

PART 2

ARTICLES

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Article 1 - The Council and the Constitution

This article explains the Council's vision and values and the Constitution
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Strategic Vision and Values of the Council

2.1.1 Vision

2.1.1.1 The Council and its partners have a Sustainable Community Strategy that sets out the outcomes that it and its partners are aiming to achieve for the people and communities of Herefordshire. The Sustainable Community Strategy is reviewed and updated periodically so that it can continue to meet the changing economic, social and environmental needs of the County and its communities

2.1.1.2 The Council has a Corporate Plan that sets out its vision, its specific aims and objectives which should make that vision a reality, and how it intends to achieve those aims and objectives. The Corporate Plan also sets out how the Council is performing against those aims and objectives and is refreshed annually. The Council and NHS Herefordshire are developing a joint corporate plan to reflect their partnership working.

2.1.1.3 The Council has agreed a set of outcomes and performance targets with central government and with its partners. These are set out in its Local Area Agreement. Some outcomes and targets relate to an area that extends beyond the boundaries of Herefordshire and need co-operation and collaboration between the Council and neighbouring Councils. Those outcomes and targets are set out in its Multi-Area Agreement.

2.1.2 Values

2.1.2.1 The Council is committed to maintaining high standards of conduct by its staff and Councillors and has adopted the following values that underpin its work:-

People: Treating people fairly, with compassion, respect and dignity

Excellence: Striving for excellence, and the highest quality of service, care and life in Herefordshire

Openness: Being open, transparent and accountable for the decisions we make

Partnership: Working together 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

- 2.1.2.2 All public bodies should adhere to the ten principles of public life and these principles are described in more detail in Part 5 section 1 of the Constitution in the preamble to the Councillor Code of Conduct.
- 2.1.2.3 This Constitution sets out how the Council will ensure that it meets its commitment to the ten principles of public life, the principles of good governance as described at 2.1.2.4 and its own Code of Corporate Governance (contained in the preamble to this Constitution).
- 2.1.2.4 The Council and the way it conducts its business will reflect the following principles of good governance:

Focusing on the Organisation’s Purpose and on Outcomes For Citizens and Service Users

- a being clear about the Council’s purpose and its intended outcomes for citizens and service users in Herefordshire
- b making sure that citizens and service users receive a high quality service
- c making sure that it delivers value for money

Performing Effectively in Clearly Defined Functions and Roles

- a being clear about the functions of the Council
- b being clear about the responsibilities of Councillors and its staff and making sure that those responsibilities are carried out
- c being clear about relationships between the Council, its partners and the people and communities of Herefordshire

Promoting values for Herefordshire and demonstrating the values of good governance through behaviour

- a putting its organisational values into practice
- b individuals behaving in ways that uphold and exemplify these principles of good governance

Taking informed, transparent decisions and managing risk

- a being rigorous and transparent about how decisions are taken
- b having and using good quality information, advice and support
- c making sure that an effective risk management system is in operation

Developing the capacity and capability of the Council to be effective

- a making sure that Councillors and staff have the skills, knowledge and experience they need to perform well
- b evaluating Council performance through constructive scrutiny and performance management.

Engaging citizens, service users and communities and making accountability real

- a understanding formal and informal engagement activities with citizens, service users and communities in Herefordshire
- b taking an active and planned approach to dialogue with and accountability to the public
- c taking an active and planned approach to responsibility to staff

2.1.3 Powers of the Council

- 2.1.3.1 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.
- 2.1.3.2 The Council has an overriding power to do anything to promote the social economic and environmental wellbeing of its area and has set out in its Sustainable Community Strategy and Corporate Plan how it intends to exercise that power.
- 2.1.3.3 The Council will follow the general law and this Constitution when it carries out its powers and duties.
- 2.1.3.4 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 as provided by the Local Government Act 2000. A description of these Executive arrangements is set out in a Schedule to this Part 2.

2.1.4 The Constitution

- 2.1.4.1 This Constitution and all its appendices form the Constitution of the County of Herefordshire District Council (known generally as Herefordshire Council).

2.1.5 Purpose of the Constitution

- 2.1.5.1 The purpose of the Constitution is to:-
 - a help the Council lead Herefordshire;
 - b help citizens understand how the Council conducts its affairs;
 - c promote partnership and collaboration with other public sector bodies;
 - d help engage citizens in the work of the Council and its partners;
 - e help Councillors represent citizens effectively;
 - f make sure decisions are taken efficiently, appropriately and effectively;
 - g make sure those who take the decisions can be held to account;
 - h make sure that no one reviews or scrutinises a decision that they have been directly involved in;

- i make sure that citizens know who in the Council takes decisions and why they have taken them;
- j provide a way of improving the delivery of services to the community; and
- k define a framework for the proper governance of the County within the Council's duties and powers.

