

PART 3

THE FUNCTIONS SCHEME

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Section 1 - Introduction

- 3.1.1 The Functions Scheme sets out in detail which part of the Council and/or which people are responsible for particular activities.
- 3.1.2 By law, there are four areas of responsibilities:-
- a **Council Functions**

there are responsibilities of the Council (all Councillors acting collectively in the Council meeting). These are called Council Functions and are set out in Section 2 of this Part. The Council has delegated many of these functions to its Committees and to its Chief Executive. These delegations are explained in Section 6 of this Part (Other functions) and Section 8 (Officer Functions).
 - b **Cabinet Functions**

all responsibilities that are not Council Functions are by law the responsibility of the Cabinet. These are called Cabinet Functions and are set out in Section 3 of this Part. The Cabinet delegates some of those functions to individual Cabinet Members and the Chief Executive. These delegations are explained in Section 3 (Cabinet Functions) and in Section 8 (Officer Functions) of this Part. The functions allocated to individual Cabinet Members are explained in Section 3 of this Part. The areas of responsibility of each Cabinet Member (known as “portfolios”) are set out in Part 7 section 1.
 - c **Local Choice Functions**

there are responsibilities which the Council can choose to make the function of the Council or the Cabinet. These are called Local Choice Functions. Section 4 of this Part explains who is responsible for those functions.
 - d **Scrutiny Functions**

Councillors who are not in the Cabinet are responsible for the Overview and Scrutiny function holding the Cabinet to account for the way it carries out its functions and the way in which the Chief Executive carries out his/her functions (Section 5 – Scrutiny functions).
- 3.1.3 These formal arrangements are supplemented by Councillors and others fulfilling advisory, informal and political functions. These arrangements are set out in Section 7 of this Part (Informal arrangements).
- 3.1.4 Section 8 (Officer Functions) explains the functions that the Chief Executive carries out and the arrangements he/she can make for those functions to be carried by other officers of the Council.
- 3.1.5 Some statutory Council functions must be carried out by an officer nominated by the Council for that purpose, known as the Proper Officer. The Proper Officer arrangements are set out in Section 9 of this Part (Proper Officer Functions).
- 3.1.6 The 9 sections in this Part of the Constitution are known as the Functions Scheme. The Functions Scheme should be read in conjunction with the Articles (Part 2), the Procedure
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Rules (Part 4) and the Chief Executive's Scheme of Delegation to find out who is responsible for which functions.

- 3.1.7 References in the Scheme to the Functions Regulations are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Any reference in this Constitution to any function, and any delegation of function or responsibility includes all action associated with that function or power and all related enforcement and other actions.

Section 2 - Council Functions

This section explains the Council Functions and who carries them out. Council Functions are local authority functions which by law cannot be carried out by the Cabinet.

3.2.1 Delegation of Council functions

3.2.1.1 The Council has decided that the functions in Column 1 will be carried out by the body or officer in Column 2.

Column 1 What is the function	Column 2 Who can carry the function out
Adopting and changing the Constitution	Council Meeting Monitoring Officer (technical changes or those required by law only)
Approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer	Council Meeting only
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
Appointing the Leader of the Council	Council Meeting only
Setting the terms of reference of committees, deciding on their composition and allocating seats on them	Council Meeting only
Appointing representatives to outside bodies	Chief Executive as set out in the functions scheme, unless appointment retained by Council as a whole
Agreeing the Members Allowances Scheme	Council Meeting only
Changing the name of the area	Council Meeting only
Giving someone a civic honour or title	Council Meeting only
Planning and development control functions including enforcement for which the Council is responsible in Schedule 1 of the Functions Regulations	Planning Committee/Chief Executive as set out in this Functions Scheme
Hedgerow and tree preservation functions for which the Council is responsible in Schedule 1 of the Functions Regulations	Planning Committee/Chief Executive as set out in this Functions Scheme
Rights of way functions for which the Council is responsible in Schedule 1 of the Functions Regulations	Regulatory Committee/Chief Executive as set out in this Functions Scheme
Licensing and registration functions for which the Council is responsible in Schedule 1 of the Functions Regulations	Regulatory Committee/Chief Executive as set out in this Functions Scheme
Health and safety at work functions (other than those relating to the Council itself as an employer) for which the Council is responsible in Schedule 1 of the	The Chief Executive

Column 1 What is the function	Column 2 Who can carry the function out
Functions Regulations	
Elections functions in Schedule 1 of the Functions Regulations	Council Meeting Chief Executive(as Returning Officer and Electoral Registration Officer)
Byelaw Functions in Regulation 2 and Schedule 1 of the Functions Regulations	Council Meeting
Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations	Council Meeting only
Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council Meeting / Employment Panel/ Chief Executive as set out in the Functions Scheme
Duty to make arrangements for the proper administration of financial affairs	Council Meeting/Chief Executive/s.151 Officer as set out in the Functions Scheme and the Financial Procedure Rules
Power to appoint Officers for particular purposes (otherwise called the appointment of proper officers)	Council Meeting /Monitoring Officer as set out in the Functions Scheme
Approval of the appointment of the Chief Executive and duty to designate an Officer as the Head of Paid Service	Council Meeting only
Duty to designate Officers as the Monitoring Officer and the s 151 Officer and to provide staff	Council Meeting only
Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments	Council function delegated to the Audit and Governance Committee
Powers relating to overview and scrutiny	Council Meeting/Overview and Scrutiny Committee/Scrutiny Committees as set out in the Functions Scheme
Community governance review	Council Meeting only

Footnote:

Where in the above table it indicates that the functions are to be discharged by a Committee, an officer and/or another body, some elements of the function are discharged by an officer or other body on behalf of the Committee or the Council. The specific arrangements are explained elsewhere in the Functions Scheme.

3.2.1.2 The Council is also responsible for determining the Budget and Policy Framework and approving the plans and strategies within it. This framework comprises:

- Children and Young People's Plan
- Council's Corporate Plan or joint Corporate Plan
- Community Safety and Drugs Partnership Strategy
- Cultural Strategy
- Economic Development Strategy
- Sustainable Community Strategy
- Local Transport Plan
- Unitary Development Plan/Local Development Framework
- Youth Justice Plan

Medium Term Financial Strategy including:

- Annual capital and revenue budget
- Proposed contingencies, general reserves and specific reserves
- Statutory Council Tax calculations
- Treasury Management Policy and annual borrowing limits
- The Chief Finance Officer's statutory declarations on budget setting
- Virement limits and
- Scale of fees and charges

Section 3 - Cabinet Functions

Cabinet Functions are all executive functions vested in it by the Functions and Responsibilities Order and those Local Choice Functions that the Council has decided should be Cabinet functions as set out in Section 4 of this Part.

