

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 functions of the licensing authority (contained in appendix 1) are to be taken or carried out by the licensing subcommittee. The Council has delegated some of these functions to the chief executive as also detailed in appendix 1.

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

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, risk management, governance, assurance statement, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements
 - (b) – enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence
 - (c) – contribute towards making the authority, its committees and departments more responsive to the audit function
 - (d) review compliance with the relevant standards, code of conduct, codes of practice and corporate governance policies
 - (e) – 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