2.1.6 Meaning of the Constitution

2.1.6.1 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 purposes of the Constitution in paragraph 2.1.5.

2.1.6.2 A decision of the Chairman of the Council on the meaning of the Constitution or on any proceedings of the Council cannot be challenged by anyone at a Council Meeting. The Chairman of Council must have regard to the purposes of the Constitution when making a decision.

2.1.7 Review of the Constitution

2.1.7.1 The Monitoring Officer will monitor and review how the Constitution is working to make sure it gives full effect to the purposes in paragraph 2.1.5.

2.1.7.2 The Monitoring Officer may also make changes to Parts 6 and 7 of the Constitution to reflect decisions taken by the Council, the Leader of the Council or the Chief Executive.

2.1.8 Changes to the Constitution

2.1.8.1 Constitutional changes can be approved only by the Council Meeting. The Monitoring Officer may amend the Constitution to reflect what the Council has agreed, changes to the law and technical amendments.

2.1.9 Suspension of the Constitution

2.1.9.1 The Articles cannot be suspended. The Council Meeting may suspend the operation of the Procedure Rules in Part 4 section 1 so far as permitted by law and this Constitution. Where the Procedure Rules apply to other decision making bodies or committees of the Council, those bodies may also suspend the operation of the Procedure Rules as those Rules apply to them.

2.1.10 Publication

2.1.10.1 The Chief Executive will make sure that every Councillor has access to the Constitution and that it is made widely available to staff and citizens

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 contact centres.

2.2.1 Number of Councillors and Areas They Represent

2.2.1.2 The Council has 58 members called Councillors. Each Councillor represents an area of the County known as a Ward. The voters of each Ward elect Councillor(s) to represent them. Some wards are represented by more than one Councillor.

2.2.2 Who can be a Councillor

2.2.2.1 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

2.2.3 Elections

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

2.2.3.2 The running of the elections is the responsibility of the Returning Officer. Electoral registration is the responsibility of the Electoral Registration Officer.

2.2.3.3 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.

2.2.3.4 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.

2.2.4 When Elections Happen and How Long Councillors are Elected For

2.2.4.1 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.

2.2.5 Roles and Functions of all Councillors

2.2.5.1 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; and
- h maintain the highest standards of conduct and ethics

2.2.6 Rights to Information

- 2.2.6.1 Councillors have rights of access to Council information. These rights and the restrictions on them are described in Article 13 and in the Access to Information Rules (Part 4 section 2). Some information that Councillors receive is confidential and must not be made public. If a Councillor releases confidential information, that may amount to a breach of the Councillor Code of Conduct (in Part 5 section 1).

2.2.7 Responsibilities

- 2.2.7.1 Councillors must follow the Councillor Code of Conduct (Part 5 section 1) and must follow this Constitution and the Rules, principles and Codes within it whilst conducting Council business.

2.2.8 Allowances

- 2.2.8.1 Councillors will be entitled to receive allowances in accordance with the Councillors Allowance Scheme (Part 6)

2.2.9 Ceasing Being a Councillor

- 2.2.9.1 A Councillor 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.

2.2.10 Political or Other Groups

- 2.2.10.1 Councillors usually 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.
- 2.2.10.2 The Political Group with an overall majority of the Councillors as members is known as the “Administration” and has overall control of the Council.

- 2.2.10.3 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.
- 2.2.10.4 The Administration will usually determine the outcome of decisions of the Council. This is not always so because 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.
- 2.2.10.5 There are certain functions of the Council that are regulatory or quasi judicial. A Political group may not direct its members how to decide such matters.

Article 3 - Citizens, Partners and Council

Herefordshire Council is keen to engage with citizens and involve them in Council activities. This article describes Herefordshire citizens' rights to participate and their responsibilities when doing so.

CITIZENS' RIGHTS

2.3.1 Petitions

2.3.1.1 Subject to the Council Procedure Rules (Part 4 section 1), and the Petitions Scheme (Part 5 section 10) citizens have the right to sign and present a petition to the Council. The Council will respond to petitions in accordance with the Petitions Scheme in Part 5, Section 10.

2.3.2 Information

2.3.2.1 Citizens have the right to information as set out in Article 13 and in the Access to Information Rules (Part 4 section 2).

2.3.3 Taking Part

2.3.3.1 Citizens have the right:

- a to take part in question time at a Council meeting;
- b to speak during public speaking time at meetings of the Planning 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; and
- e to participate in Partners and Communities Together meetings in their locality and other community consultation events.