The following functions shall be carried out by the Cabinet:

3.3.1 Recommendations to Council

3.3.1.1 The Cabinet shall make recommendations to the Council including:

- a the Budget and Policy Framework
- b any other Council functions (as set out in Section 2 or Section 4 of this Part) that should in the opinion of the Leader be recommended to Council

3.3.2 Decisions

3.3.2.1 The Cabinet shall make all decisions in relation to all matters other than:

- a Council Functions, or
- b Overview and Scrutiny Functions
- c Local Choice Functions not defined as Cabinet functions, or
- d matters delegated to another Council body, or
- e functions carried out by the Chief Executive.

3.3.3 Exercise of Cabinet Functions

3.3.3.1 Cabinet functions and decisions shall be carried out either:

- a by the Cabinet collectively
- b by Cabinet Members individually
- c by a Cabinet Committee

3.3.4 Delegation of Cabinet decisions

3.3.4.1 The Cabinet has decided that the Chief Executive should carry out its functions except as provided for in paragraphs 3.3.4.2 and 3.3.4.3.

3.3.4.2 Cabinet should only take decisions that are;

- a key decisions that relate to more than one Cabinet portfolio
- b strategically important or relate to or involve significant new policy issues

- c significant in terms of economic, environmental or social wellbeing of the county or a substantial part of it or of its communities
- d of sufficient public interest that a decision at a public meeting of Cabinet is required
- e significantly controversial or likely to be so
- f decisions that are reserved to Cabinet by virtue of the Financial Procedure Rules (see Part 4 section 7).
- g decisions which in all the circumstances should properly be taken by the Cabinet acting collectively.

3.3.4.3 Individual Cabinet Members should only take decisions that relate to his/her portfolio and are:

- a key decisions
- b significant in terms of economic environmental or social wellbeing of the county or a substantial part of it or of its communities
- c strategically important or related to or involve significant new policy issues
- d significantly controversial
- e reserved to an individual Cabinet Member by virtue of the Financial Rules (Part 4 section 7)
- f decisions which should properly be taken by the Cabinet Member.

3.3.4.4 The Chief Executive should take decisions and deal with matters that fall outside the definitions above. The Chief Executive is responsible for identifying decisions that fall within the criteria at paragraphs 3.3.4.2 and 3.3.4.3 .

3.3.4.5 The Chief Executive should in the event of any uncertainty consult with the Leader (for matters falling within paragraph 3.3.4.2) and the relevant Cabinet Member (for matters falling within paragraph 3.3.4.3) to determine whether any matter is one that should be determined by the Cabinet or an individual Cabinet Member.

3.3.4.6 In the event of any disagreement about who should deal with any Cabinet Function, the Leader will determine whether the matter should be dealt with by the Cabinet collectively, an individual Cabinet Member or by the Chief Executive.

3.3.4.7 Any person exercising a function delegated to them may refuse to do so.

3.3.5 Key decisions

3.3.5.1 A Key Decision is a decision:-

- a taken by the Cabinet or an individual Cabinet Member,
- b in connection with the discharge of a Cabinet Function and which is determined as such by the Leader and is likely:

- i to result 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 to which the decision relates; or
- ii to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the County.

3.3.5.2 For the purposes of 3.3.5.1(b)(i) above £500,000 shall generally be regarded as significant in terms of expenditure or savings. A matter involving a lesser sum may be regarded as significant in terms of expenditure or savings in exceptional circumstances including but not limited to:

- a where a lesser sum is involved but other non financial factors make the matter significant in terms of the service or function to which the decision relates,
- b or where a lesser sum is involved but it has significant impact on the budgets for other services or functions or on the Council's budget as a whole.

3.3.5.3 For the purposes of 3.3.5.1 (b)(ii) above any issue which, in the opinion of the Leader of the Council, is likely to have a significant effect or impact any group(s) of people shall be regarded as significant in terms of impact on communities. In deciding whether an issue has a significant effect or impact on any group(s) of people the Leader shall have regard to:

- a whether the decision may incur a significant social, economic or environmental risk or benefit
- b the likely extent of the impact of the decision both within and outside the County
- c whether the decision is likely to be a matter of political or other controversy
- d the extent to which the decision is likely to result in or attract substantial public interest.

3.3.5.4 The decision of the Leader of the Council as to whether a decision is a Key Decision may be challenged by Call In.

3.3.5.5 The Chief Executive will maintain a list of anticipated Cabinet decisions that may be Key Decisions .

3.3.6 Residual authority of the Leader

3.3.6.1 The Leader retains authority in relation to all matters relating to Cabinet functions delegated to the Cabinet, to Cabinet Members or to the Chief Executive, where there is no individual available (or willing) to exercise those functions or where in all the circumstances he believes he should do so. Such authority should be exercised only in exceptional or unusual circumstances.

3.3.6.2 The Leader of the Council may determine:

- a the size of the Cabinet
- b the appointment of Cabinet Members

- c the allocation of portfolios and responsibility to Cabinet Members
- d the Cabinet functions that can be carried out by Cabinet Members individually (paragraph 3.3.4.6)
- e a Cabinet Function that can be carried out by the Chief Executive (Section 8 of this Part)

3.3.7 Cabinet Member portfolios

- 3.3.7.1 The Leader is responsible for appointing a Cabinet comprising a minimum of the Leader and two other Councillors up to a maximum of 10 (including the Leader) and for allocating areas of responsibility to each Cabinet Member. Each area of responsibility is known as a Cabinet Member portfolio.
- 3.3.7.2 The Leader shall, from time to time, keep under review and may amend the various Cabinet Member portfolios. The Leader will maintain and publish a list of Cabinet Members, titles and portfolios. The Monitoring Officer will ensure that list is in Part 7 section 1 of this Constitution.
- 3.3.7.3 By their nature, the 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.
- 3.3.7.4 Cabinet Members can make any decision within their portfolio that is within the Budget and Policy Framework and in accordance with the criteria set out in paragraph 3.3.4.3.
- 3.3.7.5 Cabinet Members cannot make a decision which is:
 - a a Key Decision unless advance notice of the proposed decision has been included in the Forward Plan or the urgency provisions have been invoked, or
 - b a decision that has been reserved to the Council, the Cabinet, Planning Committee, Regulatory Committee, or delegated to the Chief Executive.
- 3.3.7.6 If a Cabinet Member wishes to take a decision contrary to the advice of the Chief Executive, Monitoring Officer, s.151 Officer or relevant Director(s) then the Cabinet Member must refer the issue to the Cabinet for a decision.
- 3.3.7.7 If the Cabinet Members consider that any decision they are being asked to take is likely to be so sensitive or controversial that the circumstances are exceptional, the decision may be referred to the Cabinet.

3.3.8 Cabinet Rules

- 3.3.8.1 When the Cabinet or a Cabinet Member is making a decision the Cabinet Rules in Part 4 section 4 must be followed.

