cllr Rob Williams Andy James, Sam Pratley and Wiktor Daron replaced by Jan Frances (Families' Representative) and Stuart Mitchell (Parent Governor Secondary)  Scrutiny Management Board: Cllr Bruce Baker replaced by Councillor Dave Davies	As agreed by full Council 23 May 2025	2/06/25	DSO
Part 7 Sections 1 and 2 Membershi p of Committees		Cllr Nick Mason replaces Cllr Dave Davies as member on the Environment and Sustainability Scrutiny Committee	Confirmed by the monitoring officer	11/06/25	DSO

<b>Part and Section</b>	<b>Paragraph number(s)</b>	<b>Details of Change</b>	<b>Reasons for Change</b>	<b>Date of Change</b>	<b>Change Made By</b>
Part 7 Sections 1 and 2 Membershi p of Committees		Employment Panel – Cllr Toynbee removed, and Cllr Simmons (as Green Deputy Leader) added.  Cllr Heathfield removed from Environment and sustainability scrutiny committee and 1 vacancy added for the IfH party.	Council approved 5/12/25	8/12/25	DSO
Part 7 Sections 1 and 1 Cabinet Member Portfolios		Cultural Services removed from Cllr Bramer and added to Cllr Swinglehurst	Leader appointments	8/12/25	DSO