2.3.3.2 Contact can be made with the Council through its customer contact points (details on the Council's Website), or through the Council's Website. Citizens can make contact with their local ward Councillor(s) through the contact details on the Council's Website or at a local Councillor surgery.

2.3.4 Partners and Communities Together (PACT)

2.3.4.1 The Council and its partners hold meetings (known as PACT meetings) across Herefordshire to which the public and local community representatives, including Parish and Town Councillors are invited.

2.3.4.2 There is a PACT meeting held regularly (our aim is to do that once a quarter) in each of the following areas:

St Martins and Hinton	Hereford Rural
St Nicholas and Three Elms	Ledbury
Kington	Belmont
Bromyard	Ross on Wye

Leominster
Hereford Rural South

Aylestone, Tupsley and Central
Golden Valley

2.3.4.3 The purpose of these meetings is to provide an opportunity for the public and communities to ask questions of their local ward Councillors, Council officers and representative of the Council's partners and other public organisations and to raise issues of local concern and to receive feedback. It also provides an opportunity for the Council and its partners and other organisations to consult and engage with the public and local communities.

2.3.5 Complaints

2.3.5.1 Citizens have the right to complain to:

- a the Council under its complaints scheme available at main offices and on the website;
- b the Ombudsman after using the Council's own complaints scheme; and
- c the Council's Standards Committee about a breach of the Councillor Code of Conduct (Part 5 section 1).

2.3.6 Citizens' Responsibilities

- 2.3.6.1 a When attending meetings or otherwise participating in Council activities citizens must not behave improperly, be offensive or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.
- b Citizens will not be violent, abusive or threatening to Councillors or Council officers and must not deliberately damage items owned by the Council, Councillors or Council officers.

Article 4 - The Council Meeting

This article explains the role of the Council meeting (which is when all Councillors attend a formal meeting). This meeting is different from other meetings involving Councillors, which may be committee meetings, less formal working groups or meetings of partnerships in which the Council is involved.

The Chairman of the Council has a special role to play. He/she not only manages Council meetings but also has an important position as the non political representative of the Council on ceremonial and other occasions.

2.4.1 Council Meetings

Types of Council Meetings

2.4.1.1 There are three types of Council Meetings:-

- a The Annual meeting
- b Ordinary meetings
- c Extraordinary meetings

2.4.2 Rules applying to Council Meetings

2.4.2.1 The Council Rules (in Part 4 section 1) will apply to Council Meetings.

2.4.3 Functions of the Council meeting and Functions Scheme

2.4.3.1 The functions of the Council meeting are set out in the Functions Scheme (Part 3)

2.4.4 Chairman of Council

Election

2.4.4.1 The Chairman of the Council and the Vice-Chairman are elected by the Council annually.

Functions

2.4.4.2 The Chairman of the Council and in his/her absence, the Vice-Chairman 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 he/she 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.

Roles

The Chairman of the Council fulfils several roles:

- 2.4.4.3
- a **Ceremonial Role** - The Chairman is the ceremonial head of the whole Council and its countywide representative at civic and social occasions. The Chairman has considerable discretion in exercising the ceremonial aspects of the office.
 - b **Apolitical Role** - It is important that the Chairman maintains an apolitical stance especially when chairing Council meetings. The Chairman must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to any relevant Procedure Rules.
 - c **Chairman's Announcements** - Any Group Leader may approach the Chairman before a Council meeting to suggest items for the Chairman to use in making announcements to full Council. The Chairman has complete discretion as to which items he or she may think appropriate to announce.
 - d **Rules of Debate** - The Chairman'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 Chairman will have a second or casting vote. There will be no restriction on how the Chairman 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 of the Council (also known as “The Leader”) is elected and what he/she does. It also explains how the Cabinet works and what it does.

The Cabinet is a group of Councillors appointed by and including the Leader who work with Council staff to run the Council and take most decisions, except those about major policy issues or setting the annual budget (which only the Council Meeting can do), or decisions on regulatory matters such as whether to give planning permissions or licenses which only committees established for those purposes can do.

Councillors who are not in the Cabinet have a range of other functions (see Article 2) and in particular fulfil a role known as Scrutiny holding the Cabinet to account. (See Article 6.)

2.5.1 Leader of the Council

Election

2.5.1.1 At each Annual Meeting the Council will elect a Councillor to be the Leader.

Role

2.5.1.2 The Leader is the political leader of the Council who together with the Chief Executive provides overall leadership of the Council and its staff.

2.5.1.3 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.

Ceasing being Leader of the Council

2.5.1.4 The Leader will stay as the Leader of the Council until:

- a the date of the Council’s annual meeting although they may stand for re-election
- b they resign from office
- c they are suspended from being a Councillor, although they may resume office at the end of the period of suspension
- d they are no longer a Councillor; or
- e they are removed from office by resolution at a Council Meeting.