Section 4 - Local Choice Functions

The Council must choose by law who carries out some functions (known as Local Choice Functions) set out in the Functions Regulations.

3.4.1 Allocation of functions

The Council has decided that the functions in Column 1 will be carried out by the body or officer in Column 2.

Column 1 What is the function	Column 2 Who can carry the function out
Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.	Cabinet/Cabinet Member as set out in the Functions Scheme
The determination of an appeal against any decision made by or on behalf of the authority.	Cabinet/Chief Executive as set out in the Functions Scheme
The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.	Cabinet/Chief Executive as set out in the Functions Scheme
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 as set out in the Functions Scheme
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 as set out in the Functions Scheme
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 as set out in the Functions Scheme
The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Chief Executive after consultation with the Chairman of the Council
The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Cabinet/Chief Executive as set out in the Functions Scheme
The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Cabinet/Chief Executive as set out in the Functions Scheme
Any function relating to contaminated land.	Landowner responsibilities: Cabinet Member

Column 1 What is the function	Column 2 Who can carry the function out
	(Environment & Strategic Housing) Other Functions: Regulatory Committee
The discharge of any function relating to the control of pollution or the management of air quality.	Strategic and Policy: Cabinet Member (Environment & Strategic Housing) Other functions: Regulatory Committee
The service of an abatement notice in respect of a statutory nuisance.	Cabinet/Chief Executive as set out in the Functions Scheme
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Cabinet/ Cabinet Member (Environment & Strategic Housing)
The Inspection of the authority's area to detect any statutory nuisance.	Cabinet/Chief Executive as set out in the Functions Scheme
The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet/Chief Executive as set out in the Functions Scheme
The obtaining of information under section 330 of the Town and Country Planning Act 1990.	Cabinet/Chief Executive as set out in the Functions Scheme
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet/Chief Executive as set out in the Functions Scheme
The making of agreements for the execution of highways works.	Cabinet/Chief Executive as set out in the Functions Scheme
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.	Cabinet/ Chief Executive as set out in the Functions Scheme

Footnote:

Where in the above table it indicates that the functions are to be discharged by a Committee, an officer and/or another body, some elements of the function are discharged by an officer or other body on behalf of the Committee or the Council. The specific arrangements are explained elsewhere in the Functions Scheme.

Section 5 - Overview and Scrutiny Functions

Councillors who are not in the Cabinet are responsible for a function known as overview and scrutiny and hold the Cabinet to account for the way it carries out its functions and the way the Chief Executive carries out his/her functions.

The Council is responsible for determining its Overview and Scrutiny arrangements and 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. Its Membership and terms of reference are described in Part 7.

3.5.1 Scrutiny Rules

3.5.1.1 When the Overview and Scrutiny Committee is exercising overview and scrutiny functions the Scrutiny Rules in Part 4 section 5 must be followed.

3.5.2 The Overview and Scrutiny Committee

3.5.2.1 The Overview and Scrutiny Committee will:-

- (a) agree the Overview and Scrutiny work programme.
- (b) establish time limited and task focused Task and Finish groups as it considers appropriate, and as resources available to it permit, to carry out overview and scrutiny work on its behalf and report their findings to the Committee.
- (c) make reports and recommendations to the Cabinet arising from work undertaken by it.
- (d) periodically review the work programme to ensure that Overview and Scrutiny is effective and that there is an efficient use of scrutiny resources.
- (e) examine on behalf of the Council the strategic policy direction and priorities being followed and make recommendations.
- (f) assist the Cabinet in the development of the Budget and Policy Framework.
- (g) respond as requested to consultation on the Cabinet's budget proposals in accordance with the Budget and Policy Framework Rules.
- (h) Develop policy options for Cabinet.
- (i) Review existing policy.
- (j) ensure that proactive policy or review work at the request of the Council Meeting or Cabinet, or arising from community concerns, is undertaken.

- (k) review and scrutinise decisions made by Cabinet and the performance of the Cabinet, individual Cabinet Members and the Chief Executive in relation to the Cabinet functions carried out by each.
- (l) Consider decisions proposed to be made by Cabinet or individual Cabinet Members.
- (m) question members of the Cabinet and those carrying out Cabinet functions about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions.
- (n) review the performance of the Council and its partners (where the law so permits) in relation to outcomes for local people and communities, policy objectives, performance targets and/or particular service areas.
- (o) Scrutinise the activities of external bodies.
- (p) act as the Council's statutory Crime and Disorder Committee with power 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.
- (q) discharge the 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.
- (r) receive requests from the Cabinet and/or Council for overview and scrutiny reviews, to determine whether any such review should be carried out and to allocate the review work appropriately.
- (s) establish and maintain a system to ensure that referrals to and from the Overview and Scrutiny Committee are managed efficiently and that the appropriate Council body or person responds in a timely and effective way.
- (t) exercise the powers as set out in Section 21 (2) (a) of the Local Government Act 2000 (call-in powers) in relation to Cabinet decisions made but not implemented within its own remit.
- (u) Consider petitions as required by the petitions code.
- (v) Consider any calls for action in accordance with the Councillor Call for Action Code.
- (w) report to the Council Meeting annually on the scrutiny function and its work.
- (x) develop and spread good practice in overview and scrutiny activities within the Council and its scrutiny function.

- (y) liaise with external organisations operating in Herefordshire in the fulfilment of their overview and scrutiny role to ensure that the social, environmental and economic wellbeing of the area is enhanced by collaborative working.
- (z) invite public participation at its meetings and in its work so as to enhance its performance.
- (aa) receive information and evidence from experts and other witnesses to support it in its work and to question and gather evidence from any person with their consent.
- (bb) scrutinise any matter affecting the area or its inhabitants and to review the performance of other public bodies in the area and invite reports from them by asking them to address the Scrutiny Committee about their activities and performance
- (cc) collaborate with other bodies carrying out similar functions outside the Council.

Section 6 - Other Functions

This section contains a description of the Committees and Panels who exercise functions on behalf of the Council.

Those functions are those carried out as follows:

- a Planning Functions
- b Regulatory Functions
- c Audit and Governance Functions
- d Employment Functions
- e Standards Functions

3.6.1 Planning Functions

- 3.6.1.1 The Planning Committee and its composition will be agreed by Council at its annual meeting.
- 3.6.1.2 When the Planning Committee carries out its functions it will follow the Planning Rules (Part 4 section 8) and the Planning Code (Part 5 section 14)
- 3.6.1.3 The Planning Committee functions are to determine planning 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 holds a politically restricted post and/or is employed in the Planning and Transportation service, 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 Assistant Director Environment, Planning and Waste, raises issues around the consistency of the proposal, if approved, with the adopted development plan
 - f the application, in the reasonable opinion of the Assistant Director Environment, Planning and Waste, 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 Assistant Director Environment, Planning and Waste believes the application is such that it requires a decision by the Planning Committee.

3.6.2 Regulatory Functions

The Regulatory Committee

3.6.2.1 The Regulatory Committee shall be responsible for the discharge of the Council's regulatory functions as specified in this section of the Functions Scheme.

3.6.2.2 The Regulatory Committee's role is

- a. to oversee the discharge of the Council's regulatory functions and exercise of regulatory powers and duties of the Council including trading standards and consumer protection, animal health and welfare, environmental health (including Public Health, Control of Pollution (including noise), Contaminated Land, Environmental Protection (including statutory nuisance), Food Acts and related legislation, hackney carriage and private hire, licensable activities under the Licensing Act 2003, Gambling Act 2005, Local Government (Miscellaneous Provisions) Act 1982 (as amended), cinema, theatre and other public entertainment, house to house and street collections and other miscellaneous regulatory functions not within the remit of any other Council body
- b. to hear appeals against the refusal of any licences, decisions taken and conditions imposed in any regulatory matter by any officer or officer panel established for the purpose of carrying out or reviewing any action taken by any officer pursuant to the Chief Executive's delegated authority to discharge the Council's regulatory functions and to revoke any licence, permission consent or certificate granted by the Council, except where a separate statutory framework exists. The Regulatory Committee may exercise these functions by delegation to the Regulatory Sub-Committee
- c. to consider and approve detailed regulatory policies and procedures other than those that require approval by Council or fall within the overall executive strategic and policy remit of the Cabinet and to ensure that the detailed regulatory policies and procedures provide a robust framework and criteria within which officers discharge the regulatory functions of the Council pursuant to the Chief Executive's delegated authority to discharge the Council's regulatory functions
- d. For the purposes of this section the regulatory functions within the remit of the Regulatory Committee include all licensing and registration functions in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended from time to time and the miscellaneous functions in paragraphs 1-7 of Part I of those regulations relating to footpaths, bridleways and similar matters and the Local Choice functions allocated to the Regulatory Committee in Section 4 of this Part

The Regulatory Sub-Committee

- 3.6.2.3 The Regulatory Sub-Committee will be responsible for determining individual applications for licensable activities under the Licensing Act 2003 and the Gambling Act 2005 and will comply in all respects with the statutory provisions in that regard.
- 3.6.2.4 The Regulatory Sub-Committee will carry out such other functions as the Regulatory Committee delegates to it in accordance with this section of the Functions Scheme.

The Regulatory framework

- 3.6.2.5 The Regulatory Committee shall discharge its functions having regard to the overall constitutional regulatory framework within which the following bodies are responsible for discharging the following functions:

Body	Responsible for:
The Council	<p>The approval of the Council's budget and policy framework</p> <p>The allocation of Local Choice functions and functions set out in the Schedule to the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001</p> <p>The approval of licensing policy pursuant to the Licensing Act 2003</p>
The Cabinet (or Cabinet Member)	To set the overall strategic and policy framework for the discharge of regulatory functions
Scrutiny Committee(s)	To undertake overview and scrutiny in relation to the Cabinet and Cabinet member's regulatory functions
The Regulatory Committee	<p>To oversee the discharge of regulatory functions by officers</p> <p>To hear appeals against officer or officer panel decisions and revoke any licence</p> <p>To consider and approve detailed regulatory policies and/or procedures</p>
The Regulatory Sub-committee	<p>To determine applications under the Licensing Act 2003 and the Gambling Act 2005</p> <p>To determine appeals and deal with revocation of licenses in accordance with any delegation of those function by the</p>

	Regulatory Committee
The Officer Review Panel	To review any decision taken by an officer or officers and to ensure consistency of decision making in relation to the discharge of any regulatory functions
The Chief Executive (or any officer to whom the Chief Executive or any Director has delegated authority)	<p>To fulfil all day to day operational regulatory activities</p> <p>To manage the discharge of regulatory functions</p> <p>To take all regulatory decisions except those specifically reserved to the Regulatory Committee or Regulatory Sub-Committee</p> <p>To establish a Regulatory Review panel of officers to review regulatory officer decisions</p>

3.6.3 Audit and Governance Functions

3.6.3.1 The Council has established an Audit and Governance Committee to undertake audit and governance functions for the purposes set out in the Audit and Governance Code (Part 5 section 12)

3.6.3.2 The terms of reference are in line with the Chartered Institute of Public Finance and Accountancy's best practice guidance and are set out in full in the Audit and Governance Code (Part 5 section 12)

3.6.3.3 The role of the Audit and Governance Committee is to:

- a consider the effectiveness of the Council's risk management arrangements, the control environment and associated counter fraud and corruptions arrangements
- b seek assurance that action is taken on risk related issues identified by auditors and inspectors
- c satisfy themselves that the Council's assurance statements, including the annual governance statement, properly reflect the risk environment and any actions required to improve it
- d approve the internal audit strategy and plan and monitor its implementation
- e approve the Internal Audit strategy and plan and oversee its performance
- f review summary internal audit reports and the main issues arising and seek assurance that action is taken where necessary
- g receive the annual report of the Head of Internal Audit
- h consider reports of external audit and inspection agencies and take appropriate action where relevant to the remit of the Audit and Governance Committee
- i ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies

- j ensure that the Council actively promotes the value of the audit function and processes
- k review the financial statements, the external auditor's opinion and reports to members and oversee management action in response to the issues raised by external audit
- l consider any other matters not covered by the best practice guidance for Audit Committees but which are appropriate for the Audit and Governance Committee and are not within the remit of any other Council Committee or body.
- m approve, on behalf of the Council, the Council's statements of accounts, income and expenditure and balance sheet, or record of payments.

3.6.4 Employment Functions

- 3.6.4.1 The Council has agreed that an Employment Panel be established and will fulfil the functions of the Employment Panel as set out in the Employment Rules (Part 4 section 9).
- 3.6.4.2 The Council has agreed that an Employment Appeals Panel will be established in accordance with the Council's employment policies and procedures
- 3.6.4.3 The Employment Appeals Panel shall exercise the following functions:
 - a to consider an appeal by another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - b to consider an appeal by any member of staff against any decision relating to the dismissing of, or taking of any disciplinary action against or of any response to any grievance raised by that employee where all other possible appeal and review processes have been exhausted and in accordance with the Council's policies in that regard.
- 3.6.4.4 Nothing in these terms of reference shall permit the Employment Appeals Panel to undertake any functions specifically assigned to the Chief Executive as Head of Paid Service or to the Employment Panel.