2.5.2 The Cabinet

Role

2.5.2.1 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 section 3, the responsibility of another part of the Council.

Membership

- 2.5.2.2 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.

Functions of Individual Members of the Cabinet

- 2.5.2.3 The Leader will decide what functions will be carried out by individual Cabinet Members. The Leader of the Council 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 the Council 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.

Meetings of the Cabinet

- 2.5.2.4 Meetings and other activities of the Cabinet must comply with the Cabinet Rules (Part 4 section 4).

Article 6 - Scrutiny

Scrutiny is a statutory role fulfilled by all Councillors who are not Members of the Cabinet.

The role of the Overview and Scrutiny Committee is to help develop policy, to carry out reviews of Council and other local services and to hold Cabinet Members to account for their actions and decisions.

The Overview and Scrutiny Committee can look at areas of policy or performance and make recommendations to the Cabinet or the Council Meeting. It can look at proposed decisions and call-in a decision of Cabinet for review before it is carried out.

2.6.1 The Overview and Scrutiny Committee

- 2.6.1.1 The Council establishes the scrutiny arrangements. It has decided that the Council will have one Overview and Scrutiny Committee which will have responsibility for all overview and scrutiny functions on behalf of the Council. The Council decides the remit of the Overview and Scrutiny Committee and how many Councillors shall be members of the Committee.
- 2.6.1.2 The functions of the Overview and Scrutiny Committee are set out in Part 3 section 5 and Part 7 and the Scrutiny Rules it operates under are set out in Part 4 section 5.
- 2.6.1.3 The public can be involved in the Scrutiny process and help shape and inform decision making and policy.

Article 7 - The Standards Committee and The Audit and Governance Committee

The Council must ensure that it meets its statutory and other obligations to maintain proper systems of governance and accountability, must ensure that it is accountable for the public money that it receives and spends, and ensure that its Councillors and its officers and employees conduct themselves properly and with probity at all times.

All Councillors, officers and employees are individually and collectively responsible for ensuring the above obligations are met. The Standards Committee and the Audit and Governance Committee oversee arrangements to meet these obligations.

2.7.1 The Standards Committee

2.7.1.1 The Standards Committee is a committee of Councillors and independent people which helps Councillors (including Town and Parish Councillors) in Herefordshire to maintain high standards of ethical governance and conduct and follow a national Code of Conduct. It also deals with complaints about Councillors who may have breached the Councillor Code of Conduct (Part 5 section 1).

2.7.1.2 The Standards Committee has established four sub-committees for the purposes of fulfilling its functions. These are:

- a an Assessment sub-committee
- b a Review sub-committee
- c a Consideration sub-committee
- d a Hearing sub-committee

Role

2.7.1.3 The Standards Committee has the roles and functions set out in Part 3 section 6.

Composition of the Standards Committee

2.7.1.4 The Standards Committee has eight members as follows, all with voting rights:-

- a Two Councillors, other than the Leader of the Council, appointed by the Council;
- b Four independent members of the public in Herefordshire, appointed by the Council; and
- c Two Parish Members who are members of a Parish or Town Council in Herefordshire appointed by the Council but nominated by the Herefordshire Association of Local Councils to serve on the Standards Committee.

- 2.7.1.5 The Standards Committee's Chairman and Vice Chairman are independent members.
- 2.7.1.6 The Council has also appointed two substitute Councillors to serve on this Committee, and to serve on any sub-committees of the Committee, in the absence of its nominated Councillor members. Similarly, two substitute Parish and Town Council representatives are nominated to serve on this Committee, and to serve on any sub-committee, in the absence of the nominated Parish and Town Councillor members. No other substitution is permitted on the Standards Committee.
- 2.7.1.7 The quorum of the Standards Committee is three members. No decision may be made when considering certain specified matters unless at least one of the Council Members is present. When considering matters related to a Parish or Town Council or Councillor no decision may be made unless at least one Member present is a Parish or Town Member.

Composition of Sub-Committees of the Standards Committee

- 2.7.1.8 Sub-committees of the Standards Committee comprise at least three members; three is the quorum, one of whom must be an independent member who must chair the Sub-Committee. No decision may be made when considering certain specified matters unless at least one of the Council Members is present. When considering matters relating to a Parish or Town Council or Councillor no decision may be made unless at least one Member present is a Parish or Town Council member.

Proceedings

- 2.7.1.9 The proceedings of the Standards Committee and its sub-committees are conducted in accordance with the rules in Part 4 section 1.