3.6.5 Standards Committee Functions

Standards Committee

- 3.6.5.1 The role of the Standards Committee is:
 - a promoting and maintaining high standards of conduct and ethical governance by Councillors and co-opted members of the Council
 - b assisting Councillors and where appropriate co-opted members to observe the Councillor Code of Conduct
 - c advising the Council on the re-adoption or revision of the Councillor Code of Conduct

- d advising the Council on the adoption or revision of the code for member-officer relations
- e monitoring the operation of the Councillor Code of Conduct
- f advising, training or arranging to train the Councillors and co-opted members of the Council on matters relating to the Councillor Code of Conduct
- g exercising the above functions (a-f) in relation to Town and Parish councils for which it is the responsible authority and the members of those councils
- h granting dispensations to Councillors, co-opted members and church and governor representatives from requirements relating to interests set out in the Councillor Code of Conduct
- i dealing with any reports from the case tribunal or interim case tribunal and any report from the Monitoring Officer or any matter which was referred by Standards for England to the Monitoring Officer
- j to assess and review complaints about Councillors
- k to conduct determination hearings
- l to receive reports, and comment on complaints procedures and/or reports from Local Government Ombudsman or external auditors, which are relevant to the Standards Committee's responsibilities
- m to advise the Council on the appointment of independent members of the Standards Committee.
- n to consider the compliance of the Constitution with the ethical framework
- o to consider any application received from any officer of the Council for exemption from political restriction under sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and, if it thinks fit, to direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the authority under section 2.2 of that Act; and
- p upon the application of any person, or otherwise, to consider whether a post should be included in the list maintained by the Council under section 2.2 of the 1989 Act and, if it thinks fit, to direct the Council to include a post in that list.

3.6.5.2 The Standards Committee has established sub-committees to conduct assessments, reviews, consideration of investigation reports and hearings on its behalf.

Assessment Sub-Committee

3.6.5.3 The Assessment Sub-Committee has been established to receive allegations that a member of the authority has failed, or may have failed, to comply with the authority's Councillor Code of Conduct

3.6.5.4 Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:

- a refer the allegation to the Monitoring Officer, with an instruction to arrange a formal investigation of the allegation or arrange training, conciliation or such appropriate alternative steps as permitted by Regulations
- b refer the allegation to Standards for England, stating the reasons for that decision
- c decide that no action should be taken in respect of the allegation, stating the reasons for that decision.
- d where the allegation is in respect of a person who is no longer a member of the authority, but is a member of another relevant authority (as defined in section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority and
- e shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

3.6.5.5 Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall determine whether –

- a it accepts the Monitoring Officer's findings of no failure to observe the Code of Conduct
- b the matter should be referred for consideration at a hearing before the Hearings Sub-Committee; or
- c the matter should be referred to the First Tier Tribunal for determination.

Review Sub-Committee

3.6.5.6 If the Assessment Sub Committee decides that no action should be taken in respect of an allegation that a member of an Authority has failed, or may have failed, to comply with that Authority's Councillor code of conduct, the person who made the allegation has a right to request a review of the Assessment Sub Committee's decision. The Review Sub Committee will conduct all such reviews.

3.6.5.7 Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:

- a refer the allegation to the Monitoring Officer, with an instruction to arrange a formal investigation of the allegation or take an alternative action as permitted by the Regulations
- b refer the allegation to Standards for England, stating the reasons for that decision
- c decide that no action should be taken in respect of the allegation stating the reasons for that decision; or
- d where the allegation is in respect of a person who is no longer a member of the authority, but is a member of another relevant authority (as defined in section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority; and

- e shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

Consideration Sub Committee

- 3.6.5.8 The Consideration Sub-Committee will consider a report of an investigation referred to the Standards Committee by the Monitoring Officer and determine whether:-
- a that it accepts the Monitoring Officer's finding of no failure to comply with the Councillor Code of Conduct; or
 - b that the matter should be considered at a hearing of the Hearing Sub Committee; or
 - c that the matter should be referred to the First Tier Tribunal for determination

Hearing Sub Committee

- 3.6.5.9 The Hearing Sub Committee will hold a hearing in relation to a matter referred to it by the Consideration Sub Committee and will make one of the following findings
- a that the member who was the subject of the hearing had not failed to comply with the Code of Conduct of the council concerned;
 - b that the member who was the subject of the hearing had failed to comply with the Code of Conduct of the council concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or
 - c that the member who was the subject of the hearing had failed to comply with the Code of Conduct of the council concerned and that a sanction should be imposed.

3.6.6 Shadow Health and Wellbeing Board Functions

The Shadow Health and Wellbeing Board

- 3.6.6.1 As an Early Implementer for the Department of Health Herefordshire Council has taken steps to establish a Health and Wellbeing Board in accordance with the provisions of the Health and Social Care Bill
- 3.6.6.2 No new powers or delegations can be given to the shadow board at this stage. However, its terms of reference mirror those in the Bill and it has been structured in a way that allows executive members, directors, GP consortia and the PCT to act in concert to achieve similar outcomes
- 3.6.6.3 The Council's Monitoring Officer will report further on appropriate delegations and other constitutional requirements for a formal Health and Wellbeing Board once the Health and Social Care Bill has been enacted and the relevant implementation date is known
- 3.6.6.4 The Shadow Board shall comply with the Standing Orders of Herefordshire Council in so far as executive members may make decisions at its meetings

- 3.6.6.5 The Shadow Board may at its discretion include such further representatives as it shall determine
- 3.6.6.6 The powers and duties of the Shadow Board shall be:
- a for the purpose of advancing the health and wellbeing of the people in Herefordshire to encourage persons who arrange for the provision of any health and social care services in that area to work in an integrated manner
 - c to provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services
 - d to encourage persons who arrange for the provision of health related services in Herefordshire to work closely with the Health and Wellbeing Board
 - e to encourage persons who arrange for the provision of any health or social care services in Herefordshire and persons who arrange for the provision of any health related services in Herefordshire to work closely together
 - f to advise on how the functions of the Council and its partner commissioning consortia under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) are to be exercised
 - g to give to the Council its opinion on whether the Council is discharging its duty under section 116B of the 2007 Act

Section 7 - Informal Arrangements

3.7.1 Establishment of Advisory Bodies and Working Parties

3.7.1.1 The Council, the Cabinet and the Scrutiny Committees may from time to time establish working parties or groups or advisory bodies which include in their membership Councillors and/or Officers and/or representatives from partner organisations or the local community.

3.7.2 Status of bodies

3.7.2.1 Those bodies have no formal decision making responsibilities but may provide advice or support to inform or assist those persons or bodies exercising Council functions in accordance with the Functions Scheme. Working parties or advisory bodies will not be constituted as committees and are not authorised to make decisions on behalf of the Council.

3.7.3 List of Bodies

3.7.3.1 A list of such bodies will be maintained by the Chief Executive.

3.7.4 Ward Councillors

3.7.4.1 Councillors are elected to represent a ward within the County and act as representatives of the people and communities of that ward. Ward Councillors should be made aware of any significant Council activities that are likely to impact on or affect any group of people or communities within their ward. The Chief Executive will put in place arrangements to ensure that ward councillors are properly informed about such matters and are allowed an opportunity to comment where appropriate on such matters.

3.7.5 Political Management

3.7.5.1 The Council comprises Councillors who may be members of political or other groups, as referred to in Article 2 (2.2.10). Those groups are an important part of the way the Council operates and are formally recognised in the appointment of committees. The Leader of the Council, who is elected by the Council, is usually from the Political Group comprising the majority of Councillors and the Leader usually appoints members of his Political Group to be Cabinet Members.

3.7.5.2 Each Political Group appoints a Group Leader. The Group Leaders have an important informal role to play in relation to the Functions Scheme. This role is separate and distinct from any role or function that any Councillor who is a leader of a Political group has under the Functions Scheme. Other than those functions allocated to any Political Group Leader under the Functions Scheme, the Political Group Leaders have no authority to take decisions on behalf of the Council but do fulfil important informal political management functions.

- 3.7.5.3 In particular, the Political Group Leaders have the following informal functions:
- 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 the Council, the Cabinet and the Chief Executive
 - d to help identify whether there is any consensus or other ways that the groups can work together on matters related to Council functions
 - e to attend Council and other meetings as set out in the Constitution as a recognised Group Leader for the purpose of fulfilling these functions.

3.7.6 Champions

- 3.7.6.1 The Council may from 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.
- 3.7.6.2 Such appointments will be made in consultation with the Chief Executive and the Leader of the Council and shall be approved by the Council, the Cabinet or the relevant Cabinet Member as appropriate depending on the scope of the role of that Champion.
- 3.7.6.3 Such Champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the Council.

Section 8 - Officer Functions

- 3.8.1 Except as set out in this Functions Scheme, the Chief Executive will exercise all functions on behalf of the Council.
- 3.8.2 Those functions are:
- a Council Functions as set out in Section 2 of the Functions Scheme which will be exercised in consultation with the Council
 - b Cabinet functions that are not reserved for Cabinet or individual Cabinet Member decision as set out in Section 3 of the Functions Scheme which will be exercised in consultation with the Leader of the Council or the relevant Cabinet Member
 - c Local Choice Functions as set out in Section 4 of the Functions Scheme which will be exercised in consultation with either the Cabinet or the Council depending on whether the Council has designated those functions as Council or Cabinet functions. Where such functions are designated Council functions but have been delegated to another Council body, the Chief Executive will exercise his delegated functions in consultation with that body
 - d other functions (other than overview and scrutiny functions) not specifically reserved to another Council body in Section 6 of the Functions Scheme
 - e the carrying out of all regulatory functions other than those specified as being the responsibility of the Regulatory Committee within Section 6 of the Functions scheme
 - f the proper functions of the Head of Paid Service including any formal statutory functions pursuant to that role including determining the management structure of the Council. That structure is included in Part 7 of this Constitution
 - g the functions of Electoral Registration Officer and Returning Officer which he/she undertakes independently of the Council
 - h leadership and effective management of all Council staff.
- 3.8.3 The Monitoring Officer and Chief Finance Officer will fulfil their respective statutory functions.
- 3.8.4 The Chief Executive (as Head of Paid Service), the Monitoring Officer and the Chief Finance Officer will work together constructively but will maintain their discrete roles as necessary to enable them to fulfil their statutory functions.
- 3.8.5 The Chief Executive may arrange for another officer of the Council to carry out any of the officer functions delegated to the Chief Executive.
- 3.8.6 For the purpose of carrying out any of these functions on behalf of the Chief Executive, the members of the Joint Management Team and other senior officers who are employed by NHS Herefordshire (the Primary Care Trust) are hereby appointed by the Council as officers of the Council to enable them to fulfil functions delegated to them by the Chief Executive.
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- 3.8.7 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 most cases, it is not appropriate for those delegations to be given to any officer below the level of Head of Service or Service Manager in the organisation structure.
- 3.8.8 The Chief Executive will maintain a Chief Executive's Scheme of Delegation detailing all relevant delegations, including the delegation of any proper officer functions (see Section 9 of the Functions Scheme and Appendix 1 to this Part).
- 3.8.9 The Chief Executive's Scheme of Delegation will be regularly reviewed and updated to ensure that it contains all relevant delegations.
- 3.8.10 The Chief Executive's Scheme of Delegation will be published as part of the Council's Freedom of Information Publication Scheme and will be presented to the Council, the Cabinet and the Overview and Scrutiny Committee annually for information.

Section 9 - Proper Officer Functions

- 3.9.1 A number of statutes and statutory provisions relating to the functions of the Council require that the Council designates one of its officers as the “proper officer” for the purposes of that statutory provision.
- 3.9.2 The Council hereby designates the Chief Executive as its proper officer for all such purposes.
- 3.9.3 The Chief Executive may delegate the responsibility for fulfilling any proper officer function to another officer.
- 3.9.4 The Chief Executive will maintain and keep up to date the list of statutory proper officer functions that shows who (if any) other officer has delegated responsibility for fulfilling any proper officer function on his behalf. This list will form part of the Chief Executive’s scheme of delegation. (See Appendix 1 to this Part.)
- 3.9.5 All officers exercising statutory proper officer functions on behalf of the Chief Executive must check to ensure that they are properly authorised to fulfil that function.
- 3.9.6 The content of the Chief Executive’s Scheme of Delegation shall be the primary source of such authorisation but the Chief Executive may sign specific delegations for an officer to exercise such a function on his behalf should the need arise, notwithstanding that the list of Proper Officer functions in the Scheme of Delegation does not so provide for that officer to exercise that function.
- 3.9.7 The Chief Executive’s Scheme of Delegation shall be published as part of the Council’s Freedom of Information Act publication scheme and shall be submitted to Cabinet, to Council and the Overview and Scrutiny Committee annually for information.

APPENDIX 1

CHIEF EXECUTIVE'S SCHEME OF DELEGATION TO OFFICERS

INTRODUCTION

1. This Scheme of Delegation authorises the Chief Executive and the Directors to exercise the functions of the Council as set out in this document. It authorises the making of such decisions and initiate such actions as they deem necessary in the interests of efficient delivery and improvement of services within their area of responsibility set out in this Scheme of Delegation or as revised from time to time by the Chief Executive to reflect the then current management structure of the Council. It repeals and replaces all previous Schemes of Delegation.
2. This scheme is without prejudice to the exercise of the Council's functions by the Council, the Cabinet, and the Council's Committees, Sub-Committees and panels.