2.7.2 The Audit and Governance Committee

- 2.7.2.1 The Audit and Governance Committee is responsible for overseeing the work of the Council's internal and external auditors, making recommendations to ensure the Council is well run and has good arrangements for managing money and risks.
- 2.7.2.2 The Audit and Governance Committee is established and its membership determined by the Council.

Role

- 2.7.2.3 The Audit and Governance Committee has the roles and functions set out in Part 3 section 6 and the Audit and Governance Code (Part 5 section 12).

Composition

- 2.7.2.4 The Audit and Governance Committee comprises seven members of the Council and may also include an independent person who is not a Councillor and who has the same voting rights as other members of the Committee.

Proceedings

- 2.7.2.5 The proceedings of the Audit and Governance Committee and any sub-committee will be conducted in accordance with the rules in Part 4 section 1.

Joint working of Standards and Audit and Governance Committees

- 2.7.2.6 The Standards Committee and the Audit and Governance Committee will co-operate on governance matters and will have the right to report directly to the Council Meeting on those matters.

Article 8 - Planning, Regulatory and Other Functions

The Council has created the following committees and bodies:

- a The Planning Committee
- b Regulatory Committee and Regulatory Sub-Committee
- c Employment Panel
- d Employee Appeals Panel

The functions of these bodies are set out in Part 3 section 6.

2.8.1 Planning Committee

Composition

2.8.1.1 The Planning Committee comprises 19 Councillors.

Role

2.8.1.2 The Planning Committee determines applications for planning and listed building consents which are not decided by an Officer. It has the roles and functions set out in the Functions Scheme at Part 3 section 6.

2.8.2 Regulatory Committee

Composition

2.8.2.1 The Regulatory Committee comprises 11 Councillors.

Role

2.8.2.2 The Regulatory Committee is responsible for the use of the Council's regulatory powers and the carrying out of Council's regulatory duties. The Committee's roles and functions are set out in the [Functions Scheme](#) at Part 3 section 6.

2.8.2.3 The Council has also established a Regulatory Sub-Committee.

2.8.3 Regulatory Sub-Committee

Composition

2.8.3.1 The Regulatory Sub-Committee comprises any three members of the Regulatory Committee drawn from the membership of the Regulatory Committee by the Chief Executive.

Role

- 2.8.3.2 The Regulatory Sub-Committee has the roles and functions as set out in the Functions Scheme at Part 3 section 6 and such functions as the Regulatory Committee may from time to time delegate to it.

2.8.4 Employment Matters

- 2.8.4.1 Statutory regulations set out the roles that Councillors may have in employment matters.
- 2.8.4.2 The Council has established the Employment Panel and the Employee Appeals Panel to fulfil those functions.

2.8.5 The Employment Panel**Composition**

- 2.8.5.1 The Employment Panel comprises a minimum of three Councillors and will be established in accordance with the Employment Rules at Part 4 section 9.
- 2.8.5.2 With the agreement of the partner organisation, the Panel may consider employment matters relating to employees employed by a partner organisation who fulfil functions or do work for the Council. It may also consider matters relating to employees employed by the Council who fulfil functions or do work for a partner organisation. The Panel may fulfil its functions in consultation and/or jointly with the body responsible for employment matters on behalf of a partner organisation.

Role

- 2.8.5.3 The Employment Panel has the roles and functions set out in the Functions Scheme at Part 3 section 6.

2.8.6 The Employee Appeals Panel**Composition**

- 2.8.6.1 The Employee Appeals Panel comprises three Councillors selected by the Chief Executive from those Councillors who have satisfactorily completed training in relation to the functions of the Panel.

Role

- 2.8.6.2 The Employee Appeals Panel has the roles and functions set out in the Functions Scheme at Part 3 section 6 and the Employment Rules in Part 4 section 9.

Article 9 - Working with Health and Other Organisations

Working in partnership with other organisations is an important way by which the Council expects to achieve its aims and objectives and secure the outcomes agreed in its Sustainable Community Strategy and Corporate Plan.

This article explains how the Council can enter into joint arrangements with partners to provide a range of services.

Herefordshire's Council and Health Partnership is explained in this Article.

The article sets out arrangements for joint committees. It gives details of who can appoint members of joint committees and how rules dealing with access to information apply to the committees.

The article also refers to arrangements for community partnerships across the County and the authority to contract out work.

2.9.1 Arrangements to Promote Well-Being and the Local Strategic Partnership

2.9.1.1 The Council may work with other councils, other public bodies, commercial and voluntary organisations to promote the economic, social or environmental well-being of the County.

2.9.1.2 The Council is under a duty to co-operate with those partners and does this through being a member of the Local Strategic Partnership for Herefordshire known as The Herefordshire Partnership.