GENERAL DELEGATIONS

3. The Chief Executive and the Directors are empowered to make decisions on behalf of the Council in accordance with the following general principles:
 - a. If a function, power or responsibility has not been specifically reserved to the Council, a Committee, or the Cabinet; the Director within whose remit the matter falls is authorised to act.
 - b. The Council, its Committees and the Cabinet will make decisions on matters of policy. The Chief Executive and the Directors have express authority 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 and appropriate.
 - c. The Chief Executive and the Directors are empowered to take all operational decisions, within policy, in relation to the services for which they are responsible.
 - d. The Chief Executive and the Directors are empowered to take all necessary decisions in cases of emergency. For the purposes of this scheme, "emergency" shall mean any situation in which the relevant officer 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.

- e. In relation to all delegated authority conferred on the Directors by this scheme, the Chief Executive may allocate or reallocate responsibility for exercising particular powers to any officer of the Council in the interests of effective corporate management as he or she thinks fit.
- f. Where a Director is absent from the workplace for any period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated and approved by the Chief Executive. This nomination should be formally recorded in writing.
- g. Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive or his/her nominee is authorised to act.
- h. Anything delegated to a Director is also delegated to the Chief Executive.
- i. The Council will, subject to the exceptions set out below, indemnify its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the employee) occasioned by any neglect, act, error or omission committed by them in pursuit of their duties as they may from time to time undertake in the course of their employment with the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent. For the avoidance of doubt this indemnity is to be interpreted as being consistent with the terms contained in SI 2004/3082.

Exceptions

The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- (a) fraud, dishonesty or a criminal offence on the part of the employee;
- (b) any neglect, error or omission by the employee otherwise than in the course of his duties;
- (c) liability in respect of losses certified by the auditor as caused by wilful misconduct.

The indemnity will not apply if an employee, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this indemnity, or where there is evidence that the employee had acted with reckless disregard for the consequences.

The indemnity is without prejudice to the right of the Council to take or institute disciplinary action against an employee in respect of any neglect, act, error or omission.

- 4. In deciding whether or not to exercise such delegated powers, the Chief Executive and the Directors should consider whether to consult the appropriate Cabinet member(s) or

- Committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.
5. The Chief Executive and the Directors may authorise named officers within their area of responsibility to exercise, on their behalf, powers delegated under this scheme. This includes the responsibility for service delivery and management to the nearest reasonable and practicable level to the service user, as well as any Council functions under all legislation, regulations, orders and statutory Codes of Practice, which includes entry of premises, inspections and signing and service of Notices in relation to those functions.
 6. All delegations conferred under this scheme must be recorded in writing by the Chief Executive or the Directors as the case may be (including for the avoidance of doubt any delegation under paragraph 3 (e) above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name. The responsibility for maintaining the record of delegations shall rest with both the delegating and the delegated officer. The monitoring officer shall be at liberty to inspect this record at his or her discretion and if appropriate make recommendation as to any revision in form or maintenance of the record.
 7. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the Council's Constitution (including its contract and financial procedures and regulations, and overall Council policy) to use the most efficient and effective means available, including the authorisation and deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council. For the avoidance of doubt routine operational management decisions have no requirement to be recorded.
 8. This scheme permits:-the entering into contracts, review of their operation, establishment and maintenance of approved lists of contractors and suppliers and the appointment of consultants, subject to all constitutional, legal, procedural and budgetary provisions and arrangements in force for the time being and in so doing to take advice in so doing from the Council's finance and legal officers.
 9. This scheme permits the authorisation of legal proceedings in respect of offences under Acts, Regulations, Bylaws or orders within the remit of the Service areas, with the approval of the Assistant Director (Law, Governance and Resilience) including the acceptance of any formal or informal cautions in line with any enforcement and prosecutions policies in force. Where statute requires that a named officer shall instigate proceedings the relevant Director shall ensure that an officer is duly authorised in that behalf.
 10. No officer is authorised to take any decision that must be taken by the Council, one of its Committees, the Cabinet or an individual Cabinet member in accordance with the Constitution. Officers should familiarise himself/herself with the constitutional decision-making requirements and take advice from the Council's monitoring officer if necessary to ensure that he/she acts at all times within his/her delegated authority.

11. When taking or considering taking any delegated decision all officers must have regard to the following:
- a. Does the decision involve significant expenditure to the service budget, or wider Council budget?
 - b. Does the decision affect the reputation of the service and/or Council?
 - c. Is the decision significant with regard to one or more wards?
 - d. Does the decision carry a significant risk to the service or wider Council?
 - e. Does the decision impact on the reputation or finances of service users, partner organisations or Committees outside the Council?
 - f. Might the decision be regarded as conflicting with a Council policy?

If in taking any decision any or all of such criteria are identified, the officer should consult the Chief Executive through appropriate means and should consider whether to consult the relevant Cabinet member and other person(s) likely to be affected by any such decision. The officer should follow the advice of the Chief Executive in so doing.

SPECIFIC DELEGATIONS

DELEGATIONS TO THE CHIEF EXECUTIVE

In consultation with the Monitoring Officer, Director of Corporate Services (and DCE), political group leaders, Leader of the Council and/or relevant Cabinet member(s), to authorise urgent action which is necessary between Cabinet meetings and ensure that the decision be notified as soon as possible to the chairman of the relevant Scrutiny Committee.

1. To ensure strategically led improvements in the quality and efficiency of service planning, commissioning and delivery.
2. To fulfil the statutory functions of Head of Paid Service
3. To make arrangements for the Council to be represented on partnership and external bodies as required by statute or the Council.
4. To have all the powers of any other officer of the Council in the event of their absence or inability to act, except in so far as the exercise of such powers is by law limited to a specific post holder.
5. To act as Returning Officer for Local and Parliamentary Elections and as Acting Returning Officer for European Elections, including the power to appoint deputies where permitted to do so by statute.
6. To be the Electoral Registration Officer for Herefordshire and appoint deputies in that regard.

DELEGATIONS TO THE DEPUTY CHIEF EXECUTIVE AND DIRECTOR OF CORPORATE SERVICES (DCE)

The DCE's department delivers customer service and communications; law, governance and resilience; programmes in respect of people, policy and partnerships; commercial services and finance.

The DCE shall act as deputy to the Chief Executive including the power to grant delegations in accordance with this scheme and shall act as Chief Executive in the absence or in the event of incapacity of the Chief Executive unless the Chief Executive determines that another officer should act in his absence or incapacity.