2.9.1.3 The Local Strategic Partnership has developed and agreed a Sustainable Community Strategy and each organisation is committed to contributing to achieving the Strategy's aims, objectives and outcomes

2.9.1.4 Those commitments are reflected in the Local Area Agreement that Herefordshire Council has entered into with Central Government, setting out the targets it is aiming to achieve for Herefordshire.

2.9.2 Herefordshire Council and NHS Herefordshire Joint Arrangements

2.9.2.1 The Council and NHS Herefordshire (the Primary Care Trust) have established a joint governance and management arrangement for both organisations.

2.9.2.2 There is a joint steering group comprising the Chairman and nominated Non Executive Directors from NHS Herefordshire and the Leader and Councillors nominated by the Council. The steering group provides direction to the joint activities of the Council and NHS Herefordshire and oversees the joint management of the two organisations.

2.9.2.3 The Council Chief Executive is also the Chief Executive of NHS Herefordshire and is supported by a Joint Management Team. The Joint Management Team comprises the Chief Executive, Deputy Chief Executive, and Directors from both the

Council and NHS Herefordshire. Those Directors of NHS Herefordshire who have roles and functions that include Council roles and functions are designated by the Council as its officers so far as necessary for those purposes.

- 2.9.2.4 The Council and NHS Herefordshire are developing these arrangements and this Constitution shall be kept under review, amended and interpreted so as to give effect to those arrangements, as agreed by the Council from time to time.

2.9.3 Joint Arrangements Generally

Joint Arrangements for Council Functions

- 2.9.3.1 The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise Council functions, or advise the Council on any matter. These arrangements may involve the appointment of a joint committee with these other local authorities.
- 2.9.3.2 Herefordshire Council has established a joint waste management arrangement with Worcestershire County Council.

Joint Arrangements for Cabinet Functions

- 2.9.3.3 The Cabinet may establish joint arrangements with one or more local authorities to exercise Executive Functions. These arrangements may involve the appointment of joint committees.
- 2.9.3.4 Herefordshire Council has a joint arrangement with Shropshire County Unitary Council, Worcestershire County Council and Telford and Wrekin Council as members of West Mercia Supplies, a purchasing consortium.

2.9.4 Joint Committees

Local Strategic Partnership and Other Joint Committees

- 2.9.4.1 The Council has established the Local Strategic Partnership (described at 2.9.1) but has not created any formal joint committees with any other local authorities.

Appointments to Joint Committees

- 2.9.4.2 a Except as in (b) below, the Cabinet may appoint only members of the Cabinet to a joint committee 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.

2.9.5 Access to information

2.9.5.1 The rules on access to information and confidentiality as set out in Article 13 will apply to members of joint committees in the same way as they do to members of the Council.

2.9.6 Delegation to and from Other Local Authorities

2.9.6.1 The Council Meeting or the Cabinet may delegate their powers and functions to another local authority or, in certain circumstances, the Executive of another local authority.

2.9.6.2 The decision whether or not to accept such delegation from another local authority will only be taken by the Council Meeting.

2.9.6.3 The Council has made no such delegations to date.

2.9.7 Contracting Out**Functions which the Cabinet can decide to Contract Out**

2.9.7.1 The Cabinet may contract out to another body or organisation functions which may be carried out by an Officer subject to the relevant technical provisions.

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

2.10.1.1 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.

2.10.1.2 The Chief Executive is in charge of the Council's staff (called Officers) and works with Councillors, especially the Leader to carry out the aims and objectives of the Council.

2.10.1.3 The Chief Executive is required to fulfil these functions together with similar functions on behalf of NHS Herefordshire.

2.10.2 The establishment and staffing budget

2.10.2.1 The Council may employ such Officers as it considers necessary to carry out its functions. It must do so on the advice of the Chief Executive who, as Head of Paid Service, has responsibility for establishing a management structure within the overall staffing establishment and budget agreed by Council.

2.10.3 Senior Officers

2.10.3.1 The Council will employ people in senior posts (Directors and Heads of Service) who will assist the Chief Executive and report to him. Those senior officers may carry out the functions allocated to the Chief Executive in the Functions Scheme in accordance with any delegations given to them by the Chief Executive in accordance with the Chief Executive's Scheme of Delegation as explained in the Functions Scheme (Part 3 sections 8 and 9).

2.10.3.2 NHS Herefordshire employs Directors who are designated as officers of the Council for the purposes of fulfilling those functions as set out in the Functions Scheme in Part 3.

2.10.4 Statutory Officers

2.10.4.1 The Council is required by law to designate three senior officers as the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Statutory Scrutiny Officer. Neither the Head of Paid Service nor the Chief Finance Officer can also be the Monitoring Officer.

- 2.10.4.2 The Chief Executive is designated as the Head of Paid Service and is responsible for reporting to the Council on how the staff is organised and deployed in the Council.
- 2.10.4.3 The Assistant Chief Executive – Legal and Democratic is designated as the Monitoring Officer and is responsible for 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 by Councillors reporting as necessary to the Standards Committee.
- 2.10.4.4 The Director of Resources is designated as the Chief Finance Officer (also known as the s.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.
- 2.10.4.6 The Deputy Chief Executive is designated as the Statutory Scrutiny Officer and is responsible for promoting the role of the Council's Overview and Scrutiny committees, providing support to the Council's Overview and 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 Overview and Scrutiny committees.
- 2.10.4.6 The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer 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.

2.10.5 Structure

- 2.10.5.1 The Chief Executive will decide the overall staff structure of the Council and make public a description of it.

2.10.6 Conduct

- 2.10.6.1 Officers will comply with the Code of Conduct for Employees (Part 5 section 12) and will follow the Protocol on Member/ Officer Relations (Part 5 section 4).

2.10.7 Employment

- 2.10.7.1 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules (Part 4 section 9).

Article 11 Decision-Making

This article sets out how the Council takes decisions.
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2.11.1 Principles of Decision Making

2.11.1.1 When the Council takes a decision it will:

- a make sure the action is proportionate to what the Council wants to happen;
- b consult properly and have regard to the professional advice from its Officers;
- c consider equality, diversity and respect for human rights;
- d make the decision public unless there are good reasons for it not to be;
- e be clear about what the Council wants to happen and how it will be achieved; and
- f explain what options were considered and give the reasons for the decision.

2.11.2 Responsibility for Decision Making

2.11.2.1 The Council will prepare and keep up to date a Functions Scheme. The Functions Scheme will show what sorts of decisions can be made and who by. The Functions Scheme is set out in Part 3 of the Constitution.

2.11.3 Decisions Reserved to the Council Meeting

2.11.3.1 Decisions reserved to the Council Meeting in the Functions Scheme set out in Part 3 section 2 will be made by the Council Meeting and not be delegated.

2.11.4 Key Decisions

2.11.4.1 Some Council decisions are defined as Key Decisions. The definition of a Key Decision is set out in Part 3 section 3, paragraph 3.3.5. A decision maker may only make a Key Decision in accordance with the Cabinet Rules. The Cabinet Rules are also set out in Part 4 section 4.

2.11.5 Decision Making by the Council Meeting

2.11.5.1 Subject to the provision on natural justice and human rights set out in paragraph 2.11.9 the Council Meeting will follow the Council Rules set out in Part 4 section 1 when considering any matter.

2.11.6 Decision Making by the Cabinet

2.11.6.1 Subject to the provision on natural justice and human rights set out at 2.11.9 the Cabinet will follow the Cabinet Rules set out in Part 4 section 4 when considering any matter.

2.11.7 Activities of Scrutiny Committees

2.11.7.1 Scrutiny Committees will follow the Scrutiny Rules in Part 4 section 5 when considering any matter.

2.11.8 Decision Making by Other Committees or Groups Established by the Council

2.11.8.1 Subject to the provision on natural justice and human rights set out at 2.11.9 other Council committees or groups will follow those parts of the Council Rules as apply to them.

2.11.9 Natural Justice and Human Rights in Decision Making

2.11.9.1 If any decision maker acts as a tribunal or in judgment of an issue in a way that might affect any person, they must follow the rules of natural justice as required by Article 6 of the European Convention on Human Rights.

2.11.10 Codes

2.11.10.1 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 set out in Part 5 of this Constitution.

Article 12 - Financial, Contractual and Legal Matters

The management of the Council's money and the making of contracts (especially when buying services and supplies) must follow special rules.

The Council's Monitoring Officer is authorised to take legal action, to sign legal documents and to use the official seal on the Council's behalf.

2.12.1 Financial Management

2.12.1.1 The management of the Council's financial affairs will comply with the Financial Procedure Rules set out in Part 4 section 7.

2.12.2 Contracts

2.12.2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 section 6.

2.12.3 Legal Proceedings

2.12.3.1 The Monitoring Officer is authorised to defend 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 he/she considers that such action is necessary to protect the Council's interests.

2.12.3.2 The Monitoring Officer can designate nominated officers to carry out this function on his/her behalf.

2.12.4 Authentication of Documents

2.12.4.1 Where any document is necessary to any legal procedure or proceedings, it will be signed by the Monitoring Officer, unless any enactment otherwise authorises or requires, or the Council has given authority to some other person.