The DCE shall be responsible for the following service areas and shall fulfil the following functions:

- Customer services including the Customer Insight Unit and handling all complaints in accordance with the Customer Strategy
- Internal/external communications/PR
- Governance and Member Services
- Chief Executive's Office – Registration and Electoral Services
- Legal services
- Business continuity (planning and risk)
- Emergency planning
- Policy and performance
- Strategic planning, policy formulation and corporate /service planning
- Chief Information Officer
- HR and OD and business transformation programmes
- Partnerships (including partnership support functions)
- Information, research and needs analysis
- I C T (including Information Governance)
- Corporate Transformation
- Commercial services (incl.local and strategic commissioning support)
- Commissioning of shared services
- Property services (client side)
- Financial functions and administration
- Audit
- Role as a Group 8 Safeguarding post as defined in the DCSF 'Working Together' guidance

The above service areas shall be taken to be delegated to the Heads of Service as shown below:-

The following functions shall be delegated to the Assistant Director (Law Governance and Resilience) (ADLGR)

The ADLGR shall be the designated Monitoring Officer for the Council. He/she shall be responsible for the following service areas and shall fulfil the following functions:

- Monitoring officer *
- Legal services
- Governance
- Business continuity (planning and risk)
- Emergency planning
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

The following functions shall be delegated to the Assistant Director of People, Policy and Partnerships

- Policy and performance
- Strategic planning, policy formulation and corporate /service planning
- HR and OD and business transformation programmes
- Partnerships (including partnership support functions across the organisation)
- Information, research and needs analysis
- ICT
- Corporate Transformation
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance
- Chief Information Officer

The following functions shall be delegated to the Chief Finance and Commercial Services Officer

- Commercial services (local and strategic commissioning support)
- Commissioning of shared services
- Property services (client side)
- Audit
- S.151 LGA responsibilities and finance functions including financial monitoring *
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

The following functions shall be delegated to the Assistant Director of Customer Services and Communications

- Customer services
- Customer Insight Unit
- Stakeholder communications

DELEGATIONS TO THE DIRECTOR FOR PLACES AND COMMUNITIES

The Directorate provides place-based commissioning, economic, environmental and cultural services and homes and community services to the Council. The Director shall be responsible for the following service areas:-

- Central area-wide-based commissioning function for Economic and Cultural services, highways, transport, housing and community, environmental sustainability, planning and waste
- Process shaping for service, performance frameworks and joint review
- Service re-design/ Improvement
- Balancing all stakeholder demands to develop a single set of area-wide priorities and objectives for delivery of the community's aspirations (outcomes related programmes)
- Developing frameworks for QA and performance
- Planning policy
- Development management
- Conservation
- Building control
- Markets, Fairs and Street Trading
- Bereavement Services
- Waste management
- Sustainability
- Economic development
- Tourism
- Food and marketing
- Cultural Services (heritage, libraries, arts and archives)
- Regeneration programmes
- County Wide Broadband development
- Grants and programmes
- Housing needs and development
- Private sector housing
- Homepoint
- Homelessness/housing advice
- Community Development
- Community Engagement
- Managing relationships with communities (e.g. Parish Councils, Community Groups)
- Big Society Hotline: support and advice for local initiatives
- Safer Herefordshire
- Highways
- Public rights of way
- Parks and countryside
- Transportation
- Community protection
- Parking
- Role as a Group 8 Safeguarding post as defined in the DCSF 'Working Together' guidance

The above service areas shall be taken to be delegated to the Heads of Service as shown below:-

The following functions shall be delegated to the Assistant Director of Place-Based Commissioning

- Central area-wide-based commissioning function for economic and cultural services, highways, transport, housing and community, environmental planning and waste, environmental health, trading standards
- Process shaping for service, performance and joint review
- Specific and joint service re-design/ Improvement
- Balancing all stakeholder demands to develop a single set of area priorities
- Developing frameworks for QA and performance
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance
- Waste Management
- Sustainability
- Highways
- Public Rights of Way
- Parks and Countryside
- Transportation

The following functions shall be delegated to the Assistant Director of Economic, Environment and Cultural Services

- Planning policy
- Development management
- Conservation
- Building control
- Markets , Fairs and Street Trading
- Bereavement Services
- Economic development
- Tourism
- Food and marketing
- Cultural services (heritage, libraries, arts and archives)
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

The following functions shall be delegated to the Assistant Director of Homes and Community Services

- Housing needs and development
- Private sector housing
- Homepoint
- Homelessness/housing advice
- Community Development
- Community Engagement
- Managing relationships with communities
- Big Society Hot Line
- Safer Herefordshire
- Community protection
- Parking

- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance
- Regeneration Programmes
- Grants and Programmes

DELEGATIONS TO THE DIRECTOR FOR PEOPLES' SERVICES

The Directorate provides Health and Social Care commissioning for both adults and children, and children and young people's services, as well as health and well-being services.

- Director of Adult Social Services**
- Director of Children's Services **
- Central area-wide commissioning for Public Health, Adult Social Care and Children's Services including schools, early years, social care and vulnerable children
- Service - shaping, performance frameworks and joint review processes
- Joint working with GPCC and other commissioners
- Specific/joint service re-design and improvement
- Balancing stakeholder demands in developing a single set of area-wide priorities/objectives for delivery of community aspirations (outcomes related to programmes)
- Developing QA and performance frameworks
- Delivery of children and young people's services including:-
 - Safeguarding and child protection services
 - Locality services
 - Children's centres
 - Integrated youth support
 - Early years and school improvement and support
 - Special educational needs and disabilities service
 - Schools admissions
 - Home to school transport
- Delivery of Public Health requirements
- Director of Public Health
- Health Promotion
- Health Improvement
- Consultant contracts
- Effective Health and Wellbeing Board
- Health and public protection
- Environmental Health
- Animal Health welfare
- Trading Standards
- Licensing
- Role as a Group 8 Safeguarding post as defined in the DCSF 'Working Together' guidance

The above service areas shall be taken to be delegated to the Heads of Service as shown below:-

The following functions shall be delegated to the Assistant Director of Peoples' Services Commissioning (Adults, Children and Health)

- Director of Adult Social Services responsibilities
- Central area-wide commissioning for Public Health, Adult Social Care and Children's Social Care
- Service - shaping, performance frameworks and joint review processes
- Joint working with GPCC, Integrated Commissioning Organisation and other commissioners
- Specific/joint service re-design and improvement
- Balancing stakeholder demands in developing a single set of area-wide priorities/objectives for delivery of community aspirations (outcomes related to programmes)
- Developing QA and performance frameworks
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

The following functions shall be delegated to the Assistant Director of Children and Young People's Provider Services

- Director of Children's Services responsibilities
- Delivery of children and young people's services
- Responsibility for central resource bank and multi-disciplinary teams
- Regulation and safeguarding teams.
- Educational Psychology
- Community Operations
- Improvement and Inclusion
- School Inspections
- Schools support (early years, behaviour, subject advice)
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

The following functions shall be delegated to the Assistant Director of Health and Wellbeing Services

- Delivery of Public Health agenda
- Director of Public Health
- Health Promotion
- Health Improvement
- Consultant contracts
- Relationship with Health and Wellbeing Board
- Health and public protection
- Environmental Health
- Trading Standards
- Licensing
- Role as a Group 7 Safeguarding post as defined in the DCSF 'Working Together' guidance

KEY

- * Denotes Statutorily appointed role
- ** Denotes Statutory role that may be delegated