2.12.4.2 The Monitoring Officer can designate nominated officers to carry out this function on his/her behalf.

2.12.5 Common Seal of the Council

2.12.5.1 The Common Seal of the Council will be kept in a secure place in the custody of the Monitoring Officer.

2.12.5.2 A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

2.12.5.3 The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or as required by the Contract Procedure Rules Part 4 section 6. The Monitoring Officer can designate nominated officers to carry out this function on his/her behalf.

- 2.12.5.4 The affixing of the Common Seal will be attested by the Monitoring Officer or by the Chief Executive. An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose. The Chief Executive and Monitoring Officer can designate nominated officers to carry out this function on their behalf.

Article 13 - Access to Information and Data Protection

The Council holds and processes information for a variety of purposes. Information can be classified in a number of different ways and may be accessible by the public generally, by a private individual and by Councillors. Who is entitled to what information and what anyone who receives information may do with that information is regulated by a number of legal rules. Those rules are complex and can be summarised as follows.

2.13.1 Public Access to Information

2.13.1.1 The public can access information as follows:

- a attendance at public parts of meetings of the Council, the Cabinet and committees;
- b finding out from the Forward Plan what Key Decisions will be taken by the Cabinet and when;
- c examining public reports and background papers, and any records of decisions made by the Council Meeting, the Cabinet, individual members of the Cabinet and committees;
- d inspecting the Council's accounts when those accounts are open for inspection;
- e accessing the Council's Publication Scheme that explains all the information that the Council has published and obtaining information listed in the scheme;
- f making a request under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 and, provided the information requested is not protected from disclosure under the provisions of that legislation, receiving that information.

2.13.2 Protection of Private Information

2.13.2.1 A private individual can access information held by the Council that relates to them personally by making a subject access request under the Data Protection Act 1998. The Council must process the personal data it holds in accordance with that Act.

2.13.2.2 The Council must not disclose information that is protected under the Data Protection Act 1998 otherwise than in accordance with that Act.

2.13.2.3 There are other provisions relating to specific categories of private personal data that the Council must follow that may restrict access and control how the Council handles such data, for example the Pupil Records Regulations and the Access to Medical Records Act 1990.

2.13.3 Confidential Information

2.13.3.1 The Council will hold information that is confidential either because it is deemed confidential by law or because it has received the information on a confidential basis and must maintain that confidentiality. There may be information that

appears to be confidential but which the public may have access to under the Freedom of Information Act 2000. Those persons or an organisation dealing with the Council and providing the Council with confidential information should be aware that information once in the custody of the Council may in some circumstances be accessible by the public under the Freedom of Information Act 2000.

- 2.13.3.2 If any report or papers for Council, Cabinet or Committee meetings contain information that is confidential by law, then the public must be excluded from any part of the meeting during which that information is discussed.

2.13.4 Exempt Information

- 2.13.4.1 If any report or papers for Council, Cabinet or Committee meetings contain Exempt Information then the public may be excluded from any part of the meeting during which that information is discussed. The report and/or papers containing Exempt Information will not be published with the agenda and before any discussion on that item at the meeting, the Council, the Cabinet or the Committee must decide whether or not to consider the matter in private or in public. That decision must be taken having regard to the public interest.

- 2.13.4.2 If the matter is considered in public, then the Exempt Information can be publicly disclosed and copies of the report and papers containing the Exempt Information will be made available to any member of the public who requests it.

- 2.13.4.3 If the matter is considered in private, then the Exempt Information will be confidential and shall not be disclosed to the public.

2.13.5 Councillors' Access to Information

- 2.13.5.1 Councillors have a right to any information which they need in order to fulfil their functions as Councillors but may need to demonstrate that they have a need to know that information and in the case of sensitive personal data that the information can be shared with the Councillor without breaching any other statutory provision such as the Data Protection Act.

2.13.6 Councillors' use of Information

- 2.13.6.1 The Councillor Code of Conduct (Part 5 section 1) and the provisions of the Data Protection Act 1998 apply to Councillors in respect of the uses to which confidential information may be put.

Schedule to the Articles - Description of Executive Arrangements

The following parts of the Constitution comprise the Executive Arrangements:-

- 2.14.1 Article 5 in Part 2 of the Constitution – the Leader of the Council and the Cabinet, and the Cabinet Rules (Part 4 section 4)
- 2.14.2 Article 6 in Part 2 of the Constitution – Scrutiny, and the Scrutiny Rules (Part 4 section 5)
- 2.14.3 Article 9 in Part 2 of the Constitution – Working with Health and other organisations
- 2.14.4 Article 11 in Part 2 of the Constitution – Decision Making
- 2.14.5 The Functions Scheme in Part 3 and the Cabinet Portfolios Scheme in Part 7
- 2.14.6 Access to Information Rules in Part 4 section 2 of the Constitution